

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1358 of 2016

Pradeep Oraon, Son of Jhigra Oraon, resident of Village- Bargow Barwa Toli,
Police Station- Gumla, District- Gumla (Jharkhand), presently posted in
District Force Muzaffarpur Contable No. 800.

... .. Petitioner

Versus

1. The Union of India through Secretary, Ministry of Home Affairs, Government of India, New Delhi.
2. The Secretary, Home (Special) Department, Government of India, New Delhi.
3. The Secretary, Ministry of Personnel, Public Grievances and Pension, Government of India, New Delhi.
4. The State of Bihar.
5. The Principal Secretary, Home (Special) Department, Government of Bihar, Patna.
6. The State of Jharkhand
7. The Principal Secretary, Home (Special) Department, Government of Jharkhand, Ranchi.
8. Namita Chattaraj, Wife of Satyendra Kumar, resident of Village- Shaligrami, Police Station- Sahebpur Kamal, District- Begusarai, Presently posted in District Force Ranchi as Constable No. 1525.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Bindhyachal Singh Mr. Satya Prakash
For the Respondent/s	:	Mr. Bijoy Kumar Sinha, AC to AAG V

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 07-01-2019

Heard Mr. Singh, learned Counsel for the petitioner as
well as learned AC to AAG 5 for the respondent State.



2. The petitioner has approached this Court seeking enforcement of his application for mutual transfer by way of cadre allocation to the State of Bihar from Jharkhand where he was earlier finally allocated pursuant to bifurcation of the State under the Bihar Re-organisation Act.

3. The claim of mutual transfer is on the basis of a joint application of the petitioner along with Respondent No. 8. The application is dated 21.9.2013.

4. Mr. Singh, learned Counsel appearing for the petitioner, has drawn attention of the Court towards letter of the Home (Special) Department bearing No. 6764 dated 30.7.2013. Referring to Clause (4) of the same, he submits that mutual transfer application submitted by the petitioner was required to be acted upon by issuing a final order in respect thereof. He has referred to the statements made by the State of Jharkhand in their counter affidavit. Reliance is placed on para 7 of the counter affidavit to submit that the application of the petitioner along with recommendation/consent was forwarded to the Member Secretary, Home (Special) Department, Bihar for necessary action and appropriate decision.

5. State of Jharkhand has submitted that in view of such communication on 27.12.2013 by letter No. 7714 no further action



is required from the State of Jharkhand in respect of claim for mutual transfer of the petitioner vis-a-vis respondent No. 8. It is submitted that a direction should be given to the Home (Special) Police Department, Government of Bihar, to take a final decision so that upon their mutual application the petitioner may be allocated Jharkhand cadre and in his place respondent No. 8 be allocated Bihar cadre.

6. Mr. Singh has also placed reliance upon the order of the Home (Special) Department dated 30.9.2014 whereby the claim of certain constables for mutual transfer has been allowed.

7. Counsel for the State of Bihar has drawn attention of the Court towards letter dated 30.7.2013, relied upon by the petitioner. It is submitted that the same was not applicable in the case of the petitioner. It is the specific stand of the State of Bihar that the petitioner belonged to regional cadre and, as such, the provisions of letter No. 6764 dated 30.7.2013 are not applicable in his case. The letter dated 30.7.2013 is in respect of employees belonging to the State cadre. It is also submitted that even as per the said letter dated 30.7.2013 the last date for submission of the mutual/individual transfer was 30.7.2010. Admittedly, the petitioner's application is dated 21.9.2013 i.e. much after cut off date fixed in letter dated 30.7.2013.



8. This Court would find that letter dated 30.7.2013 bearing No. 6764 (Annexure 7) cannot be relied upon by the petitioner in support of his claim for mutual transfer, as the said letter is only for the employees of the State cadre whereas the petitioner is an employee of regional/district cadre. Other than that, the claim of the petitioner based on the order dated 30.9.2014 issued by Home (Special) Department is also unsustainable. Bare perusal of Clause (2) of the said letter shows that mutual transfer of regional/district cadre constables has been allowed since there was judicial orders in their favour as such the petitioner cannot claim parity with beneficiaries of said letter dated 30.07.2013. The order dated 30.9.2014 of the Home (Special) Department also specifies that the same is not to be treated as precedent since apparently by way of exception the request for mutual transfer has been allowed under certain judicial orders. This Court is not inclined to allow the petitioner's claim for mutual cadre transfer pursuant to reorganisation of the State of Bihar in the year 2000 at such a belated stage today in the year 2018.

9. No enforceable claim has been made out by the petitioner, as no decision of the Government has been placed on record to show that the mutual request of the petitioner for cadre



transfer submitted on 21.9.2013, i.e. about 13 years after bifurcation of the State, was entitled to be considered.

10. The writ petition is devoid of merit and the same is dismissed.

(Madhuresh Prasad, J.)

SNkumar/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	08.01.2019
Transmission Date	N/A

