

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2847 of 2018

=====

Md. Ayaz Alam Ansari, Son of Late Abdul Rasheed Ansari, Resident of Village-Koshi, P.S.- Roh, District- Nawada.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Public Health Engineering Department, Govt. of Bihar, Patna.
3. The Engineer-in-Chief cum-Spl. Secretary, Public Health Engineering Department, Govt. of Bihar, Patna.
4. The Chief Engineer, Public Health Engineering Department, Patna Zone, Veterinary College Campus, Patna.
5. The Superintending Engineer, Public Health Engineering Department, Ara Circle, Ara.
6. The Executive Engineer, Public Health Engineering Division, Ara.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Bishnu Kant Dubey, Advocate

For the Respondent/s : Mr. S.Raza Ahmad AAG 5

Mr. Om Vishwambhar Pd. AC to AAG 5

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 17-07-2018

Heard learned counsel for petitioner and learned counsel for the State.

In the present writ petition, the petitioner is challenging the order of transfer dated 05.02.2018 (Annexure 8) by which he has been transferred from Public Health Engineer Circle Ara to Public Health Engineer Circle Arwal on the same post.

Grievance has been raised by the petitioner that his transfer has been made by the authority who has no power to pass such an order as he was under the control of Executive Engineer and only Executive



Engineer could have passed the order. He has further submitted that he remained there for four months only which is reflected from the office order dated 30.06.2016 (Annexure 4) and in short span of time he has been transferred, whereas learned counsel for the State has submitted that he was in Arwal in the year 2009, and in 2014 transferred from Ara to Patna, but on his request and on the recommendation of the Executive Engineer, he remained there up to 2014.

Transfer is the incidence of service condition it may not be affected by any malafide or against the rule.

Learned counsel for petitioner has only shown that power lies with Executive Engineer but in the present case Chief Engineer has passed the order that cannot be said to be illegal order of transfer of the employee from one circle to another that too the petitioner has remained there for a quite long period. However, petitioner has already filed the representation before the Superintending Engineer, Public Health Engineering Department, Ara Circle, Ara against his transfer, inasmuch as he has already joined the new post.

In such view of the matter, let the petitioner may file representative to Engineer-in-chief who will consider the representation of petitioner and will take decision in accordance with law.



With the aforesaid observations and directions this writ petition is disposed of.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	1.8.2018
Transmission Date	NA

