

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19996 of 2016

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Subodh Kumar Singh Son of late Bindeshwar Prasad Singh Resident of Village-
Chandpura, P.S. Sahpur Patori, District- Samastipur.

.... Petitioner

Versus

1. The State of Bihar.
2. The Inspector General of Police/Director General of Police, State of Bihar, Old Secretariat, Patna.
3. The Assistant Inspector General of Police (Welfare), State of Bihar, Old Secretariat, Patna.
4. The Inspector General of Police, Patna Range/Economic Offence Unit, Bihar, Patna.
5. The Deputy Inspector General of Police, Patna Range/ Economic Offence Unit , Patna.
6. The Superintendent of Police, Economic Offence Unit, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Choudhary, Adv.

For the Respondent/s : Ms. Soni Shrivastava, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 19-12-2017

Heard Mr. Ashok Kumar Choudhary, learned counsel for the petitioner, learned counsel for the State and Ms. Soni Shrivastava, learned counsel for the Economic Offences Unit, Bihar.

The petitioner is aggrieved by the transfer order bearing Memo No. 2877 dated 4.10.2016, a copy of which is impugned at Annexure 4 to the writ petition, whereby under the orders of the Director General of Police the petitioner, a Constable with the State Police Force, has been transferred out of Economic Offences Unit to the Patna District Force. Annexure 5 is the relieving order bearing



Memo No. 6644 dated 4.11.2016, whereby the Superintendent of Police, Economic Offences Unit, has relieved the petitioner for joining the District Force.

The issue raised by Mr. Choudhary to question the transfer order is:

(a) It is within a period of 1½ years of posting of the petitioner in the Economic Offences Unit by virtue of a decision of the Establishment Committee, a copy of which is present at Annexure 3 to the writ petition bearing Memo No. 9654 dated 17.6.2015 that he has been transferred out.

(b) Whereas it is on account of his medical health that on the recommendation of the Establishment Committee, the petitioner was transferred from Patna District Force to the Economic Offences Unit, as it transpires from the posting order dated 17.6.2015 at Annexure 3, yet in a process of effecting routine transfer that the petitioner has also been transferred.

(c) Although there are Constables stationed in the Unit from much before the petitioner, yet the transfer within 16 months of posting in the Unit.

It is taking note of the submissions advanced that Ms. Shrivastava, appearing for the Economic Offences Unit, was asked to seek instructions.



A counter affidavit was filed on behalf of respondents no. 1, 2 and 3 in which it is stated that since there were excess Constable posted in the Unit that an administrative decision was taken to transfer the excess strength out of the Unit by posting them in the District Force.

A counter affidavit was earlier filed by the Economic Offences Unit reiterating the same position however in view of the submission advanced by learned petitioner counsel that the Unit was directed to place on record, the reasons for posting out of the petitioner as well as the details of Constables retained by them after posting out the excess strength.

It is following the directions that today a supplementary counter affidavit is filed and the details at Annexure R/6 to the supplementary counter affidavit is itself sufficient to quash the transfer order. The records confirm that while retaining Constables posted in the Unit since 2012, 2013 and 2014, for the reasons unexplained, the petitioner has been shunted from the unit despite the fact that the posting in the unit was on a recommendation made by the Establishment Committee. Even though a stand was taken by the Unit that it is the only excess strength of Constables posted in the Unit which was being downsized by the transfer order but the supplementary counter affidavit gives a rather poor reflection of a



decision making process because no principle has been followed by the Economic Offences Unit for retention/ transfer of Constables.

I need not go into the details thereof because the choice lies with the Unit but certainly a transfer and posting cannot take place on the whims and fancy of those incharge of such administrative decision. Once there has been a conscious recommendation of the Establishment Committee for posting of the petitioner in the Unit vide Annexure 3, there has to be reasons supporting the transfer out of the petitioner which is completely missing in the present case, rather the Director General of Police has mechanically passed the orders without satisfying himself as to the circumstances existing in the case of the petitioner for his posting in the unit.

In my opinion, neither the circulars in force have been followed nor the transfers are based on any defined principle. If the Economic Offences Unit have chosen to retain those Constables posted since 2012, 2013 or 2014, then the posting of the petitioner in the Unit resting on a decision of the Establishment Committee dated 17.6.2015, could not have been disturbed.

For the reasons and discussions aforementioned, the transfer order of the petitioner bearing Memo No. 2877 dated 4.10.2016 together with the relieving order bearing Memo No. 6644 dated 4.11.2016, impugned at Annexures 4 and 5 to the writ petition, are



quashed and set aside. The petitioner stands restored to his position in the Economic Offices Unit.

The writ petition is allowed.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.01.2018
Transmission Date	NA

