

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.611 of 2022

1. Bihar Police Men's Association Central Office New Police Line, Patna, through its Secretary General (Maha Mantree), Ramvilash Paswan, aged about 35 years (Male), son of Surju Paswan, Resident of Village-Karma, P.S.-Kaouakol, District-Nawada.
2. Balkant Kumar, Assistant Secretary General (Sahayak Maha Mantree) of the Bihar Police Mens Association, Central Office New Police Line, Patna, aged about 37 years, Resident of Village-Kormathu, P.S.-Mane, District-Gaya.

... .. Petitioners

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
2. The Director General of Police, Bihar, Sardar Patel Bhawan, Bailey Road, Patna.
3. The Additional Director General of Police, Bihar, Sardar Patel Bhawan, Bailey Road, Patna.
4. The Inspector General of Police, (Head Quarter), Sardar Patel Bhawan, Bailey Road, Patna.
5. The Inspector General of Police (Central Range) Patna, at Police Office, Gandhi Maidan, Patna.
6. The Dy. Inspector General of Police (Eastern Range), Bhagalpur.
7. The Senior Superintendent of Police, Patna, at Police Office, Gandhi Maidan, Patna.
8. The Superintendent of Police, Nalanda.

... .. Respondents

Appearance :

For the Petitioners	:	Mr. Sanjay Kumar Mishra, Adv.
For the State	:	Mr. Dharendra Kumar, A.C. to G.P.-5

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

10 28-03-2023 Learned counsel for the petitioners undertakes to remove all the defects as pointed out by the Stamp Reporter within two weeks from today.

2. Heard learned counsel for the petitioners and the State.

3. This writ application has been filed by the Bihar



Police Men's Association through its Secretary General and one Sri Balkant Kumar who is Assistant Secretary General of the Bihar Police Men's Association.

4. At the outset, it appears that the writ application has been filed in representative capacity by the Association but the names of the members of the Association on whose behalf this application has been filed have not been disclosed by enclosing a list thereof. In terms of the Hon'ble Division Bench judgment of this Court in the case of **Kerala Electric Traders Association versus The State of Kerala** reported in **2010 (1) KHC 248**, the names of the members of the Association for whom the writ application was being filed should have been disclosed and appropriate court fees were required to be paid. The same view has been taken by the Hon'ble Division Bench of this Court in the case of **Bihar State Non Formal Cum Special Education Instructor Union and Others versus State of Bihar and Others** reported in **2018 SCC Online Pat 3116**.

5. Despite aforesaid defects, since this writ application has been entertained on various dates and the pleadings have been exchanged by virtue of the orders/directions issued by this Court on earlier occasions, this Court has heard learned counsel for the petitioners as well as the State on the merit.

6. The petitioners are aggrieved by and dissatisfied



with the transfer orders bearing Central Range No. 297 of 2021 as contained in Memo No. 1962 dated 21.12.2021 (Annexure '9') passed by the Inspector General of Police, Central Zone, Patna as well as the order no. 223/2021 as contained in Memo No. 1241 dated 23.12.2021 passed by the Dy. Inspector General of Police, Eastern Zone, Bhagalpur (Annexure '10' to the writ application). By Annexures '9' and '10' respectively, thousands of Constables/Hawaldars about whom it is stated that they are the Members of the Association have been transferred.

7. In course of argument, learned counsel for the petitioners has taken this Court through Annexures '9' and '10' respectively. A perusal of the same would show that Annexure '9' has been issued in respect of those Constables whose names were recommended by the Central Range Transfer Committee after finding that they had already completed more than 6 years in the present district of posting. They have been transferred to other districts.

8. Similarly, Annexure '10' has been issued on the recommendation of the Eastern Range Transfer Committee and this also applies to the employees who had completed more than 6 years in the present district of posting.

9. Learned counsel for the petitioners submits that on perusal of Annexure '10' to the writ application, it would appear



that as regards the transfer of the Constables, Section 10 of the Bihar Police Act, 2007 (hereinafter referred to as 'the Act of 2007') is applicable. According to this provision, the Constables who are posted in one district for 6 years, in range for 8 years and in a zone for 10 years, shall be considered by the Committees named therein. For one range to another range transfers will be effected by a Committee in which the Inspector General of Police of the said zone and Dy. Inspector General of Police of all the ranges in the said zone will be the members.

10. Learned counsel for the petitioners submits that to give effect to the transfers of such persons who had been within the zone of consideration, the Director General of Police, Bihar, Patna issued an order contained in Memo No. 20 dated 27.11.2021 (Annexure '3') wherein a direction was issued to prepare a list of such employees who had completed 6 years in the same district. It was directed that such employees who have completed 6 years in one district should not remain in the same district. It was further directed that a list of such employees who had completed 8 years or 10 years be sent to the Police Headquarter.

