

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.22202 of 2014

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Pramod Kumar S/o Late Ram Swarth Hazara R/o village - Mohammadpur Hari,
P.O. + P.S. Bhagwanpur, District - Vaishali

.... Petitioner/s

Versus

1. The State of Bihar through Secretary, Department of Information and Public Relation, Government of Bihar, Patna
2. The Director, Department of Information and Public Relation, Government of Bihar, Patna
3. The Deputy Director, Department of Information and Public Relation, Muzaffarpur
4. The District Public Relation Officer, Vaishali
5. The District Magistrate - cum - Collector, Vaishali , District - Vaishali

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Choudhary, Adv.

For the Respondent/s : Mr. Ram Balak Mahto, AG

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

Date: 20-07-2015

Heard learned counsel for the parties as with regard to the following relief prayed in this writ application:-

- “1(i) For issuance of writ/writs in the nature of certiorari for set-aside of order dated 01.08.2013 by the District Public Relation Officer, Vaishali in memo No. 579 whereby and where under the poor petitioner has been ordered to the join at his transferred place (Gaya).
- (ii) For issuance of writ in the nature of Mandamus for taking suitable action against the concerned officials who has been passed the order by which this petitioner has been order to join at his transfer place without completion of full period.”

Aggrieved with the order of relieving dated 1.8.2013, the



petitioner has filed this writ application primarily questioning the impugned order of transfer dated 27.6.2013 even without enclosing it in the writ application. Thus, it was quite easy for this Court to dismiss this writ application because the relief sought to be assailed herein is only in respect of consequential order and the main order was never challenged by the petitioner in this writ application.

This Court, however, would still go into the matter at length for the reason that the petitioner has come out to submit that there is a law with regard to transfer as circulated by the government circular contained in resolution no. 434 dated 1.3.2007 which lays down that transfer should be done in the month of May/June and/or November/December. He has also relied on the provision in the aforesaid circular dated 1.3.2007 which talks of transfer upon completion of tenure of three years. According to him, if transfer is to be made in the midst of tenure of three years, the same can be done only after obtaining the order of superior authority which in case of the petitioner was never done.

Learned counsel for the State on the other hand has submitted that this petitioner has already complied the impugned order of transfer and has been working on his transferred place in view of the impugned order of his being relieved.

In the considered opinion of this Court, once the petitioner has already complied the order of transfer, there would be actually no need for this Court to decide the case of transfer. Moreover, whatever has been said in the aforesaid circular contained in resolution dated 1.3.2007 is only

directory in nature as was held in the case of Division Bench judgment in the case of *Man Singh Vs. State of Bihar & Ors.* reported in *1982 BBCJ 392*. All these guidelines in fact invariably contain provisions “normally/ordinarily” and, therefore, this can never be said to be mandatory in nature. Moreover, it is not a case of single transfer rather from Annexure-A, the main transfer order dated 27.6.2013, it appears that as many as seven persons were sought to be transferred including the petitioner by way of a chain transfer.

The last plea taken by the learned counsel for the petitioner that appointment of the petitioner was made on compassionate ground and his mother was not well and, therefore, the petitioner should not have been transferred has to be also noted for its being rejected as the appointment on compassionate ground does not mean that a person has to be never transferred from his earlier place of posting. Once a compassion having been shown to the petitioner by appointing him, there would be no question of further compassion even in the matter of his posting.

Thus, for the reasons indicated above, this writ application must fail and is, accordingly, dismissed.

(Mihir Kumar Jha, J)

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