

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4486 of 2022

1. Manish Kumar Thakur son of Surendra Prasad Thakur resident of Village- Phulkaha, P.O. Nawabganj, P.S. Araria, District- Araria.
2. Vikky Rajak son of Gopal Rajak, resident of Village- Anathalaya Road, P.O. and P.S.- Katihar, District- Katihar.
3. Ranjeet Kumar son of Birendra Prasad Mandal resident of Village and P.O.- Simarbani, P.S.- Bhargama, District- Araria.
4. Amar Kumar Jha son of Rajeshwar Jha, resident of Village and P.O.- Jamuan, P.S. Tarabari, District- Araria.
5. Raja Rajak son of Krishna Rajak resident of Mohalla- Omnagar, Ward No. 8, P.S. Araria, District- Araria.
6. Shilpa Kumari D/o. Chandra Shekhar Sah, resident of Mohalla- ADB Chowk, Ashram Road, Ward No. 16, P.S. Araria, District- Araria.
7. Satish Kumar son of Sadanand Singh, resident of Village, P.O. and P.S.- Sheikhpura, District- Araria.
8. Ravindra Kumar son of Gulab Chand Vishwas, resident of Village- Kodaili, P.O. and P.S.- Palasi, District- Araria.
9. Alok Kumar Jha son of Birendra Kumar Jha, resident of Ward No. 15, Ashram Road, near L.I.C. Office, Mahadev Chowk, P.S. Araria, District- Araria.
10. Durgesh Divyadarshi son of Ram Ratan Singh resident of Village- Jarang Dih, P.O. Jarang Deohri, P.S. Gayaghat, District- Muzaffarpur (Bihar)- 843118.
11. Arbind Kumar son of Jagdish Paswan resident of Village- Omnagar, Ward No. 08, P.S. Araria, District- Araria.
12. Diksha Kumari D/o. Dinesh Prasad Sah resident of Village, P.O. and P.S.- Farbisganj, District- Araria.
13. Santosh Kumar Sah son of Dinesh Chandra Sah, resident of Village, P.O. and P.S. Araria, District- Araria.
14. Vikram Anand son of Baidyanath Choudhary resident of Village- Sheopuri, Ward No. 9, P.O. and P.S.- Araria, District- Araria.
15. Sunny Kumar son of Sajan Kumar Singh, resident of Mohalla- Kali Bazar, Ward No. 23, P.O. and P.S.- Araria, District- Araria.
16. Jitendra Verma son of Sheo Narayan Das, resident of Kharahia Basti, Ward No. 13, P.S. Araria, District- Araria.
17. Rakesh Raushan son of Nageshwar Sah, resident of Ward No. 6, near Bus Stand, P.S. Banmankhi, District- Purnea.

... .. Petitioners

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. Bihar Administrative Reforms Mission Society through its Chairman, Administrative Council, Irrigation Barrack No. 1, Harding Road, Patna.



3. Mission Director, Bihar Administrative Reforms Mission Society, Irrigation Barrack No. 1, Harding Road, Patna.
4. Additional Mission Director, Bihar Administrative Reforms Mission Society, Irrigation Barrack No. 1, Harding Road, Patna.
5. Secretary, General Administrative Department, Bihar, Patna.
6. District Magistrate, Araria.
7. District Establishment Dy. Collector, Araria.

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Ram Hriday Prasad, Advocate
For the Respondent/s : Mr.Md. Nasrul Huda Khan (SC- 1)

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 28-03-2023 Learned counsel for the petitioners undertakes to
remove the S.R. defect(s), if any, within two weeks from today.

Heard learned counsel for the petitioners and the
State.

These petitioners are working as Executive Assistants
/I.T. Assistants under Bihar Administrative Reforms Mission
Society. They have been transferred from one block to another
block within the same district.

Learned counsel for the petitioners has relied upon the
statements made in the writ application with a sample copy of
the agreement executed between the employer and the
employees. It is submitted that as per the agreement, the
petitioners cannot be transferred from one place to another.
Clause '6' thereof specifically provides for the same.

Learned counsel has further relied upon the order



dated 01.07.2017 passed in CWJC No. 16599 of 2016 (Annexure '5') by which the learned Coordinate Bench of this Court held, keeping in view the agreement that the transfers against the terms of agreement/ contract may not be in accordance with the policy. The learned Court directed the District Magistrate, Khagaria in the said case to consider the representation of the petitioner and dispose of the same in accordance with law.

Learned counsel, therefore, submits that the order of transfer be set aside. The petitioners have, however, already joined at their transferred place and they are presently serving there.

On the other hand, Mr. Md. Nasrul Huda Khan, learned SC-1 submits that on perusal of the order of appointment of these petitioners as contained in Annexure '3' to the writ application, it would appear that the order did not contain any stipulation that the present place of posting shall not be transferable. It is submitted that what is contained in the agreement is perhaps not in accordance with the Annexure '3' to the writ application, therefore, no fault may be found with the order of transfers.

Having regard to the rival submissions, at this stage



since the Court has noticed that the petitioners have already joined and they are serving at their transferred places, no interference is being made with the order of transfers. It is, however, left open for the petitioners to make appropriate representation with the concerned competent authority to consider their requests, if any, in terms of the agreement.

This Court has not formed any opinion on the merit of the contentions. The competent authority would look into such representations keeping in view the terms and conditions of engagement/ appointment of the petitioners and the other contemporary issues including the issues of hardships if the petitioners are lowly paid employees. The competent authority shall take appropriate decision.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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