

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4225 of 2020

Subhash Prasad S/o Late Raghunandan Singh R/o Village- Bahadur, P.S. Nardiganj, Distt- Nawada at present Block Agriculture Officer, Yogapatti, Distt- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principle Secretary, Agriculture Department, Govt. of Bihar, Patna.
2. The Director Agriculture Department, Govt. of Bihar, Patna.
3. The Deputy Secretary, Agriculture Department, Govt. of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Dr. Anjani Pd. Singh
For the Respondent/s : Mr.Dhurjati Kumar Prasad (Gp14)

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 22-09-2020

1. The present petition has been filed for quashing the letter dated 06.01.2020, issued by the Director Agriculture, Bihar, Patna, whereby and whereunder the case of the petitioner has been rejected.

2. The brief facts of the case according to the petitioner are that while the petitioner was posted as Block Agriculture Officer (Forest) at District Agriculture Office, Gaya, he was transferred as Block Agriculture Officer, Yogapatti, West Champaran, Bettiah vide order dated 26.06.2019. It is stated that the petitioner is suffering from various ailments and has been under treatment at AIIMS New Delhi, Mars Hospital and Heart Institute, Rewari, Haryana. As such, the current place of posting



of the petitioner herein is far away from the said places and moreover, the petitioner is unable to get proper treatment for his ailments at the current place of posting. It appears that the petitioner had challenged the aforesaid transfer order dated 26.06.2019 before this Court by filing a writ petition bearing C.W.J.C. no. 19605 of 2019, which was disposed of by this Court by an order dated 24.09.2019, operative portion whereof, is reproduced hereinbelow :-

“ Transfer is an incidence of service. No employee can claim his transfer from or posting to a particular place or post. However, considering the fact that the petitioner has filed a representation after having joined the post, this application is disposed off with a direction to the Director, Agriculture Department, Government of Bihar, to consider the petitioner’s representation and take a final decision within one month from the date of receipt/ production of a copy of this order.”

3. The learned counsel for the petitioner has submitted that the representation of the petitioner has been disposed off by the impugned order dated 06.01.2020, passed by the Director, Agriculture, Bihar, Patna, however the medical condition of the petitioner has not been taken into account, hence the same is required to be set aside.



4. *Per contra*, the learned counsel for the respondent-State has submitted that transfer of a Government servant is an incidence of service, hence no employee can claim his transfer or posting to a particular place or post. It is further submitted that the entire facts and circumstances have been taken into consideration in the impugned order dated 06.01.2020, however upon a query having been put to the learned counsel for the State by this Court, as to whether in the impugned order dated 06.01.2020, the medical condition of the petitioner has been taken into consideration, the learned counsel fairly submits that in the final portion of the impugned order dated 06.01.2020, there is no consideration about the medical condition of the petitioner herein.

5. Having regard to the facts and circumstances of the case and taking into account the fact that admittedly, the medical condition of the petitioner has not been taken into consideration while passing the impugned order dated 06.01.2020, I deem it fit and appropriate to quash the impugned order dated 06.01.2020, passed by the Director, Agriculture, Bihar, Patna and remand the matter back to the Director, Agriculture, Bihar, Patna for fresh consideration.



6. The writ petition stands allowed to the aforesaid extent.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.09.2020
Transmission Date	NA

