

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22001 of 2014

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Surender Lal Son of Rohan Paswan Resident of Village - Gomia Police Station - Gomia, District - Bokari (Jharkhand) at present posted as Revenue Karamchari at Kanti, Muzaffarpur.

.... Petitioner

Versus

1. The Union of India through Ministry of Home Affairs, Government of India, New Delhi.
2. The Secretary, Home (Special) Department, Government of India, New Delhi.
3. The State of Bihar.
4. The Principal Secretary, Home (Special) Department, Government of Bihar, Patna.
5. The Additional Secretary, Department of Revenue AND Land Reforms, Bihar, Patna.
6. The Deputy Secretary, Home (Special) Department, Government of Bihar, Patna.
7. The State of Jharkhand.
8. The Principal Secretary, Home (Special) Department, Government of Jharkhand.
9. The Additional Secretary, Department of Revenue AND Land Reforms, Ranchi, Jharkhand.
10. The Collector, Muzaffarpur.
11. The Circle Officer, Kanti Muzaffarpur.
12. Shiv Kumar Mandal Son of Not Known, Revenue Karamchari, Anchal - Lavalang (Simariya), District - Chatra, Jharkhand.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Vipin Kumar Singh

For the Respondent/s : Mr. Ga5- Jai Shankar Barnawal

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 17-07-2015

Heard learned counsel for the parties.

The prayer of the petitioner in this writ application reads as follows:

“i) For issuance of a writ in the nature of mandamus or any other appropriate writ/direction/order for commanding the respondents to allow the application of the petitioner and the application of the respondent no.12



for mutual transfer in place of each other in the same rank, from the State of Bihar to the State of Jharkhand and vice versa in the light of the resolution/ decision contained in the letter no. 993 dated 27.1.2010 of the State of Bihar wherein the State of Bihar has taken a decision to allow the case of the personal/ employ in the non state cadre/ divisions between the two State on the terms and conditions laid down in the said letter itself, seeking its concurrence in the said modalities of mutual transfer from the state of Jharkhand to which the State of Jharkhand has given its concurrence and the cases of the petitioner for mutual transfer has been approved by the state i.e. State of Bihar and the State of Jharkhand.

ii) For issuance of a writ in the nature of mandamus or any other appropriate writ/direction/ order for commanding the respondents to take appropriate action/ decision in light of the memo no. 492(4) dated 28.1.2013 issued by Additional Secretary, Department of Revenue & Land Reforms, Bihar, Patna addressed to the Deputy Secretary, Home (Special) Department, Bihar, Patna whereby a request has been made to take appropriate action/ decision for the inter state transfer of the petitioner.”

Learned counsel for the petitioner in support of the aforementioned prayer has submitted that the petitioner, who is presently posted in the State of Bihar on the post of Rajaswa Karamchari in Kanti Anchal of Muzaffarpur District, had filed his application for mutual transfer to the State of Jharkhand on the



ground that one Shiv Kumar Mandal holding the post of Rajaswa Karamchari in Anchal Lawalong (Simariya) in the district of Chatra situated within the State of Jharkhand had given his consent for mutual transfer with the petitioner as he wanted to be allocated the State of Bihar.

In the considered opinion of this Court when the Bihar Re-organization Act, 2000 came into force the Central Government had made it clear that only the services having the State cadre shall have the allocation of one or other successor State. To that extent the decision of the Central Government was as follows:

“(a) Those staffs serving in village, Tehsil, district, division or region who are normally liable for transfer within such area and are part of such territorial cadres, shall be deemed to have been appointed to such posts by the successor State of Jharkhand/ Chhattisgarh/ Uttaranchal on and from the appointed day in whose territory the area has been included.”

Admittedly the post of Rajaswa Karamchari is not having a State cadre and therefore, there could be no question of mutual transfer in terms of Section 72 of the Bihar Re-organization Act. The reliance placed by the learned counsel for the petitioner on a decision of the Govt. of Bihar on a press communiqué, as contained in Annexure 3 to this writ application, will also be of no

avail because whatever was said in respect of transfer of the employees of divisional/ district cadre has also a cut-off date of 30.4.2011.

This Court is also not aware of any subsequent decision taken by the Central Government allowing such mutual transfer and in fact the office order No. 12/2010 issued by the Govt. of India in terms of Section 72(2) clearly lays down that though the employees belonging to the district/ divisional cadre, who were working in respective State of Bihar/ Jharkhand shall be deemed to have been allocated that very State.

Thus, while this Court is not inclined to now unsettle the settled events which have taken place in last 15 years, especially when the spirit of Bihar Re-organization Act is that allocation must be completed within the fixed time frame and that too in the ratio of 2/3rd for the successor State of Bihar and 1/3rd for the State of Jharkhand.

When such observation has been made learned counsel for the petitioner prays for withdrawing this writ application with a liberty to the petitioner to approach the Central Government for redressal of his grievance of mutual transfer relating to district cadre post.

This application is, accordingly, permitted to be

withdrawn with the aforementioned liberty but then it is made clear that now the petitioner will have no liberty to move this Court for the same cause of action.

surendra/-

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(Mihir Kumar Jha, J)