

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16065 of 2018

=====

Alok Kumar, Son of Late Shashi Bhushan Singh, resident of Village- Auranga
P.S. Tarapur, District- Munger.

... .. Petitioner/s

Versus

1. The State Of Bihar through The Principal Secretary, Welfare Department
New Secretariat, Patna.
2. The Principal Secretary, Welfare Department New Secretariat Patna.
3. The Director Department of Welfare, Govt. of Bihar, Patna.
4. The Director, Scheduled Caste and Schedule Tribe, Department of Welfare,
Govt. of Bihar, Patna.
5. The Secretary, Scheduled Caste and Schedule Tribe, Department of Welfare
Govt. of Bihar, Patna.
6. The Deputy Director, Department of Welfare, Munger Division, Munger.
7. The Deputy Director, Department of Welfare, Koshi Division, Saharsa.
8. The Commissioner, Munger Division, Munger.
9. The District Magistrate, Saharsa.
10. The District Welfare Officer, Saharsa.
11. The District Treasury Officer, Saharsa.
12. The District Treasury Officer, Saharsa.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Ms.Sushmita Mishra, Advocate Mr.Surya Narayan Singh, Advocate
For the Respondent/s	:	Mr.M.K.Upadhyay, AC to GP3

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 20-12-2022 Heard learned counsel for the petitioner as well a
learned counsel for the State.

2. The writ petition has been filed seeking a
direction that the Authorities should allow the petitioner to
continue as ‘Lower Division Clerk’ in the Department of
Welfare, Munger, because he was not being allowed to join the



post at Saharsa.

3. The brief factual background is that under order dated 09.05.2018 the petitioner was transferred. The petitioner was also relieved from his posting at Munger on 30.06.2018. One and a half months after the transfer order the petitioner, as per averments in the writ petition, claims that he fell ill. The prescriptions in support of his illness is dated 29.06.2018. The petitioner claims that he made an attempt to join at the transferred place on 16.07.2018 (Annexure 5). In the said application, however, he has claimed that the seniors in his office have not been transferred, however, he has been transferred, and alleged the transfer to be unjust. He has requested the Authorities to cancel his transfer and allow him to continue in the same office.

4. The Respondents in the counter affidavit have made a specific assertion that the petitioner has never come to the office of the District Welfare Officer for the purpose of joining, in compliance of the transfer order dated 09.05.2018. There is no reply or rejoinder disputing the aforesaid facts.

5. The petitioner has not complied with the transfer order though it is settled law that transfer is a part of the service condition/incidence of service. The Court, therefore, in



exercise of its discretionary jurisdiction should not interfere, unless it finds that the order is by an incompetent authority, malafide and/or contrary to the service rules.

6. In view of the above noted facts, and the settled law regarding transfer being a incidence of service, the Court does not find any reason to interfere with the transfer order or direct for petitioner's continuance.

7. Writ petition is dismissed.

(Madhuresh Prasad, J)

shashank/-

U			
---	--	--	--

