

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11587 of 2016

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1. Sanjay Kumar Mehta, son of Late Prahalad Prasad Mehta, Resident of Village-Bahera, P.S. Nanpur, District Sitamarhi, presently working as Junior Accounts Clerk, Local Area Engineering Organization, Work Division, Sheohar
 2. Ashok kumar Mishra, son of Sri Baliram Mishra, Resident of village- Ajamgar, P.O. Lagma, District Sitamarhi presently working as Junior Accounts Clerk, Local Area Engineering Organization, Work Division-1, Sitamarhi
 3. Rajiv Ranjan, son of Sri Raghunath Mahto, Resident of Chakbalu Gali, near Chaipman Girls School, P.O. Ramna, District Muzaffarpur, presently working as Junior Accounts Clerk, Local Area Engineering Organization, Work Division-1, Bettiah, District West Champaran
 4. Ram Babu Prasad, son of Sri Ramchandra Prasad Resident of Janki Asthan, P.O. and P.S. Sitamarhi, District Sitamarhi, presently working as Junior Accounts Clerk, Local Area Engineering Organization, Work Division-1, Sitamarhi
 5. Yogendra Prasad Mandal, son of Late Ramdhani Mandal, Resident of village-Dumaria (Laxmipur) P.O. Madari Chak, P.S. Manihari, District Katihar presently working as Junior Accounts Clerk, Local Area Engineering Organization, Work Division, Saharsa
 6. Shashi Mohan Kumar, son of Late Rameshwar Prasad Srivastava, Resident of village and P.O. Mahindwara, P.O. Runnisaidpur, District Sitamarhi, presently working as Junior Accounts Clerk, Local Area Engineering Organization, Work Division-1, Sitamarhi

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Planning and Development Department, Government of Bihar, Patna
3. The Joint Secretary, Planning and Development Department, Government of Bihar, Patna
4. The Principal Secretary, Rural Works Department, Government of Bihar, Patna
5. The Executive Engineer, Local Area Engineering Organization, Work Division, Sheohar
6. The Executive Engineer, Local Area Engineering Organization, Work Division-1, Sitamarhi
7. The Executive Engineer, Local Area Engineering Organization, Work Division-1, Bettiah District West Champaran
8. The Executive Engineer, Local Area Engineering Organization, Work Division, Saharsa

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pushpendra Kumar Singh
For the Respondent/s : Mr. AC to AAG 7

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 17-08-2016

The six petitioners have jointly approached the High



Court when an order dated 30.6.2016 was passed transferring them to various places of posting as per their requirement and use. The order of transfer contained in Annexure- 3 is being challenged primarily on the ground that the Local Area Engineering Organization where the services of these petitioners have been placed on deputation cannot transfer these petitioners without the approval or the authority of their parent department, which is said to be Planning and Development Department of Government of Bihar.

The other argument is that these petitioners are sought to be transferred beyond the range, which is not permissible.

From a reading of Annexure- 3, it is evident that it is a chain transfer effected as part of the exercise for annual chain transfer. No doubt, the petitioners' services have been placed on deputation before the Local Area Engineering Organization, as is their stand but that by itself does not prevent the Local Area Engineering Organization to utilize the services of these petitioners in the best interest of the organization by deploying them at a place where they feel their services are best required. So long as the deputation continues, the authorities under whose jurisdiction these petitioners are will continue to exercise all the authority, including transfer, posting etc. except any major disciplinary action against them. In the opinion of this Court, there is no necessity for seeking any approval, prior or post of the parent department. It is another issue that the State

Government has taken a stand in the counter affidavit that it is not a case of deputation but a case of handing over of services of these petitioners to the Local Area Engineering Organization.

Be that as it may, neither of the two positions makes a difference so far as the order of transfer is concerned. The above submission with regard to the prior permission of the parent department and the necessity thereof is hereby rejected.

So far as the second contention of the transfer of these petitioners beyond range is concerned, nothing has been produced in terms of any rule or circulars, which prevent such transfer or use of these petitioners in any office or area where work of Local Area Engineering Organization is going on. The second submission on behalf of the petitioners has basically been made more for the sake of argument than any substance. Even this contention is rejected.

In view of the above, the writ application is required to be dismissed. No interference is warranted with the order of transfer.

Writ is dismissed.

(Ajay Kumar Tripathi, J)

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AFR/NAFR	NAFR
CAV DATE	
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