

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.25229 of 2013

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1. Sunil Kumar S/O Rambali Sharma Resident Of Village+ P.O- Chhotaka Akauna, P.S- Ghosi, District- Jehanabad, At Present Posted As Constable Post In The Office Of Special Branch, Sadar Gaya, District- Gaya.
 2. Bireshwar Pandey S/O Late Dharmnath Resident Of Village+ P.O- Haradiya, P.S- Bharadhiya, District- Siwan, At Present Posted As Sub- Inspector Post, In The Crime Branch At Secretariat, Patna.
 3. Upendra Kumar Sharma S/O Late Mathura Nandan Singh R/O Village+ Po- Adai, R.S- Koanch, District Gaya, At Present Posted Crime Investigation Department As A Sub- Inspector Post At Patna.
 4. Umesh Kumar Singh S/O Late Birendra Singh R/O Village+ P.O- Kosiar, P.S- Sahar, District- Bhojpur., At Present Posted As A Constable Post In Crime Investigation Department.
 5. Umesh Singh S/O Late Bharat Singh R/O Village+ P.O- Jalalpur, P.S- Roh, District- Nawada., At Present Posted As Constable Post In Special Branch In Secretariat, Patna.
 6. Sita Sharan Raut S/O Late Laxmi Raut R/O Village+ P.O- Yogi Bhata Bazar, P.S- Bhatanaha, District- Sitamarhi, At Present Posted As Constable Post In Crime Investigation Department, Patna.

.... Petitioner/s

Versus

1. The State Of Bihar.
2. The Chief Secretary, Govt. Of Bihar, At Patna.
3. The Principal Secretary (Home), Govt. Of Bihar, At Patna.
4. The Director- General Of Police, Govt. Of Bihar At Patna.
5. The Additional Director General Of Police, Govt. Of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mahendra Thakur,
Mr. Ajay Kumar Sinha, Advocates.
For the State : Mr. Ajay Kumar Sinha, AC to AAG 6

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 02-08-2016

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

Learned counsel for the petitioners submits that he does
want to press the writ petition of Bireshwar Pandey, petitioner

no.2, and Umesh Kumar Singh, petitioner no.4 on the ground that they have been returned to their original place of posting.

Accordingly writ petition of petitioner nos. 2 and 4 is dismissed as not pressed.

Learned counsel for the petitioners submits that before completion of 10 years of service petitioners have been transferred from one Zone to another Zone which is against Section 10 of the Bihar Police Act. In terms of Section 10 of the Bihar Police Act the Officers and constables will remain in one Zone for 10 years and they cannot be transferred before that period.

Learned counsel for the State has submitted that it was a mass transfer on account of administrative exigency and it is not an act of malafide and not done in impunity, not only petitioners have been transferred but by and large several persons have been transferred from one Zone to another and that has been done for better administration.

When transfer has been effected on the ground of administrative exigency this Court feels constrain in interfering with such order of transfer. Hon'ble Supreme Court as well as this Court in different judgments has taken a view that a person who has been transferred must joined the post first, thereafter he

would be at liberty to file a representation assigning the ground for returning back to the original post. As petitioners have already joined and have been discharging their duties, this Court is of the view that in such circumstances it will not be fair for this Court to interfere with the order of transfer. However, liberty is given to the petitioners to file a detailed representation before the Additional Director General of Police, Govt. of Bihar, Patna giving his grounds in turn Additional Director General of Police will consider the representation of the petitioners and take a final decision in accordance with law within a period of three months from the date of filing of the representation.

With the aforesaid observation this writ petition is disposed of.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA