

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7349 of 2019

Nand Kishore Son of Late Ramjatan Ram R/o-C/o Chandrika Prasad Naya
Tola, Near Yadav Bhavan, Saristabad, P.S.-Gardanibagh, District-Patna

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, General Administration Department, Bihar, Patna
2. The Additional Chief Secretary, General Administration Department Government of Bihar, Patna
3. The Secretary Rural Works Department
4. The Deputy Secretary, General Administration Department, Govt. of Bihar, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Mithilesh Kumar Upadhyay, Advocate
For the Respondent/s : Mr. Md.N.H.Khan (SC-1)

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 03-05-2019

The petitioner is aggrieved by the notification No. 5362 dated 19.04.2018 to the extent that it affects the petitioner whereby he has been transferred on promotion to a department where he has worked for about eighteen years.

2. It has been submitted on behalf of the petitioner that the order of transfer, referred to above,



can be faulted on two counts; one being that it is in teeth of the Circular of the government which prohibits posting of such persons, even on promotion, to a department where they have worked for ten years or more and secondly, in case of only one year left for superannuation, such employees ought not to be transferred and if at all, transfer has to be effected, the option of the home district be given to such employees.

3. The petitioner, in the present case, worked as Section Officer in Rural Works Department immediately preceding his promotion to the post of Under Secretary. As Under Secretary, by the notification impugned, he has been posted in the Directorate of Prosecution, where as noted above, he has worked for about eighteen years.

4. The petitioner is to superannuate on 28.02.2010.

5. The other ground of challenge raised on behalf of the petitioner is that persons who are shortly to



superannuate have not been transferred or have been transferred to a place of their choice. The petitioner, therefore alleges *mala fides* apart from being subjected to a discriminatory approach of the respondents.

6. The petitioner, as an obedient employee, has joined the place of posting. Nonetheless, he has a right to have such order reviewed/reconsidered.

7. The petitioner, under the aforesaid circumstances, is directed to make a representation before the Additional Chief Secretary, General Administration Department, Government of Bihar, Patna (respondent No. 2), detailing his grievances, within a period of three weeks from today, who, on receipt of the same shall, after considering the Circular, referred to above and that other similarly situated persons have been retained at the place where they hitherto had been working, take a decision in that regard with respect to the petitioner within a further period of six weeks thereafter.



8. With the aforesaid observation/direction, the writ petition stands disposed off.

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07/05/2019

