

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S) No. 780 of 2022

Dr. Chandan Kumar, son of Sant Kumar Sah Petitioner

- V E R S U S -

1. State of Jharkhand
2. Principal Secretary, Department of Health, Medical Education and Family Welfare, Government of Jharkhand, Ranchi.
3. Deputy Secretary, Department of Health, Medical Education and Family Welfare, Government of Jharkhand, Ranchi.
4. Superintendent, Shaheed Nirmal Mahto Medical College and Hospital, Dhanbad.

... .. Respondents.

CORAM : HON'BLE MR. JUSTICE DR. S.N. PATHAK
(Through : Video Conferencing)

For the Petitioner : Mr. Sandeep Verma, Advocate

For the State Mr. Ravi Prakash Mishra, AC to AAG

02/24.02.2022 Petitioner has assailed the order dated 27.01.2022, as contained in Memo No. 154, issued under the signature of respondent no. 4 whereby respondent no. 3 has terminated the petitioner from the post of Senior Resident, Department of Dental. Petitioner has also prayed for a direction for regularization of his services and allow him to render service to the post of Senior Resident.

Mr. Sandeep Verma, learned counsel appearing for the petitioner submits that petitioner is working as Senior Resident, Department of Dental in Shaheed Nirmal Mahto Medical College and Hospital, Dhanbad but his service is destined to an end on 27.02.2022 as the tenure of service will come to an end on that very date. Learned counsel further submits that petitioner is conscious of the fact that he has been appointed purely on contractual basis and the tenure shall come to an end on 27.02.2022 but in view of the fact that services rendered by the petitioner is permanent in nature, which is reflected from records, he may be allowed to continue to the said post. Learned counsel places heavy reliance on the Judgment passed in the case of *Hargurpratap Singh Vs. State of Punjab and others* reported in (2007) 13 SCC 292 and submits that in case of

contractual appointment, the same cannot be replaced by way of another set of contractual appointment.

Mr. Ravi Prakash Mishra, AC to learned AAG representing State very fairly submits that in absence of counter affidavit he is not in a position to controvert the same. Learned counsel further submits that petitioner was appointed on tenure post and the same shall come to an end on 27.02.2022 and as such he has no right to continue on the said post. Learned counsel further argues that since petitioner had accepted terms of appointment which talks of tenure posting and as such there is no illegality or any infirmity in the impugned order. Petitioner has no right to continue on the said post after expiry of tenure.

It appears that similar issue fell for consideration before this Court in W.P.(S) No. 6142 of 2018 and vide order dated 17.12.2018, this Court directed the respondents to file counter affidavit whether they are in need of these doctors in view of the fact that there is dearth of doctors in the hospitals in the State.

In the facts and circumstances of the case, respondents are directed to file counter affidavit within a period of two weeks.

Put up this case on 23.03.2022.

In the mean time, service of the petitioner shall not be disturbed till next date.

(Dr. S.N. Pathak, J.)