

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4663 of 2017

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Dr. Urmila Kumari, Wife of Dr. Bikas Chandra Kumar, Archivist, Bihar State
Abhilekhagar, Abhilekh Bhawan, Baily Road, Patna- 800001.

.... Petitioner

Versus

1. The State of Bihar.
2. The Chief Secretary-cum-Appellate Authority, Government of Bihar, Patna.
3. The State Level Empowered Committee through its the Chief Secretary, Government of Bihar, Patna.
4. The Principal Secretary, Department of General Administrative, Government of Bihar, Patna.
5. The Principal Secretary, Cabinet Secretariat Department, (Bihar State Abhilekhagar Directorate) Government of Bihar, Patna.
6. The Director of Archives, Bihar State Abhilekhagar Directorate Cabinet Secretariat Department, Bihar, Patna.
7. Sri Uday Kumar Thakur, the Assistant Director of Archivist, Bihar State Abhilekhagar, Abhilekh Bhawan, Baily Road, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Bindhyachal Singh, Adv.
Mr. Umesh Kumar, Adv.
For the Respondent/s : Mr. K.K.Singh, AC to SC-10
For respondent no.7 : Mr. Manoj Kumar, Adv.
Mr. Sanjay Kumar Tiwari, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 04-01-2018

Heard learned counsel for the parties.

The petitioner is aggrieved by her order of promotion bearing Memo No. 284 dated 20.5.2016 passed by the Principal Secretary, Cabinet Secretariat Department, Govt. of Bihar, Patna in so far as it transfers her to the Bihar State Regional Archives, Bettiah on promotion. A copy of which is impugned at Annexure P/9. The petitioner is also aggrieved by the decision of the Committee chaired by the Chief Secretary, whereby her representation has been rejected vide Agenda No.12. A copy of the proceeding dated 9.2.2017 is



impugned at Annexure P/19.

Two issues have been raised by Mr. Bindhyachal Singh, learned counsel appearing for the petitioner, to question the order impugned in so far as it transfers the petitioner to Bettiah, namely;

(a) the husband of the petitioner is holding the post of Deputy Director, Computer in the Department of Science and Technology at Patna and thus in view of the policy decision of the State Government to post the spouse in the same place, the petitioner should not have been transferred out; and

(b) respondent no.7 who has been granted promotion alongwith the petitioner by the same order, is junior to the petitioner, and thus, should have been shifted to Bettiah.

A counter affidavit is filed and the statement made therein goes uncontested. While the respondents have explained in paragraph 6 that respondent no.7 Uday Kumar Thakur is senior to the petitioner, paragraph 14 of the counter affidavit confirms that the petitioner is posted in Patna since 1.2.1993 i.e. period of almost 25 years. It further mentions that there is only one post of Assistant Director at Patna and hence, respondent no.7 being senior has been retained at Patna.

As I have observed, the statement in the counter affidavit is uncontested and thus, either of the two grounds raised by the petitioner becomes unsustainable for indulgence.

At this stage Mr. Singh seeks leave to represent before the



competent authorities for posting of the petitioner at Patna, inter alia, on grounds that she is physically incapacitated and thus, ready even to forego her promotion if retained at Patna.

In my opinion, choice is entirely of the petitioner and if she desires to forego her promotion for being retained at Patna, she would be at liberty to raise her plea before the authority concerned and she does not require permission of the Court.

Although the petitioner has tried to raise the issue of inter se seniority with the respondent no.7 but the issue is independent of the issue of transfer and this Court is not persuaded to delve into it at this stage. The petitioner would be at liberty to question the same before the appropriate forum.

Having heard learned counsel for the parties and considering the position existing, I am not persuaded to grant indulgence to the prayer of the petitioner.

The writ petition is disposed of.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.01.2018
Transmission Date	NA

