

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14233 of 2010

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Binay Kumar Keshri S/O Sri Saryug Prasad R/O Chandpura Bela, Patna, P.S.-
Jakkanpur, Distt.-Patna, At Present Posted As Supply Inspector, Morba,
Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar Through Secretary Department of Food and Consumer Protection, Government Of Bihar, Patna
2. The Secretary Department of Food and Consumer Protection, Government of Bihar, Patna
3. The Deputy Secretary Department of Food and Consumer Protection, Government of Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anand K.Ojha, Adv.
For the Respondent/s : Mr. Sanjay Kumar, AC to SC-15

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 10-04-2018

Heard learned counsel for the parties.

The present writ application has been filed challenging the action of the department, putting the petitioner at the bottom in his cadre as he has come from the State of Jharkhand on his request to the State of Bihar after the bifurcation of the erstwhile State of Bihar.

After bifurcation, the employees were also divided in the ratio provided under the Bihar Re-organization Act. The petitioner was allocated in the State of Jharkhand, on his request, he was brought to the State of Bihar but, he has been kept at the bottom of the seniority list.



Learned counsel for the petitioner has submitted that it was a historic event, cannot be said to be simple transfer but, the allocation of the employee was on account of division of the State. So, normal transfer policy will not be applicable of losing seniority if the employee has opted the transfer. He has placed reliance on the order dated 26.8.2010 passed in C.W.J.C. No. 16630 of 2009 wherein this Court has recorded that certain policy has been framed by the Labour Department protecting the seniority and referred the matter to the Personnel Administrative Department for taking a broad-based policy with regard to allocation, transfer and seniority of the employees from one State to another keeping in mind that the allocation has been done not on account of his own choice but, on account of bifurcation of the two States.

In that view of the matter, let this matter be referred to the Personnel and Administrative Department. If no policy has been framed, the Department must frame policy with regard to preservation of seniority on account of migration from one State to another. In the meantime, the respondent will protect the interest of the petitioner (promotion and seniority) so that he will not be prejudiced if the final policy decision finds with his grievance.



With the aforementioned observation and direction, this writ application is disposed of.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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