

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No. 2526 of 2026

Dr. Pushplata, W/o Dr. Ramesh Prasad, aged about 65 years, R/o First Floor, Saryu Niwas, 36, Purulia Road, P.O., G.P.O., P.S. Lower Bazar, District Ranchi.

...Petitioner

Versus

1. The State of Jharkhand.
2. Principal Secretary, Department of Health and Family Welfare Medical Education, having office at Nepal House, P.O. & P.S. Doranda, District Ranchi.
3. Secretary, Finance, State of Jharkhand, having its office at Nepal House, P.O. & P.S. Doranda at Ranchi.
4. Rajendra Institute of Medical Sciences, through its Director, having office at RIMS, P.O. & P.S. Bariatu, District Ranchi.
5. Director, Rajendra Institute of Medical Sciences, P.O. & P.S. Bariatu, District Ranchi.

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioner	: Mr. Kalyan Roy, Advocate
For the State	: Mr. K.K. Singh, SC-V Mr. Krishna Prajapati, AC to SC-V
For the RIMS	: Dr. A.K. Singh, Advocate Mr. Sharon Toppo, Advocate

C.A.V. ON: 22.04.2026

PRONOUNCED ON: 04/05/2026

1. Heard learned counsel for the parties
2. The instant writ application has been preferred by the petitioner praying therein for quashing of the order dated 24.12.2025 (Annexure-6), by reason of which the petitioner

has been posted as Medical Officer at Barhait, Sahibganj without considering the admitted fact that the petitioner is going to superannuate on 30.06.2026 and also on her medical grounds; and further prayer has been made for a direction to the respondents to regularize the services and to release forthwith the up to date arrears of salary of the petitioner.

3. The brief facts of the case are that the petitioner was initially appointed on the post of Medical Officer and her first posting was at Primary Health Centre, Siwan w.e.f. 04.11.1990. Pursuant to an advertisement for filling up different posts at RIMS, she came to be appointed as a Tutor in Department of Physiology on 15.08.2008.

4. After coming of the RIMS Rules, 2014, the post of Tutor was classified as a tenure post as opposed to be of permanent nature as advertised then. The said issue was carried up to this Court in LPA No. 615 of 2017 and, in accordance of the order passed therein, Respondent No. 5 rejected the representations of the petitioner and other similarly situated Tutors vide order dated 01.12.2023.

5. Aggrieved thereof, certain similarly situated Tutors approached the Hon'ble Supreme Court, and their SLP came to be allowed. However, the petitioner was not extended the

benefit thereof and was not permitted to join since she was not a party in the said SLP.

6. Thereafter, the petitioner independently challenged the order passed in LPA No. 615 of 2017 before the Hon'ble Supreme Court in SLP(C) No. 12235 of 2024. The said matter was referred to *Lok Adalat*, wherein the Department of Health, Medical Education and Family Welfare agreed to accept the joining of the petitioner on the post of Medical Officer, subject to approval of the Finance Department.

7. Pursuant thereto, the petitioner submitted her joining before the Respondent No. 2 on 06.12.2023 and again on 13.08.2024; however, no posting was assigned to her. Being aggrieved, the petitioner approached this Court in WP(S) No. 5588 of 2024. During pendency of the said writ application, the respondents issued Memo dated 15.12.2025, whereby the period from 01.09.2008 to 06.12.2023, during which the petitioner had served as Tutor at RIMS, was regularized.

8. Thereafter, vide order dated 24.12.2025, the petitioner was given posting at Barhait, Sahibganj. In view thereof, the aforesaid writ application was disposed of on

05.01.2026, with liberty to the petitioner to ventilate her further grievances before the appropriate forum.

9. Subsequently, the petitioner submitted a representation before Respondent No. 2 requesting for her posting within Ranchi, inter alia, on the ground that she is very old and suffering from auto-immune diseases. However, no decision has been taken thereon till date. Hence, the present writ application.

10. It has been submitted by Ld. Counsel for the petitioner that the Respondent has passed the impugned order erroneously as no employee can be transferred or posted outside the home district in the last year of retirement in view of the State Government's own Resolution dated 25.10.1980 with regard to transfer policies.

It has been further submitted that the petitioner is an old and ailing lady suffering from autoimmune diseases such as hypothyroidism, rheumatoid arthritis and Raynaud's syndrome, and her husband also remains unwell and requires constant medical supervision at Ranchi.

He contended that while passing the impugned order of transfer/posting, the respondents failed to take into consideration the aforesaid factors, particularly the medical

condition of the petitioner, and that the place of posting at Barhait is 400 km far from Ranchi and a remote primary health Centre lacking adequate medical facilities for her treatment.

11. *Per contra*, learned counsel for the Respondents submitted that the petitioner was fully aware of the order of transfer at the time of hearing in WP(S) No. 5588 of 2024 but she raised no objection therein regarding her medical condition or the distance of posting, and further submitted that the State Government's guidelines regarding transfers within one year of retirement are directory and not mandatory in nature.

12. Further, he submitted that the process of regularization is contingent upon the petitioner fulfilling her duties at the assigned place of posting and since she has failed to do so her claim for regularization cannot be entertained while she remains in a state of unauthorized absence.

