IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4192 of 2016

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1. Pawan Kumar Son of Sri Binay Kumar Gupta, Resident of Village - Sorangpur, Yadav Nagar, P.S. - Ram Krishna Nagar, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Social Welfare, Government of Bihar, Patna.
3. The Special Secretary, Department of Social Welfare, Government of Bihar, Patna.
4. The Director, Integrated Child Development Services (I.C.D.S.), Bihar, Patna.
5. The District Magistrate, Patna.
6. The District Programme Officer, Patna.
7. The Child Development Project Officer, Patna.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 4410 of 2016

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1. Brajesh Kumar Jha Son of Late Nav Kant Jha Resident of Village Jhitaki, P.S. Laukhi, District Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Social Welfare, Government of Bihar, Patna.
3. The Secretary, Department of Social Welfare, Government of Bihar, Patna.
4. The Special Secretary, Department of Social Welfare, Government of Bihar, Patna.
5. The Director, Integrated Child Development Services (I.C.D.S.), Bihar, Patna.
6. The District Magistrate, Darbhanga.
7. The District Programme Officer, Darbhanga.
8. The Child Development Project Officer, Darbhanga Sadar, Darbhanga.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 4572 of 2016

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1. Ravindra Prasad, Son of Late Deo Charan Bhagat, Resident of Village- Janipur Chak Manjhi, P.S. Janipur, District Patna.

.... Petitioner/s

Versus

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1. The State of Bihar.
2. The Principal Secretary, Department of Social Welfare, Government of Bihar, Patna.
3. The Secretary, Department of Social Welfare, Government of Bihar, Patna,
4. The Special Secretary, Department of Social Welfare, Government of Bihar, Patna.
5. The Director, Integrated Child Development Services (I.C.D.S.), Bihar, Patna.
6. The District Magistrate, Buxar Saran.
7. The District Programme Officer, Buxar.
8. The Child Development Project Officer, Chakki, District- Buxar.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 4586 of 2016

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1. Binay Kumar Saha Son of Late Bishwanath Prasad, Resident of village- Abarpul, P.s.- Ara Town, District- Bhojpur, Ara

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Social Welfare, Government of Bihar, Patna
3. The Secretary, Department of Social Welfare, Government of Bihar, Patna null null
4. The Special Secretary, Department of Social Welfare, Government of Bihar, Patna
5. The Director, Integrated Child Development Service (ICDS), Bihar, Patna.
6. The District Magistrate, Patna
7. The District Programme Officer, Patna
8. The Child Development Project Officer, Fatuha, Patna

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 5293 of 2016

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1. Chandeshwar Thakur Son of Late Vijayi Thakur, Resident of Village - Gopi Dhanwat, P.O. - Gidha, P.S. - Saraiya, (Jaintpur), District - Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Social Welfare Department, Government of Bihar, Patna.
2. The Secretary, Social Welfare Department, Government of Bihar, Patna.
3. The Director, ICDS Directorate, Social Welfare Department, Government of Bihar, Patna.
4. The District Magistrate, Vaishali.
5. The District Programme Officer, Vaishali.

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6. The Child Development Project Officer, Vaishali.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 10805 of 2016

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1. Deepak Kumar Son of Sri Vaidyanath Prasad Resident of Mohalla Shekhpura, Mali Tola, P.S. Hawai Adda, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Social Welfare, Government of Bihar, Patna.
3. The Secretary, Department of Social Welfare, Government of Bihar, Patna.
4. The Special Secretary, Department of Social Welfare, Government of Bihar, Patna.
5. The Director, Integrated Child Development Services (I.C.D.S.), Bihar, Patna.
6. The District Magistrate, Patna.
7. The District Programme Officer, Patna.
8. The Child Development Project Officer, Patna Rural, Patna.

.... Respondent/s

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Appearance :
(In CWJC No. 4192 of 2016)
For the Petitioner/s : Mr. Sanjay Prakash Verma, Adv.
For the Respondent/s : Mr. Abbas Haidar, S.C.16
(In CWJC No. 4410 of 2016)
For the Petitioner/s : Mr. Sanjay Prakash Verma, Adv.
For the Respondent/s : Mr. A.B. Sinha- SC19
(In CWJC No. 4572 of 2016)
For the Petitioner/s : Mr. Sanjay Prakash Verma, Adv.
For the Respondent/s : Dr. A.K. Upadhyaya- SC20
(In CWJC No. 4586 of 2016)
For the Petitioner/s : Mr. Sanjay Prakash Verma, Adv.
For the Respondent/s : Mr. Ram Balak Mahto- AG
(In CWJC No. 5293 of 2016)
For the Petitioner/s : Mr. Pramod Rajpati, Adv.
For the Respondent/s : Mr. Binodji Verma, G.P.17
(In CWJC No. 10805 of 2016)
For the Petitioner/s : Mr. Sanjay Prakash Verma, Adv.
For the Respondent/s : Mr. Rajesh Kumar- GP19

