

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14831 of 2017

1. Namendra Kumar Mukesh, son of Sri Shiv Kumar Sah, resident of Village- Kauram Dehri, P.O.+ P.S. Sahar, District- Bhojpur at Arrah.
2. Manish Kumar, Son of Sri Dileep Kumar Singh, resident of Village- Parsada, P.O. Manikpur, P.S. Dhansoi, District- Buxar.
- Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The District Magistrate, Bhojpur at Arrah.
3. The Establishment Deputy Collector, Bhojpur at Arrah.
4. The Sub- Divisional Officer, Bhojpur at Arrah.
5. The Block Development Officer, Sahar, Bhojpur at Arrah.
6. The District Statistical Officer, Bhojpur at Arrah.
7. The Executive Engineer, Building Division, Building Construction, Department, Bhojpur at Arrah.
- Respondent/s

Appearance :

For the Petitioner/s : Mr. Ram Hriday Prasad, Adv.
Mr. Santosh Kumar Singh, Adv.

For the Respondent/s : Mr. H.S. Sundaram, AC to SC8

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 06-07-2018

Learned counsel for the petitioners prays for and is permitted to make necessary correction in the cause-title of the present writ application.

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

In this case, the petitioners are challenging the action of the District Magistrate, Bhojpur, whereby and whereunder, he has illegally transferred the petitioners to the District Statistical Officer, Bhojpur, Arrah while the petitioner no.1 was posted at the time of initial appointment i.e. in the office of Block Development Officer, Sahar, Bhojpur and the petitioner no.2 was posted in the office of S.D.O.,



Bhojpur and they were performing their work at respective places satisfactorily.

From the records, it appears that the petitioners were selected on the basis of written test, the petitioner no.1 secured 76 marks whereas the petitioner no.2 secured 62 marks and, after their selection, they were asked to sign the agreement and, thus, the conditions of agreement are binding to both the sides. The appointment letter (Annexure-2) was issued by the office of the District Magistrate, Administrative Department, Ara vide office order no. 31/2016-17 in which it has specifically been mentioned that the post is non-transferable and the period of appointment was for one year but, before expiry of the aforesaid period of one year, the petitioners have been transferred which is contrary to the terms of the agreement. When both the parties entered into agreement, the terms of service condition will remain binding till its expiry and, as such, the transfer of the petitioners is completely non-est in law and liable to be set aside. To substantiate his claim, he has also placed reliance on the order of this Court dated 01.07.2017 passed in C.W.J.C. No. 16599 of 2016 (Krishna Murari Kumar Vs. The State of Bihar & Ors.). In that case also, an identical situation had arisen and the Court directed for filing of representation and its consideration by the competent authority.

Learned counsel for the petitioners submits that other similarly situated persons are being engaged and so far the claim of the petitioners that they have rendered unblemished service to the State and,



as such, their case should be considered as and when the Collector or any agency would be interested for employment of such nature of tasks which the petitioners have discharged.

This court could have passed such an order for consideration by the District Magistrate, Bhojpur, Arrah on the issue whether the petitioners can be transferred but, there is no need to such exercise as because the period of contract of one year is over, even though terms of appointment have been violated, need not be addressed even though the Court feels that the action has been taken wrongly but, the benefit of writ cannot be extended on account on efflux of period of contract.

In that view of the matter, this Court does not find any merit in the present writ application. Accordingly, the same is dismissed.

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

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.08.2018
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