

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14775 of 2019

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Nand Kishore Sah, aged about above 58 years, male, S/o Late Adhiklal Sah,
Resident of Mohalla-Shivajee Colony, Gali No. 2, Sikandarpur (Kutubganj),
P.S.-Mojahidpur (Under Kotwali), District-Bhagalpur (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Rural Works Department, Cabinet Secretariat,
Government of Bihar, Patna.
3. The Secretary, Rural Works Department, Cabinet Secretariat, Government of
Bihar, Patna.
4. The Additional Secretary, Rural Works Department, Cabinet Secretariat,
Government of Bihar, Patna.
5. The Chief Engineer, Rural Works Department, Cabinet Secretariat,
Government of Bihar, Patna.
6. The Executive Engineer, Rural Works Department, Kharagpur, Tarapur,
District-Munger.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Radha Raman Verma, Adv.

For the Respondent/s : Mr. P.N.Shahi (AAG-6)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date : 25-07-2019

The petitioner has challenged the order dated
29.06.2019 issued under the signature of Secretary, Rural



Works Department, Govt. of Bihar, Patna (respondent No. 3), contained in Memo No. 4561, whereby he has been transferred as Assistant Engineer from Works Division, Kharagpur Tarapur, in the district of Munger, to Works Division, Bagaha-II, merely within one year of his being posted in Works Division, Kharagpur.

2. From the perusal of the order impugned, it appears that there has been mass transfer of Assistant Engineers from one place to another. The petitioner has not raised any *mala fides*, but has challenged the order of transfer on account of non-application of mind with respect to certain aspects, *viz.*, the he has not completed 3 years at the place of his posting and that he is to retire within 19 months.

3. The learned counsel for the petitioner has drawn the attention of this Court to a Circular of the Cabinet Secretariat of Govt. of Bihar, Patna dated 08.10.2014, whereby an advisory has been issued to all the Principal Secretaries and the Departmental Heads to pass orders of transfer only after taking into consideration all aspects which



would include whether a person has completed his normal period of tenure and after assessing the vacant position at particular places. The resolution, therefore, directs that such considerations be taken into account so as to prevent the Government departments in keeping themselves involved in such transfers and re-transfers on representation of such Government employees.

4. The attention of this Court has also been drawn to a Circular of the Finance Department, Govt. of Bihar, Patna, which, again, is in the nature of an Advisory that in the last year of the service of an employee, if at all there is any necessity of transferring him, his option be taken for his choice place of posting or his hometown, but such advisories have not been couched in mandatory terms. The aforesaid considerations are to be applied to the cases of the Government employees as far as it is practicable/feasible.

5. In any view of the matter, taking into account that the petitioner is to superannuate after 19 months and that he had not completed 3 years at his earlier place of



posting, this Court directs him to make a representation before the Principal Secretary, Rural Works Department, Cabinet Secretariat, Govt. of Bihar, Patna (respondent No. 2), detailing his grievances, within a period of three weeks from today, who, on receipt of such representation and consideration of other relevant aspects, shall pass a reasoned order in accordance with law within a further period of six weeks thereafter.

6. The aforesaid representation shall be filed only after the petitioner joins at his new place of posting on transfer.

7. In case, it is found that the petitioner ought not to have been transferred, necessary order shall be passed by the concerned respondent within the aforesaid period.

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

(Ashutosh Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
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