13. Having heard learned counsel for the parties and upon perusal of the materials on record, it transpires that the primary issue which arises for consideration is *whether the order of posting of the petitioner at Barhait, Sahibganj, at the fag end of her service, can be sustained in law, particularly in*

view of the State Government's own Resolution dated 25.10.1980, which is applicable if the employee is to superannuate within a year and the relevant portion whereof reads as under:

“3. जहाँ तक संभव हो, सेवानिवृत्ति के अंतिम वर्ष में पदाधिकारी को अपने मनोनुकूल स्थान पर स्थानान्तरण/ पदस्थापन के संबंध में उनके अनुरोध पर सहानुभूति के साथ विचार किया जायेगा।”

14. Admittedly, the petitioner is set to superannuate within a short span of time, inasmuch as, the period between the date of transfer, i.e., 24.12.2025, and the date of superannuation, i.e., 30.06.2026, is less than one year, and the aforesaid provision clearly indicates that as far as possible an employee in the last year of retirement is to be considered for posting at a place of his/her convenience.

However, the respondents seek to justify the impugned action on the ground that the transfer policy is merely directory in nature and that the petitioner has failed to join at the transferred place of posting. However, the Respondents has failed to demonstrate as to why there is no possibility of retaining the Petitioner at this place, inasmuch as, the Resolution dated 25.10.1980 clearly stipulates “AS FAR AS POSSIBLE”.

15. It further appears from the *Enclosure to the Settlement Paper* with reference to SLP(C) No. 12235 of 2024 dated 31.07.2024 that the Department of Health, Medical Education and Family Welfare has admittedly entered into settlement with the petitioner for considering the case of joining subject to clearance of the Finance Department; and further from the order dated 05.01.2026 in *WP(S) No. 5588 of 2024* it appears that vide Resolution dated 15.12.2025, the period from 01.09.2008 to 06.12.2023, during which the petitioner served as Tutor at RIMS, has already been regularized.

16. So far as the contention of the Respondent with regard to not assailing the issues in the earlier round of litigation is concerned; the impugned order of posting dated 24.12.2025 was annexed by the respondent in their supplementary counter affidavit from where the petitioner for the first time came to know that she was posted at referral Hospital, Barhait, Sahibganj, and as such, she would not have any occasion to assail the same.

17. In the aforesaid factual backdrop, this Court finds that once the respondents themselves have taken a conscious decision to regularize the services of the petitioner for the

period from 01.09.2008 to 06.12.2023, and the petitioner joined pursuant to the settlement arrived at in SLP(C) No. 12235 of 2024, but no posting was given to her until and unless the impugned order of posting/transfer dated 24.12.2025 was passed, thus, there was no lapse on the part of the petitioner and the plea of non-joining cannot be attributed to her in the facts of the present case, inasmuch as, the convenience of the petitioner to posting/transfer place has not been considered being in her last year of superannuation.

18. Further, the contention of the respondents, insofar as, that the Government Resolution dated 25.10.1980 is directory in nature is concerned, there cannot be any quarrel with the settled position of law that transfer policies cannot be completely disregarded when the same has been framed by the respondents themselves; then they cannot flout the same in an arbitrary manner. At the cost of repetition, the Respondents has not made any averment in their counter affidavit as to why there is no possibility of retaining the Petitioner at this place, inasmuch as, the Resolution dated 25.10.1980 clearly specifies “*AS FAR AS POSSIBLE*”

19. In this context, this Court places it reliance on the judgment rendered by this Court in ***Uttam Kujur v. State of***

Jharkhand¹, wherein paragraph 13 of the said judgment reads as under:

“13. Admittedly, there are no statutory rules framed under proviso to Article 309 regulating the transfer and posting of Government servants in the State of Jharkhand. On consideration of the resolution dated 25th October, 1980 we find that the State Government has laid down a transfer policy and also prescribed the procedure. In absence of statutory rules these guidelines regulate the transfer and posting of Government servants. The procedure prescribed and the policy seems to be fair and rational. Once the Government has laid down norms and policy, there must be valid reasons to deviate from that. This very Division Bench in the case of M/s. Ranisati Pipe Industries, Jamshedpur, Singhbhum East State of Jharkhand and Ors., while considering the validity of the Government's Industrial Policy and its violation by the executive authorities observed thus:

16. ...A subordinate authority has no right or jurisdiction to overthrow a well thought State's Policy by its subordinate executive action....”

Emphasis Supplied

20. The aforesaid principle squarely applies to the facts of the present case, inasmuch as, no justification whatsoever has been brought on record by the respondents for deviating from the said policy, and thus, this Court is of the considered opinion that the impugned order of posting to transfer the petitioner to a remote area at the fag end of her service cannot be sustained in the eyes of law.

21. Accordingly, the impugned order dated 24.12.2025 (Annexure-6), is hereby quashed and set aside. The respondents are directed to consider the case of the petitioner for posting at a suitable place, preferably at or near Ranchi,

¹ **2008 (2) JCR 306 (Jhr)**

keeping in view her medical condition and the fact that she is to superannuate on 30.06.2026, within a period of two weeks from the date of receipt/production of a copy of this order.

22. The petitioner shall also be entitled to all consequential benefits, including arrears of salary, which shall be released to her within a further period of eight weeks from the date of receipt/production of a copy of this order.

23. With the aforesaid observations and directions, this writ application stands allowed. Pending I.As, if any also stands disposed of.

(Deepak Roshan, J.)

May 04, 2026

Amardeep/-

A.F.R.

uploaded

05.05.2026