

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14031 of 2013

Dr. Nirmal Kumar Tewari, aged about 56 years, son of Late Shivdas Tiwari, resident of Cantt Road, Mustafapur, P.S.Khagaul, District Bhojpur.

.... Petitioner/s

Versus

The State of Bihar through Principal Secretary, Department of Labour Resources, Government of Bihar, Patna.

2. The Principal Secretary, Department Of Labour Resources, Government Of Bihar, Patna.

3. The Special Secretary, Department Of Labour Resources, Government Of Bihar, Patna

4. The Deputy Secretary, Department Of Labour Resources, Government Of Bihar, Patna

5. The Director Medical Services, Employee Service Insurance Scheme, Bihar Under The Department Of Labour Resource, Government Of Bihar, Patna.

.... Respondent/s

with

Civil Writ Jurisdiction Case No.14370 of 2013

1. Dr. Ram Binay Prasad Son Of Sri Ram Tawakya Singh Resident Of Plot No. 176, Road No. 23, Mohalla- Sri Krishna Nagar, P.S.- Budha Colony, District- Patna

.... Petitioner/s

Versus

1. The State Of Bihar, Through The Principal Secretary, Labour Resources Department, New Secretariat, Vikas Bhawan, Bailey Road, Patna

2. Deputy Secretary, Labour Resources Department, New Secretariat, Vikas Bhawan, Bailey Road, Patna

3. Director, Medical Services, Directorate Of Medical Services Employees State Insurance Scheme, Bihar, New Secretariat, Vikas Bhawan, Bailey Road, Patna

.... Respondent/s

with

Civil Writ Jurisdiction Case No.14369 of 2013

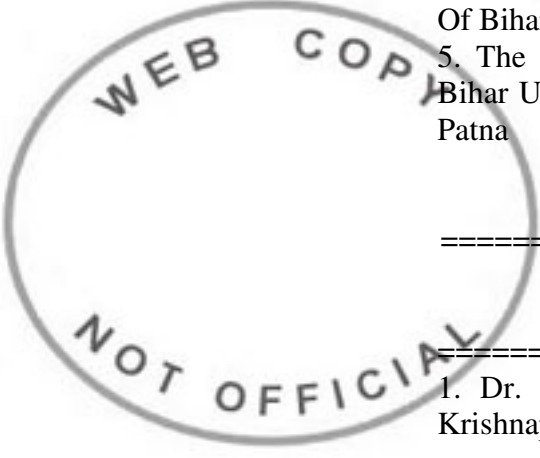
1. Dr. Abhay Kumar Singh Son Of Late Abhimanyu Prasad Singh Resident Of 78, Patliputra Colony, P.S.- Patliputra, Patna- 800013

.... Petitioner/s

Versus

1. The State Of Bihar Through Principal Secretary, Department Of Labour Resources, Government Of Bihar, Patna

2. The Principal Secretary, Department Of Labour Resources, Government Of Bihar, Patna

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3. The Special Secretary, Department Of Labour Resources, Government Of Bihar, Patna
 4. The Deputy Secretary, Department Of Labour Resources, Government Of Bihar, Patna
 5. The Director Medical Services, Employee Service Insurance Scheme, Bihar Under The Department Of Labour Resource, Government Of Bihar, Patna

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.14898 of 2013

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1. Dr. Om Prakash Son Of Sri Tarini Prasad Resident Of E-79, Sri Krishnapuri, P.S.- Kotwali, District- Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Labour Resources Department, Govt. Of Bihar, Patna
3. The Deputy Secretary, Labour Resources Department, Govt. Of Bihar, Patna
4. The Director, Medical Services, Directorate Of Medical Services, Employees State Insurance Scheme, Bihar, New Secretariat, Vikash Bhawan, Patna

.... Respondent/s

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

3 20-03-2015 Heard learned counsel for the parties.

The crux of the issues raised in all these writ applications is one and the same. The petitioners feel aggrieved on account of impugned order of their transfer because they find that while they have been transferred from one place to another and that too at distant places, some of them have been given favourable places and



allowed to retain even after expiry of a period of three Years. Some of the petitioners have been transferred from Patna to Patna whereas others including the petitioners have been sent to distant places.

Mr. Kishore Kumar Thakur, learned counsel for the petitioner appearing in C.W.J.C No. 14370 of 2013 submits that as a matter of fact one of the petitioner namely, Ram Binay Prasad, has been transferred to Employee State Dispensary, Kahalgaon where no post is existing and therefore, the petitioner will not be getting salary over there.

Learned counsel for the parties agree that the transfer is incidence of service and there is no violation of any statutory Rule in the present cases.

In that view of the matter, this court would refuse to interfere with the order of transfer by adopting same line which was drawn by the Apex Court in the case of **Shanti Kumari v. Regional Deputy Director, Health Services, Patna Division, Patna**, reported in **AIR 1981**

SC 1577, wherein, it was held as follows:-



“Having heard learned counsel for the parties, we are of the opinion that the High Court rightly declined to interfere with the impugned order. Transfer of a Government servant may be due to exigencies of service or due to administrative reason. The Courts cannot interfere in such matters. Shri Grover, learned counsel for the appellant, however, contends that the impugned order was in breach of the Government instructions with regard to transfers in the Health Department. If that be so, the authorities will look into the matter and redress the grievance of the appellant.”

Thus the only option of the petitioners against the impugned order of transfer would be to move the competent authority. This Court is informed that the Principal Secretary of the Labour Department would be the competent authority and therefore, if the petitioners are still aggrieved in any manner in the matter of their transfer as envisaged in the impugned order, they may move before the Principal Secretary of the Labour Department, who shall definitely under obligation to examine the matter in a free and fair manner to ensure that the transfer is not made in a selective manner without following any uniform policy. If in course of disposing of such representations of the petitioner, the

Principal Secretary feels necessity to pass fresh order of transfer, he may do so without being prejudiced by anything said in this order.

With the aforementioned observation and direction, these applications are disposed of.

(Mihir Kumar Jha, J)

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