

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.304 of 2022

In

Civil Writ Jurisdiction Case No.12090 of 2021

Ashok Kumar Gupta Son of Sri Bhola Prasad Gupta, residing of Mohalla -
Gudrai Bazar, Ward No. 20, P.S.- Town, District – Samastipur.

... Appellant/s

Versus

1. The State of Bihar (through the Secretary, Urban Development and Housing, Govt. of Bihar.
2. The Collector, Samastipur.
3. Municipal Corporation, Samastipur, through Nagar Aayukta Municipal Corporation, Samastipur.

... Respondent/s

Appearance :

For the Appellant/s	:	Mr.Sanjay Kumar Singh, Advocate Mr. Anil Kumar Singh, Advocate
For the State	:	Mr.Yogendra Prasad Sinha (AAG 7) Mr. Shankar Kumar, Advocate
For the Municipal Corp.	:	Mr. Durga Nand Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE NAWNEET KUMAR

PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 14-11-2022

Re: Interlocutory Application No. 01/2022

For the reasons stated in I.A. No. 01/2022,
the delay of one day in preferring the appeal is
condoned.

I.A. No. 01/2022 stands allowed.

Heard Mr. Anil Kumar Singh, learned



Advocate for the appellant, Mr. Shankar Kumar for the State and Mr. Durga Nand Jha for the Municipal Corporation, Samastipur.

The appellant was transferred from his place of posting, vide order dated 8th of June, 2021 and was again adjusted against another post by the order of the District Magistrate, Samastipur, dated 15.06.2021. The sole grievance of the appellant before the learned Single Judge was that both the orders, referred to above, were punitive which was reflected from the first paragraph of the order. True it is that an enquiry team had been constituted to look into the allegation of embezzlement against the petitioner, but the order of transfer and subsequent adjustment *prima facie* appears to be punitive. Since the order has been passed as a punishment, the petitioner was required to be heard.

Lest we may not be misunderstood, there is no requirement of hearing an employee before his



transfer, but considering the circumstances which gets reflected from the order that it was a punitive transfer, the challenge to the same ought to have been heard in some detail.

The learned counsel for the appellant submits that there was some miscommunication before the Court of the learned Single Judge as the second set of transfer of the appellant was also sought to be challenged by preferring an interlocutory application, but it was recorded by the learned Single Judge that the appellant does not have any objection to that transfer. Solely on this ground, the learned Single Judge found that the claim of the appellant to challenge first transfer order gets extinguished when one is satisfied with the second order of transfer. The writ petition was dismissed, but with an observation that the claim of the monetary dues of the appellant be considered by the concerned authority within a limited time-frame.



We find from the averments in the memo of appeal that the appellant was not satisfied with the second order of transfer and that there was definitely a lack of communication.

But now with the order of transfer having been executed and the appellant having joined the new place of posting, we would not interfere with the order passed by the learned Single Judge, but would give the liberty to the appellant to represent his case before the Principal Secretary, Department of Urban Development and Housing, Government of Bihar, within a period of 30 days, who would hear out the appellant and would take a decision: whether no interference is required in view of any Enquiry Committee having been constituted against him or that he requires to be repatriated and shall pass orders in accordance with law, giving reasons in support of his decision, within a further period of 60 days.

With the afore-noted direction, the order of



the learned Single Judge stands modified to the extent indicated above.

(Ashutosh Kumar, J)

(Nawneet Kumar Pandey, J)

Mahesh/HR

AFR/NAFR	NAFR
CAV DATE	N/A
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