

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15222 of 2016

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Manhar Sati Prasad Son of Late Shri Madan Jee Resident of 24, Vandana
Apartment, Patliputra Path, Rajendra Nagar, Patna 800016, District Patna, Bihar

.... Petitioner

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Tourism, Government of Bihar
3. Director, Department of Tourism, Government of Bihar
4. Managing Director, Bihar State Tourism Development Corporation Ltd.
5. The General Manager, Bihar State Tourism Development Corporation

.... Respondents

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Appearance :

For the Petitioner : Mr. Anshuman Singh, Advocate

For the Respondent Nos.4-6: Mr. Rajeev Ranjan Prasad, Advocate

Mr. Rajendra Kumar, Advocate

Mr. Abhishek Singh, Advocate

Ms. Surabhi, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 16-12-2016

The order No.27/16 dated 29.06.2016 (Annexure-9) is the subject matter of challenge in the present writ application. By virtue of this decision the petitioner has been transferred to Bodh Gaya as In-charge of the Zone with responsibilities indicated in the said order of transfer. The Court would like to record that the office order not only deals with transfer of the present petitioner but six other employees whose name figures in the composite notification.

The ground urged for setting aside Annexure-9 is that the petitioner is being sought to be moved to an unsanctioned post which is also a non-existent post. This transfer also has the effect of reducing the status of the petitioner since he is working as a Senior



Manager at the headquarters at Patna, but he is being relegated to one corner of the State of Bihar with limited jurisdiction. Petitioner also apprehends that he has to report to his junior by virtue of the nature of post to which he is sought to be transferred. There is even allegation of malafide that the reason for transfer is for reasons otherwise than the administrative, which is sought to be made out by virtue of the notification and the stand of the Corporation.

Two put the misgivings of the petitioner with regard to his status and entitlements, a detailed statement has been made in paragraph 11 of the counter affidavit removing any kind of misgivings which the petitioner may have if he occupies the transferred post.

In the same counter affidavit the background under which restructuring has been ordered to be made emerges from the statements made from paragraph 7 onwards till paragraph 10.

The Court is also told that the present post which the petitioner is holding at the headquarters was also not a regular sanctioned post as such but a post created according to the needs by the Corporation as a working arrangement. The Board in its meeting based on the three-member committee report has gone for restructuring of the Corporation for betterment of the Corporation. The petitioner had remained in the headquarters on the present post



for more than 10 years at Patna and it is because of the prolonged stay at Patna that the petitioner does not want to move out of the headquarters to any other part of the State.

The Court does take judicial notice of the fact that the financial and administrative health of the Corporation is not at its best. The Corporation is being run by hiring people at times not on regular basis and there is a lot of problems related to the manpower management as well. The Corporation is not in a position to have regular hiring on fanciful pay and privileges.

If the Corporation, therefore, decides to make a valiant effort to restructure its set-up, use people with such vast experience in the organization sitting at the headquarters to boost its resources and get better returns, then the Court will not intervene at the instance of the petitioner since that will virtually amount to exercising administrative control over the affairs of the Corporation.

What is of importance is that the petitioner's pay, perks privileges and status has to be protected, which has been done by the Corporation in unequivocal terms. Petitioner, however, cannot be assured other benefits which he got by remaining in the headquarters.

The transfer of the petitioner seems to be part of a well considered exercise done in a holistic manner and not on individual basis. The decision of the Board to that extent is not required to be



interfered with especially when the Courts have time and again held that the transfers as such are incidence of service. Whatever submissions have been made against the transfer of the petitioner to Bodh Gaya, should be put to rest by what the Corporation has said in paragraph 11 of the counter affidavit.

The writ application, therefore, has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

Pawan/-

AFR/NAFR	NAFR
CAV DATE	N/A
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