

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16914 of 2023

Dr. Birendra Kumar @ Virendra Kumar S/o Late Dr. N.K. Upadhyay @ Dr. Nand Kishore Upadhyay, R/o Village and P.O. - Ghosrawan, P.S. - Giriyak District- Nalanda. At present r/o Kachchi Road, Girihinda, P.O. and P.S. Sheikhpura, District - Sheikhpura. Presently posted as Regional Deputy Director, Health Services, Munger Division, Munger.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Health Department, Government of Bihar.
2. The Additional Chief Secretary, Health Department, Government of Bihar, Patna.
3. The Director-in-Chief, Health Services, Bihar, Patna.
4. The Joint Secretary, Health Department, Bihar, Patna.
5. The Deputy Secretary, Health Department, Bihar, Patna.
6. The Regional Additional Director, Health Services, Tirhut Division, Muzaffarpur.
7. The District Magistrate, Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Bauye Jee Jha (B.J. Jha)
For the Respondent/s : Mr.Mujtabaul Haque (Gp 12)

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 23-09-2025

Re:- I.A. No. 1 of 2025.

This interlocutory application has been filed on behalf of the petitioner for modification and addition in the prayer of the main writ application.

2. For the reasons mentioned in the interlocutory application, the same is allowed and the prayer made in the interlocutory application shall be treated to be part of the main writ application.



Re:- CWJC No. 16914 of 2023.

3. Heard the parties.

4. This application has been filed on behalf of the petitioner for the following reliefs:-

I. For setting aside the notification bearing memo No. 195(9) dated 16/02/2023 issued under signature of Joint Secretary, Health Department, Government of Bihar, Patna whereby and where under a punishment of withholding of two increments with non cumulative effect and no payment except subsistence allowance for suspension period 11/04/2022 to 16/02/2023 has been awarded under Rule 14 (V) of Bihar Government Servants (Classification Control and Appeal) Rules, 2005 in the light of the petitioner being absent from the headquarters without sanctioning leave while he was posted as Civil Surgeon-cum-Chief Medical Officer, Muzafarpur.

II. For setting aside the order bearing order No. 301(6) dated 21/03/2025 issued under signature of Under Secretary, Health Department, Bihar, Patna whereby and where under the review application submitted by the petitioner against the punishment order issued by notification bearing memo No. 195(9) dated 16/02/2023 has been rejected without considering the materials available on record and without hearing the petitioner by retreating the contents of punishment



order only.

III. Further for payment of consequential benefits to the petitioner including full salary for suspension period.

IV. For payment of retiral benefits to the petitioner who has superannuated from the 11/04/2022 to 16/02/2023 has been awarded under Rule 14 (V) of Bihar Government Servants (Classification Control and Appeal) Rules, 2005 in the light of the petitioner being absent from the headquarters without sanctioning leave while he was posted as Civil Surgeon-cum-Chief Medical Officer, Muzzafarpur.

5. Learned counsel for the petitioner has submitted that the very initiation of the proceedings against the petitioner is illegal which is also apparent from the show cause notice dated 7.4.2022 in which the petitioner has been given 24 hours time to file his show cause.

6. Learned counsel for the State has opposed the application of the petitioner and has supported the impugned orders.

7. In the opinion of this Court, the aforesaid time i.e. 24 hours, granted to the petitioner to file his show cause reply is in complete violation of principles of natural justice and the CCA Rules. The petitioner should have been granted appropriate opportunity to file his show cause.



8. In view of the aforesaid discussions, this application is allowed.

9. Accordingly, the notification bearing memo No. 195(9) dated 16/02/2023 issued under signature of Joint Secretary, Health Department, Government of Bihar, Patna and the order bearing order No. 301(6) dated 21/03/2025 issued under signature of Under Secretary, Health Department, Bihar, Patna are hereby quashed.

(Sandeep Kumar, J)

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