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT
Date: 04-05-2017

Heard Mr. Sanjay Prakash Verma in C.W.J.C. No. 4192 of

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2016, C.W.J.C.No.4410 of 2016, C.W.J.C.No.4572 of 2016, C.W.J.C.No.4586 of 2016 as well as C.W.J.C.No.10805 of 2016, Mr. Pramod Rajpati, learned counsel for petitioner in C.W.J.C.No.5293 of 2016 and learned counsel for the State.

The prayer of the petitioners in each of the writ petitions is for a direction to the respondent authorities more particularly, the Principal Secretary, Department of Social Welfare and/or Director, Integrated Child Development Scheme, Bihar, Patna to consider the option exercised by the petitioner in respect of their posting as Clerk under the Bihar Integrated Child Development Clerical Cadre Rule, 2014 (hereinafter referred to as 'the Rules').

It is the grievance of the petitioner in each of the cases that while initially they were posted as per their option exercised but in the midway some development has taken place and without seeking consent from the petitioners, they have been allocated different Districts.

In so far as petitioner Pawan Kumar is concerned, he was initially posted at Patna, shifted to Bihta and in between a provisional list published, posted him to Arwal but finally he has been allocated the district of Jehanabad where he has joined and serving.

In so far as petitioner Brajesh Kumar Jha is concerned, he is resident of Madhubani and was allocated the District Darbhanga,

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provisionally allocated Khagaria but finally posted at Madhubani where he has joined and serving.

Petitioner Rabindra Prasad was initially allocated the Patna District and finally posted at Saran. Petitioner Binay Kumar Saha was initially posted at Patna then Bhojpur and finally posted at Saran. In so far as Chandeshwar Thakur is concerned, he was initially allocated Muzaffarpur and finally posted at Vaishali where he has joined and serving. Petitioner Deepak Kumar was initially allocated Patna and has been finally allocated to Bhojpur.

The grievance of the petitioners is that although under 'the Rules', the cadre is a district cadre and thus option were invited from the clerks and in response thereto, they have exercised their option and were granted posting as per the option but subsequently they have been posted against the option. It is their case that they have filed their objections before the authorities but has remained pending and though in obedience of the posting order almost all of them have joined their place of posting but their cases require a consideration.

Learned counsel for the petitioner have relied upon an order of this Court passed in C.W.J.C.No.6638 of 2016 to submit that in similar circumstances, the matter has been remitted for consideration by the Principal Secretary, Welfare Department for disposal of the claim so raised.

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The arguments of learned counsel for the petitioners have been contested by the respective State counsel who while admitting that 'the Rules' does make the cadre a district cadre but since it was not possible to accommodate all the clerks as per their option exercised, that they have been accommodated in the nearby District. It is submitted by learned State counsel that the Department has followed the seniority pattern while allocating the district and it is obvious that these petitioners coming down below in the list have to give way to the seniors in the matter of posting. It is submitted that the Department has taken care to allocate a nearby district to each of the petitioner.

Mr. Verma, contesting the submission relies upon a supplementary affidavit filed in C.W.J.C.No.4192 of 2016 to submit that the submissions are not supported by documents because as recently in 2016 a representation has been accepted by the respondents to allocate the choice district to two persons namely Kundan Thakur and one Mithilesh Kumar as manifest from the pleadings in C.W.J.C. No.4410 of 2016.

I have heard learned counsel for the parties and I have perused the records. No doubt these petitioners have been allocated a nearby district and the submission of respondents that all the clerks could not be accommodated as per their choice district and thus the

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posting has been made according to the requirement and seniority prima facie holds substance but the issue is that the cadre under 'the rule' is a district cadre and since an option was sought for from these petitioners then it had to be considered and disposed unless there are reasons for not allocating their choice district. Conformingly, if there are no vacant post available in the choice district these petitioners cannot be accommodated but this exercise require to be carried out and for the purpose I remit the matter to the Principal Secretary, Social Welfare Department, who either by himself or by delegating the responsibility to the Director, ICDS should consider the claim of the petitioners and dispose of the same by a speaking order in accordance with law within a period of 3 months from the date of receipt/production of a copy of this order.

The writ petitions are disposed of accordingly.

(Jyoti Saran, J)

Bibhash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.05.2017
Transmission Date	NA

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