

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9928 of 2013

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Suresh Jaiswal S/O Late Nand Kishore Bhagat R/O Village- Dhobidha, P.S.-
Rupauli, District- Purnea

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary Health Department, Bihar, Patna
3. Director-In-Chief, Health Services, Govt. Of Bihar, Patna
4. Civil Surgeon-Cum-Chief Medical Officer, Purnea
5. Incharge Medical Officer, Primary Health Centre, Vaisa, Purnea

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Mithilesh Kumar Upadhayay, Adv
		Ms. Tetara Kumari, Adv
For the Respondent/s	:	Mrs. Binita Singh, SC-28

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL ORDER

8 19-08-2025 Heard learned counsel appearing for the petitioner
and learned counsel appearing for the respondent-State.

2. The petitioner has filed this writ application
challenging the order of termination contained in Memo No.
1126 Purnea dated 31.03.2013 (Annexure-14) and related
communications.

3. During the pendency of the present writ
application, an interlocutory application was filed by the
petitioner bearing I.A. No. 8409 of 2014 in which it is stated
that the earlier termination order dated 31.03.2013 was
subsequently withdrawn and the petitioner was permitted again



to work on his post and thereafter by Memo No. 1743 dated 04.06.2014, the petitioner has been transferred to Red Cross Society, Purnea. The categoric statement to this effect has been made in paragraph 3 of I.A. No. 8409 of 2014, which is reproduced hereinbelow for needful:-

3. That it is very relevant to state here that later on by letter no. 369 dated 13.12.2013 issued under the signature of the Regional Deputy Director, Health Service, Purnea Division, Purnea a direction was given to the Civil Surgeon, Purnea regarding the present petitioner also and thereafter by letter contained in memo no. 317 dated 29.01.2014 issued under the signature of the Civil Surgeon, Purnea removal letter contained in memo no. 1126 dated 31.03.2013 (Annexure:14) was withdrawn and the petitioner was permitted again in his respective service and thereafter by memo no. 1743 dated 04.06.2014 the petitioner has been transferred to Redcross Society, Purnea by same authority.

4. Further in paragraph 4 of the said interlocutory application, it was also stated that during the pendency of this writ application, when the petitioner was discharging his duty, the petitioner was once again removed from service by order



dated 21.10.2014 (A-16/1 to the interlocutory application).

Paragraph 4 of the said interlocutory application is reproduced hereinbelow for needful:-

4. That it is stated that during pendency of this writ application, the petitioner was discharging his duty without obstruction but all of a sudden he has been removed from his service on frivolous ground, reasons best known to the respondent no.4 because when in the year 2011 the petitioner was reinstated by the respondent no.4 then now on a frivolous ground the petitioner has been removed from his service, is highly illegal and bad in the eye of law.

5. It is the submission of learned counsel for the petitioner that since the subsequent termination has taken place during the pendency of the writ application, therefore, by filing I.A. No. 8409 of 2014, the petitioner has prayed for challenging the subsequent termination order.

6. Per contra, learned counsel appearing for the respondent-State submits that the moment when the first termination order was withdrawn and the petitioner was put back in service, the present writ application had become infructuous. He further submits that the subsequent termination



of the petitioner by order dated 21.10.2014 (A-16/1 to the interlocutory application) gave a fresh cause of action to the petitioner and the petitioner ought to have challenged the same by filing the writ application instead of filing I.A. No. 8409 of 2014. He, therefore, submits that the present writ application may be dismissed on account of having become infructuous.

7. It is not in dispute that this writ application was filed by the petitioner challenging the order of termination contained in Memo No. 1126 dated 31.03.2013, which as per the petitioner subsequently stood withdrawn and the petitioner was put back in service. The moment when the earlier termination was withdrawn and the petitioner was put back in service, the present writ application had become infructuous. The subsequent termination order dated 21.10.2014, which came to be passed when the petitioner was continuing his service, ought to have been challenged by the petitioner by filing a fresh writ application as it gave a fresh cause of action to the petitioner but the same was not done and instead thereof, I.A. No. 8409 of 2014 was filed with a prayer for being allowed to challenge the subsequent termination order. It is the view of this Court that the present writ application stood infructuous when the first termination order dated 31.03.2013 had been withdrawn and the



I.A. No. 8409 of 2014 cannot be allowed for challenging the subsequent termination order dated 21.10.2014 in the present writ application which had already become infructuous with the withdrawal of earlier termination order dated 31.03.2013.

8. At this point of time, learned counsel for the petitioner submits that he is willing to withdraw the present writ application with liberty to challenge the subsequent termination order dated 21.10.2014 in accordance with law and necessary liberty may be granted to the petitioner.

9. Under the aforesaid facts and circumstances, the petitioner is allowed to withdraw the present writ application. Accordingly, the present writ application is dismissed as withdrawn with liberty to challenge the subsequent termination order dated 21.10.2014 in accordance with law. All pending interlocutory application(s), if any, shall also be deemed to have been disposed of.

(Alok Kumar Sinha, J)

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