

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16070 of 2015

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Jharkhandey Singh, Son of Late Baban Singh, resident of village - Chandi, P.S. - Nawanagar, District - Balia (U.P.), at present residing at T/S5 GS, Housing Colony, Lohianagar, P.S. - Kankarbagh, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Road Construction Department, Bihar, Patna.
3. The Secretary, Rural Works Department, Govt. of Bihar, Patna.
4. The Special Secretary, Road Construction Department, Bihar, Patna.
5. The Engineer-in-Chief, Road Construction Department, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prabhu Nath Pathak
For the Respondent/s : Mr. D.K. Sinha, AAG2

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 18-04-2016

Heard learned counsel for the parties.

Petitioner has moved the High Court for a direction upon the respondent State authorities to abide by the decision, they have themselves taken and notified in terms of Annexure-1, dated 03.09.2012.

Prior to this notification the State Cabinet took a policy decision to bifurcate the cadre of Junior Engineers into different departments, which was a joint cadre. In terms of the policy, as would be evident from reading of Annexure-1, especially clause iv (ka) that the division of cadre between Road Construction Department, Building Construction Department and Rural Works Department was required to be made on the basis of "as is where

is”, effective 18.07.2012.

It is the assertion of the petitioner that on 18.07.2012, petitioner was working as Jr. Engineer in the Rural Works Department. This position can be certified by reading Annexure-2, dated 23.07.2012, because by virtue of Annexure-2, petitioner, who was working in the Rural Works Department, was sent on transfer to Rural Construction Division, Buxar.

From the notification, contained in Annexure-2, it is evident that the petitioner was only on deputation with the Rural Works Department. This transfer had been effected on 23.07.2012, prior to issuance of notification, dated 03.09.2012. By virtue of the same, therefore, the petitioner’s cadre will be treated to be of Road Construction Department and not of the Rural Works Department. What is of significance is that the authorities also gave an opportunity to raise objection against the division of the cadre and time-frame of two months was given to one and all including the petitioner. Petitioner did not raise any objection with regard to him being sent to the Road Construction Department in terms of Annexure-2, because if he wanted, he could have raised objection that he wanted to remain in the Rural Works Department and would not like to be governed by the order of transfer, dated 23.07.2012.

Obviously, it is a case of afterthought by the petitioner. Therefore, the Court would not entertain the writ application for such a change in cadre at this juncture.

Writ application is dismissed, accordingly.

(Ajay Kumar Tripathi, J)

SKM/-

AFR/NAFR	NAFR
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