

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20523 of 2018

Uday Kumar son of Sri Nagina Prasad Yadav @ Nagina Yadav, Resident of Village Naubatpur Lotan, P.O. Chhabilapur, P.S. Manpur, District Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Health Department, Govt. of Bihar, Patna.
3. The Executive Director, State Health Society, Patna.
4. The Civil Surgeon-Cum- Chief Medical Officer, Sadar Hospital, Lakhisarai.
5. The Deputy Superintendent-Cum- Secretary, Patient Welfare Committee, Sadar Hospital, Lakhisarai.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Prashant Sinha, Adv.
Mr. Babua Jha, Adv.
For the Respondent/s : Mr. S.D. Sanjay, Adv.
For the Respondent no.3 : Mr. K.K. Sinha, Adv.
For the State Health Society: Mr. Shashi Shekhar, Adv.

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 11-02-2021

Heard learned counsel for the petitioner and learned counsel for the respondents.

The petitioner has filed the instant writ application for the following reliefs:

“(i) For issuance of writ in the nature of certiorari for quashing of Memo No.655 dated 14-09-2018 issued by the Secretary, Patient Welfare Committee, Sadar Hospital, Lakhisarai whereby it has been communicated that in terms of letter No.465 dated 17-04-2018 issued by the State Health Society, it has been decided to not



to extend the contract of the Petitioner on the post of Dresser.

(ii) For holding that the letter No.465 dated 17-04-2018 does not put any restrain over contractual appointment by the Patient Welfare Committee and it only restrains the daily wages appointment by the Patient Welfare Committee, since the Petitioner was appointed on contractual basis, the letter No.465 dated 17-04-2018 is not applicable in the case of the Petitioner.

(iii) For necessary direction upon the respondent authorities to extend the contract of the Petitioner as his work was found satisfactory by the respondents themselves.

(iv) For restraining the authorities from filling of the post of Dresser, which has become vacant due to not continuing with the contract of the petitioner.

(v) For any other direction, which your Lordships may deem fit and proper in the facts and circumstances of the case.”

It is the case of the petitioner that he was appointed as Dresser by the Patient Welfare Committee, Lakhisarai on 3.8.2011 on contract basis for one year. Finding his services to be satisfactory, his contract was extended from time to time up to 2018. He was surprised to receive a letter bearing no. 655



dated 14.9.2018 from the Secretary, Patient Welfare Committee, Sadar Hospital, Lakhisarai to the effect that in light of the letter no.465 dated 17.4.2018 of the State Health Society, Bihar, Patna with respect to the services of the petitioner, the Committee in its meeting held on 24.8.2018 had decided not to extend the contract of the petitioner and to remove him with immediate effect.

It is submitted by learned counsel for the petitioner that it is an admitted case that the petitioner was not a daily wage employees but had been appointed on contract basis. The letter dated 17.4.2018 of the State Health Society which has been relied on by the Patient Welfare Committee in passing the order impugned dated 14.9.2018 has been brought on record as Annexure-7 to the writ application. From perusal of the said letter it would transpire that the same relates to employment/engagement of daily wage employees and has no application whatsoever in case of appointment or extension of contract of petitioner who are contractual employees and not on daily wage. Thus it is submitted that the very basis of the order impugned dated 14.9.2018 being unsustainable, the order contained in letter no.655 dated 14.9.2018 is illegal and should be set aside. It is further prayed that the respondents- Patient



Welfare Committee be directed to continue the petitioner on contract basis or at least consider his case especially in view of the fact that in the meeting held on 15.10.2018 of the District Health Society, Lakhisarai, decision of which has been brought on record as Annexure-9 to the reply of the petitioner to the counter affidavit of the respondent no.3, it would be evident that contract of as many as 29 persons mentioned therein which was to end on 30.9.2018 have been extended for a further period 3 years.

Learned counsel appearing for the Patient Welfare Committee submits that the order impugned dated 14.9.2018 was passed as per the guidelines/instructions of the State Health Society as contained in their letter dated 17.4.2018. It is further submitted that even otherwise the contract of the petitioner having come to an end on 30.6.2018, the petitioner has no legally enforceable right.

Learned counsel for the State Health Society submits that the petitioner not having any legally enforceable right as his initial appointment is on contract basis, no relief can be granted in the writ application.

Having heard learned counsel for the parties and taking into consideration the fact that the very basis of passing of the



order impugned dated 14.9.2018 was letter dated 17.4.2018 of the State Health Society which was not with respect to the contractual employees like the petitioner but was related to employment on daily wages, in the opinion of this Court the order contained in letter dated 14.9.2018 cannot be sustained. As such the order contained in memo no.655 dated 14.9.2018 issued under the signature of the Secretary, Patient Welfare Committee, Sadar Hospital, Lakhisarai, is set aside.

The matter is remanded to the Civil Surgeon, Sadar Hospital, Lakhisarai (respondent no.4) who happens to be the Chairman of the District Health Society as also the Secretary, Patient Welfare Committee, Sadar Hospital, Lakhisarai (respondent no.5) to consider the case of the petitioner for his extension on contract basis within a period of three months of the date of receipt of a copy of this order.

The writ application stands disposed of.

(Partha Sarthy, J)

Bibhash/-

AFR/NAFR	
CAV DATE	
Uploading Date	20.02.2021
Transmission Date	

