

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7228 of 2014

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Anjesh Kumar S/o late Ramakant Jha R/O Mohalla- Punam Niwas, New Bailey Road, P.O. Danapur , P.S. Rupaspur in the District of Patna.

.... Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary Govt. of Bihar.
2. The Principal Secretary Welfare Department Govt. of Bihar, Patna.
3. The Divisional Commissioner, Patna Division, Patna
4. The Director, I.C.D.S., Government of Bihar, Patna
5. The District Magistrate, Patna.
6. The Child Development Project Officer, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Advocate.

For the Respondent/s : Mr. Ram Balak Mahto

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

3 14-07-2015 Learned counsel for the petitioner, having brought to attention of this Court an order of the Division Bench dated 22.02.2011 in LPA No. 443 of 2010, submits that there cannot be any inter divisional transfer as the petitioner is the member of divisional cadre.

2. This aspect of the matter though specifically pleaded in paragraph no. 11, 15 and 17 of the writ application has not been answered much less controverted in the counter affidavit which infact does not even address to the facts mentioned in the writ application and whatever has been stated in the counter affidavit, in fact, only seeks to rely on a general order dated 12.04.2006 which either was not brought to the notice of the Division Bench

or if brought, was not accepted while disposing of L.P.A. No. 443 of 2010 on 22.2.2011.

3. This Court however cannot ignore also the fact that the petitioner has already complied the impugned order of his transfer dated 18.06.2009 and has filed this writ application only on 11.4.2014 almost after five years of the impugned order of transfer. In such a situation though the petitioner will be bound by the principle of Estoppel by conduct, but this court keeping in view of law laid down by division bench in L.P.A. no. 443 of 2010 would give liberty to approach by way of representation to Director, I.C.D.S. to consider his grievance and if it is found that the transfer of the petitioner was/or even now not permissible beyond his original divisional cadre in view of the aforesaid judgment of the Division Bench dated 22.2.2011 which has been allowed to become final, an appropriate decision shall be taken for transferring the petitioner to any place in his original divisional cadre. On the other hand if any subsequent conscious government decision has already been taken for allowing inter divisional transfer after the division bench judgment dated 22.2.2011, the case of the petitioner would be decided as per the revised policy.

4. In that view of the matter, if the petitioner approaches the Director, I.C.D.S. by filing a representation

enclosing a copy of this order, an appropriate decision shall be taken within a period of three months from the date of filing of such representation.

5. With the aforementioned observation and direction, this writ application is disposed of.

(Mihir Kumar Jha, J)

Sujit/-

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