

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10495 of 2017

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Smt. Rita Singh, Wife of Sri Dudhnath Singh, Resident of Mohalla: New Chitragupta Nagar, Parbati Path, Behind Ram Kumar Apartment Adhikari Bhawan, Kankarbagh, Patna-20, Presently Posted as Lady Supervisor, Child Development Project Office, Patna Sadar-4, (Head Quarter District Programme Officer Office, Patna, Now Suspension revoked).

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Social Welfare Department, Bihar, Patna.
2. The Divisional Commissioner, Patna Division, Patna.
3. The District Programme Officer, Patna.
4. The Child Development Project Officer, Patna Sadar- 4.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dudh Nath Singh, Adv.

For the Respondent/s : Mr. Ajay Kumar Sharma, AC to AG

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 09-01-2018

Heard Mr. Dudh Nath Singh, learned counsel appearing for the petitioner and Mr. Ajay Kumar Sharma, learned Assisting Counsel to the Advocate General for the State.

The petitioner is aggrieved by the order bearing Memo No.960 dated 28.6.2017 of the Commissioner, Patna Division, Patna, whereby while revoking the suspension of the petitioner, the Commissioner, Patna Division, Patna has transferred the petitioner from the Child Development Project Office, Patna Sadar- 04, Patna to Child Development Project Office, Kudara in the district of Kaimur. The order in so far as it transfers the petitioner to Kudara in the district of Kaimur has aggrieved the petitioner.

The argument of Mr. Dudh Nath Singh, learned counsel



appearing for the petitioner to question the transfer order is that it is punitive in nature. In support of his contention Mr. Singh has relied upon an order bearing Memo No.774 dated 19.5.2017, whereby the memo of charge has been served upon the petitioner under the orders of the Commissioner, Patna Division, Patna. It is submitted by Mr. Singh that the enquiry is being conducted by the Deputy Director, Welfare, Patna Division, Patna and although the petitioner has been relieved following the transfer order vide Memo No.164 dated 13.7.2017 placed on record at Annexure 21 with effect from 13.7.2017 and whereafter she has given her joining at Child Development Project Office, Kudara in the district of Kaimur but yet the petitioner faces difficulty in attending the disciplinary proceedings which is the foundation for the impugned order.

Mr. Ajay Kumar Sharma, learned Assisting Counsel to the Advocate General has referred to paragraphs 24 and 25 of the counter affidavit to submit that although the petitioner is facing disciplinary proceeding by virtue of certain allegations but the transfer is in the administrative interest in the light of a report submitted by the District Programme Officer, Patna at Annexure 15 to the writ petition which is also placed at Annexure 'B' to the counter affidavit and which has persuaded the Commissioner, Patna Division, Patna to transfer the petitioner to Kaimur. He thus submits that the transfer order is not resting on the disciplinary proceeding rather it is on the conduct of the petitioner reported that in administrative interest she has been transferred by the Commissioner, Patna Division, Patna.



I have heard learned counsel for the parties and I have perused the records.

Although the allegation, facing the petitioner in the disciplinary proceeding have been discussed in the counter affidavit but then the transfer is not resting on the proceeding rather it is on a report submitted by the District Programme Officer, Patna on the direction of the Commissioner that the Commissioner on examination of the same while revoking the suspension of the petitioner has chosen to transfer the petitioner.

It is not in dispute that the transfer order has taken its effect by the relieving of the petitioner on 13.7.2017 vide Annexure 21 and her joining at Kudara in the district of Kaimur. To that extent this Court is not persuaded to interfere with the transfer order but yet one issue does arise and i.e. the facilitation of the petitioner to participate in the disciplinary proceeding which is undisputedly taking place at Patna and requires the petitioner to travel on the dates fixed in the proceeding.

In the circumstances where the petitioner is required to attend the disciplinary proceeding at Patna before the Deputy Director, Welfare, Patna Division, Patna she would be at liberty to represent before the Commissioner, Patna Division, Patna for her transfer at any place within the district of Patna so as to make it convenient for her to attend the proceeding instead of her travelling from Kaimur to Patna on the date fixed. Mr. Dudh Nath Singh, learned counsel appearing for the petitioner informs that a representation dated 8.7.2017 in this regard is on record at



Annexure 18 to the writ petition which is pending before the Commissioner, Patna Division, Patna.

Having heard learned counsel for the parties and considering that the petitioner in obedience of the transfer order has already joined her place of posting at Kudara in the district of Kaimur, taking note of the fact that the petitioner has to participate in the disciplinary proceeding and there may be a large number of centres in the district of Patna where the petitioner can be accommodated for her facilitation to participate in the departmental proceeding, I deem it proper to direct the Commissioner, Patna Division, Patna to consider the request of the petitioner as present in her representation dated 8.7.2017 at Annexure 18 and dispose of the same in accordance with law within six weeks from the date of receipt/production of a copy of this judgment.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20-01-2018
Transmission Date	NA

