

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12803 of 2013

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1. Raj Kumar Pandey S/O Late Deodat Pandey R/O Village - Chakand Ghir, P.S. - Chandauti, District - Gaya

.... Petitioner/s

Versus

1. The State Of Bihar Through Principal Secretary, Water Resources Department, Govt. Of Bihar, Patna
2. Chief Engineer, Irrigation Department, Govt. Of Bihar, Patna
3. Chief Engineer - Ii, Rural Work Department, Bhagalpur, Head Quarter At Patna
4. Superintendent Engineer, Rural Work Department, Work Anchal, Aurangabad
5. Executive Engineer, Rural Work Department, Work Division, Jehanabad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra,
Mr. Deepak Kumar,
Mr. Harish Chandra Patel, Advocate
For the Respondent/s : Mr. Sushil Kumar Singh, AC to SC 23

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 30-03-2016

Heard learned counsel for the petitioner and learned counsel for the State.

In the present writ petition, the petitioner is claiming that he should be brought from cadre of store-keeper to the clerical cadre as scales of pay and service conditions of both cadres are identical.

The petitioner was appointed as a store-keeper and claim of the petitioner is that there is proper avenue of promotion in clerical cadre but it is not same in the Store-Keeper cadre though the pay scale of clerical cadre as well as store keeper is identical.



So he claims that he should be brought from store keeper cadre to the clerical cadre. Petitioner has placed reliance on the letter dated 17.1.1980 which has been written by the Additional Secretary, Government of Bihar, Irrigation Department to all the Chief Engineer and Executive Engineer where it has been mentioned that in view of the Government letter no.1769 dated 24.3.1979 for removal of anomaly the Government has taken a decision that the chief store-keeper and store keeper who were working in Muffasil Office would be brought to cadre and after holding discussion with the Finance Department it has been decided that Chief Store-keeper and store-keeper should be merged with the clerical cadre. But from other documents it appears that the Government has taken a decision for merger of senior clerk and junior clerk and thereafter uniform clerical cadre was constituted.

Learned counsel for the petitioner has drawn the attention of this Court that pay scale of clerical cadre and store-keeper cadre are same as Government has already treated the store-keeper at par with the clerk and as such he should be transferred to the clerical cadre. Cadre of store-keeper is quite different to the clerical cadre. A Government servant in no circumstances can be transferred to another cadre unless the Government frames

such rule.

This Court is not giving any opinion or direction for transfer or merger, it is purely Government prerogative to frame such rule or takes decision for merger. The petitioner has already filed a representation (Annexure-10) wherein he has made prayer for transfer to the clerical cadre from the cadre of Store-Keeper which is pending before the Principal Secretary, General Administration Department, Government of Bihar.

Learned counsel for the petitioner has drawn the attention of this Court towards letter dated 17.8.2015 whereby one Raj Nandan Prasad was holding the post of correspondence clerk has been made accounts clerk.

For convenience the petitioner is directed to file a fresh representation before the Principal Secretary, Water Resources Department, Government of Bihar who will examine the same and pass a reasoned order within a period of three months from the date of filing of the representation.

With the aforesaid observation this writ petition is disposed of.

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(Shivaji Pandey, J)