

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6900 of 2022

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Arijit Bishal S/o- Amiya Kumar Bishal, Permanent Resident of Village-
Talgachari, P.S.- Ramnagar, District- Purba, Medinipur, at present R/o- D1 F
94, Refinery Township, Begusarai, P.S.- Barauni Refinery, Begusarai.

... .. Petitioner

Versus

1. Union of India through the Principal Secretary, Petroleum and Natural Gas,
Government of India, New Delhi.
2. The Chairman, Indian Oil Corporation Ltd, Refineries Division, SCOPE
Complex, Core- 2, 7, Insitutional Area, Lodi Road, New Delhi.
3. The General Manager (HR), Indian Oil Corporation Ltd, Refineries
Division, SCOPE Complex, Core- 2, 7, Insitutional Area, Lodi Road, New
Delhi.
4. The Executive Director, Indian Oil Corporation Ltd, Barauni Refinery, P.O.
and P.S.- Barauni Refinery, District- Begusarai, Bihar.
5. The Deputy General Manager (HR), Indian Oil Corporation Ltd, Barauni
Refinery, P.O. and P.S.- Barauni Refinery, District- Begusarai, Bihar.
6. Deputy Manager, Employee Relations, Indian Oil Corporation Ltd, Barauni
Refinery, P.O. and P.S.- Barauni Refinery, District- Begusarai, Bihar.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr.Namrata Mishra, Advocate
For the IOC	:	Mr.Ankit Katriar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 28-03-2023 Learned counsel for the petitioner undertakes to
remove the defects, if any, within two weeks from today.

Subject to above undertaking, this Court has heard
learned counsel for the petitioner and learned counsel for the
Indian Oil Corporation Limited under whose administrative
control the Barauni Refinery is working.

Petitioner, in the present case, is seeking quashing of
Letter No. P/IR/PG/21 dated 08.12.2021 issued by the Dy.



General Manager (H.R.) Barauni Refinery, Indian Oil Corporation Limited, Begusarai (Respondent No. 5) whereby and whereunder the request of the wife of the petitioner for his transfer from Barauni Refinery, Begusarai, Bihar to Haldia Refinery of the Indian Oil Corporation Limited, Haldia Zone, West Bengal has been rejected.

Learned counsel for the petitioner submits that the petitioner is only looking for a consideration on compassionate ground. He is working in the Indian Oil Corporation as Junior Engineering Assistant-V, Power and Utilities Department, at Barauni Refinery, Begusarai. His wife is working as Junior Engineer in Public Works Department of the Government of West Bengal, Sub-Division, Contai, District – Purba Medinipur in the State of West Bengal.

Learned counsel for the petitioner submits that the petitioner and her husband are working at two different and distant places. Because of this continued living at two different places, the wife of the petitioner has developed infertility problem and presently she is undergoing treatments for her infertility issues. Because of her problems and absence of her husband, she has developed a feeling of insecurity. It is for this reason that a transfer of her husband from his present place of



posting to Haldia Zone would help her in getting treatments and dealing with other family issues.

Learned counsel has pointed out from office memorandum no. 28034/2/97 issued by the Joint Secretary to the Government of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel and Training, New Delhi that it lays down the policies towards Posting of husband and wife at the same station. In this regard, the recommendation of the 5th Pay Revision has been mentioned in the office memorandum (Annexure '6' to the writ application).

Learned counsel further submits that from Annexure '3' which is an information received by the wife of the petitioner under the Rights to Information Act, 2005, it would appear that the respondents do not deny that transfers are given under certain compelling/compassionate circumstances. The reply as contained in Annexure '3' says that "There is no specific rule of transfer on ground of spouse. Transfers under such circumstances are accordingly only on considerate basis on compelling/compassionate grounds."

Learned counsel, therefore, submits that when there is no transfer policy with the respondents, they should follow the



policy as contained in the office memorandum (Annexure '6' to the writ application).

Learned counsel for the petitioner has pointed out from paragraph '14' of the writ application that Ms. Soma Das and Ms. Luxmi who were also working as workmen were allowed transfer from other place to Barauni, therefore, it would not be correct to say that the transfers do not take place in case of workmen.

Mr. Ankit Katriar, learned counsel for the respondents has opposed the writ application on the ground that in fact the petitioner would not fall in the category of an officer, therefore, the office memorandum as contained in Annexure '6' may not apply in his case. According to learned counsel, the petitioner is in the category of a "workman" and considering the nature of his work, if he is to be transferred then either somebody else has to be deputed for the work by paying overtime wages or to take some new recruits and ordinarily they are not transferred, therefore, persons similarly situated in other Division may not like to come.

Learned counsel, however, submits that considering Annexure '3' if the petitioner can make out some exceptional circumstance, the respondents would look into the same and will



take an appropriate decision.

Learned counsel for the petitioner at this stage submits that the competent authority may consider transfer of the petitioner even for some limited period so that he can get treatment of his wife and can deal with other issues.

Having regard to the facts and circumstances of the case as also the submissions noted hereinabove, this Court is of the considered opinion that the respondents who are the employers of the petitioner should consider the request of the petitioner keeping in view his problems and take an appropriate decision thereon including transferring the petitioner for a limited period to enable him to deal with his family issues and the problems of his wife. Let such decision be taken within a period of one month from the date of receipt/production of a copy of this order.

Liberty is granted to the petitioner to submit a fresh representation with all supporting documents.

This Writ Application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J.)

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