

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5277 of 2023

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Vijay Kumar Tiwari S/o - Sri Tarkeshwar Tiwari, R/o-village Chandwa, P.S.-
Ara Nawada District-Bhojpur.

... .. Petitioner

Versus

1. The State of Bihar through the Secretary Home Department, Govt. of Bihar.
2. The Director General of Police, Bihar, Patna.
3. The Inspector General of Police(Welfare), Patna.
4. The Deputy Inspector General of Police (Personnel), Bihar, Patna.
5. The Assistant of Inspector General of Police (Welfare), Bihar, Patna.
6. The Commandant-cum-Principal , Bihar Military Police Training Centre,
Dumraon, Buxar.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Jitendra Prasad Singh, Advocate
For the Respondent/s : Mr.Dhurendra Kumar, AC to GP-25

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 28-04-2023 The petitioner has moved this Court seeking a direction to the appropriate authorities particularly respondent no. 6 to relieve him in compliance of the order dated 16.06.2022 by which he has been transferred from Dumraon to Bihar Special Arm Forces, Patna. At this stage, this Court has been informed that the order of transfer of the petitioner has been canceled. The another development is that the petitioner was proceeded against in a disciplinary proceeding and he has been awarded a major punishment. Petitioner has preferred an appeal against the same which is said to be pending.

Learned counsel for the petitioner has taken a plea that the award of major punishment cannot be a valid ground for



canceling his transfer as according to him, persons similarly situated, though the name has not been disclosed have been allowed to go on transfer.

On the other hand, learned counsel for the State submits that on perusal of the order of transfer itself, it would appear that while issuing the transfer order as contained in Annexure '5' a specific stipulation was provided therein that the constables named in the transfer order shall be relieved only after being satisfied with their clean service record and the entry made in the service book and in case of any discrepancy the same should be brought to the notice of the controlling authority.

Learned counsel submits that since the petitioner was not having a clean record, his transfer has been canceled.

Having regard to the kind of disputes raised in the present writ application, this Court sitting under Article 226 of the Constitution of India would not go into the legality of the order canceling the transfer of the petitioner. It is in the domain of the employer to get himself satisfied with the clean records and image of the employee. So far as the plea of the discrimination is concerned, if any other person similarly situated with the petitioner has been allowed to go on transfer,



the petitioner will be at liberty to bring it to the notice of the competent authority who will look into the same and after examining the entire matter, it will take an appropriate decision.

This writ application as well as the interlocutory application no. 1 of 2023 are disposed of.

(Rajeev Ranjan Prasad, J)

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