11. The main contention of learned counsel for the petitioners is that Annexures '9' and '10' contain names of some of those police personnel/employees who had already completed



more than 8 years and 10 years but they have been included in the list putting them in the category of those constables who had completed more than 6 years and in their cases inter-district transfers have been effected instead of considering them for inter-zone transfers.

12. This Court called upon learned counsel for the petitioners to demonstrate from the pleadings in the writ application as to whether there is any such specific statement in the writ petition. Learned counsel for the petitioners submits that in paragraph '7', a statement has been made that all the constables/Hawaldars who are in the list of the order under challenge has already completed a period of more than 10 years in their respective zones and as such their transfer within the zone is by an incompetent authority which is not in accordance with law. The writ application does not specifically provide any example by way of saying that a person at serial number so and so in the list has completed more than 8 years or 10 years.

13. Contrary to the statement made in the writ application, in the counter affidavit filed on behalf of the respondent no. 5, it is stated that as per policies enumerated, the Dy. Inspector General of Police, Eastern Range, Bhagalpur has passed transfer orders of the police personnel in compliance to the order of the Police Headquarter, Bihar, Patna. In paragraph '7' to



the counter affidavit filed on behalf of the respondent no. 5, a statement has been made that transfer orders have been issued only with respect to those personnel who had completed 6 years or more in the district of Patna and Nalanda. It is stated that the personnel who has completed over 8 years or 10 years in a district are also included in the list of personnel who have completed 6 years or more as they have naturally completed their district tenure of 6 years. It is submitted that the contention of the petitioners that those personnel who have completed over 8 years and 10 years in a district be excluded from the list is completely misleading, fallacious and cannot be accepted. It is further submitted that all the transfers are within the range and it is in accordance with the policy decisions.

14. By filing a supplementary counter affidavit, respondent no. 5 has stated that not all the police personnel who had completed over 6 years in a district would be transferred due to mismatch in the strength of both the districts of the range (Patna and Nalanda) and lists of all such personnel who could not be transferred along with the lists of all those personnel who had completed a period of over 10 years and those who had completed over 8 years in the range were sent to the Police Headquarter. Respondent no. 5, therefore, claims that he had complied with the directions contained in Memo No. 20 dated 27.11.2021



(Annexure '3').

15. A counter affidavit and a supplementary counter affidavit have also been filed on behalf of respondent no. 6. The stand of respondent no. 6 is almost identical to the respondent no. 5, therefore, this Court is not reproducing the same.

16. Towards the end of the matter, an additional counter affidavit has been filed on behalf of respondent no. 5. One of the informations furnished in the additional counter affidavit is that vide Government of Bihar order no. 6588 dated 13.08.2019, the existing zones and ranges have been reorganized with effect from 15.08.2019. The existing 4 zones were abolished and a new range, Begusarai was created and the jurisdiction of this range was defined afresh. Officers of the rank of IG were to head 5 ranges whereas remaining 7 ranges were to be headed by DIGs. Vide this order the districts of Patna and Nalanda were kept under the Central Range headed by IG, Patna.

17. It is further stated that a consequential order vide notification no. 1790 dated 20.02.2020 was also issued vide which amendments were carried out in the Bihar Police Manual primarily to notify that wherever DIG of Range was referred to in the Manual be read as IG/DIG of the Range. With these averments, the answering respondent has taken a plea that the transfer orders issued by the answering respondent vide Annexure



‘9’ is in full compliance with the provisions of the Act of 2007.

Consideration

18. Having heard learned counsel for the petitioners and the State as also on perusal of the records, this Court finds that vide impugned orders what have been done by the respondents is that those police personnel who had completed more than 6 years of their stay in one district, have been transferred. This is perfectly in accordance with the provisions of Section 10 of the Act of 2007. The authorities who have passed Annexures ‘9’ and ‘10’ are the competent authority as explained above on behalf of the State.

19. This Court does not find any fault with the competence of those authorities. Under these circumstances, the plea of the petitioners that because some of the police personnel had completed more than 8 years or 10 years in their present district of posting, therefore, they could have only been considered for a transfer to another range/zone seems to be spacious and fallacious having some inherent defects in the arguments. The attempt of those who have remained in the same and one district for more than 8 years and 10 years at this stage, is to somehow remain posted in the same district until they are considered for their transfer to different zones/ranges. This is not the spirit of Section 10 of the Act of 2007. If those who have



completed more than 8 years and 10 years are there and in their respect treating them to be one amongst more than 6 years of police personnel, if they have been presently transferred from one district to another, no fault may be found with the same. The list of those have already been forwarded to the Headquarter and it is for the Headquarter to take a further view of the matter as regards those who have completed more than 8 years or 10 years within the same range/zone. Pending consideration at the Headquarter of those lists, by no stretch of imagination, the petitioners may be allowed to argue that their transfer from one district to another district would be contrary to law much less the policy decision of the State.

20. This Court, therefore, finds no merit in the writ application. It is dismissed accordingly.

21. Certified copy of this order shall be made available only after removal of the defects.

(Rajeev Ranjan Prasad, J)

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