

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7879 of 2023

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1. Ramashish Ram Son of Motilal Ram, Resident of Village-Jiwadhara, Police Station-Piprakothi, District-East Champaran.
 2. Santosh Kumar Singh, Son of Shiv Shankar Singh, Resident of Village-Mathiya Bariyarpur, Police Station-Piprakothi, District-East Champaran.
 3. Jagannath Thakur, son of Ram Sarkar Thakur, Resident of Village-Bangari, Police Station-Piprakothi, District-East Champaran.
 4. Sachindra Kumar Mishra, son of Dhruv Mishra, Resident of Village-Madhubani, Police Station-Sangrampur, District-East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary, Prohibition Excise and Registration Department (Registration), Government of Bihar, Vikash Bhawan, New Secretariate, Patna.
3. The Collector-cum-Registrar, Registration, East Champaran at Motihari.
4. The Sub-Registrar, Registration, East Champaran at Motihari.
5. The Assistant Inspector General, Prohibition Excise and Registration Department (Registration), Govt. of Bihar, Patna.
6. The Under Secretary, Prohibition Excise and Registration Department (Registration), Government of Bihar, Patna.
7. The Assistant Inspector General, Registration Tirhut Division, Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Rakesh Kumar No.1, Advocate
For the State : Mr. Kumar Pankaj, AC to SC- 5

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 19-07-2023 Heard learned counsel for the petitioner and learned counsel for the State.

2. Under the transfer order issued on 07-11-2022, petitioners have been transferred inter-district. The transfer order indicates that the petitioners' are 'Office Attendants'.

3. Learned counsel for the petitioner submits that all



the petitioners have joined their transferred place of posting. As per submission of the petitioners' counsel, such inter-district transfer of petitioners is unsustainable, in view of the erstwhile Personal and Administrative Reforms Department, letter dated 25-04-1984, bearing Memo No. 5038.

4. The transfer has been effected, considering the petitioners to be 'Office Attendants', whereas the petitioners are substantially employees, who were appointed in Class- IV post and the profile of their post has not substantially changed, other than nomenclature of the post.

5. Having submitted so, it is stated by the learned counsel for the petitioner that now the General Administration Department, Government of Bihar, has come out with a letter dated 26.05.2023, bearing Memo No. 9948, Clause 3 to 6, which is relevant, for the purposes of the present dispute, and is being reproduced herein:-

“3. सामान्य प्रशासन विभाग के संकल्प ज्ञापांक- 2916 दिनांक- 16.09.2011 द्वारा अनुसेवी, आदेशपाल, दफ्तरी, जमादार पिउन, जमादार अर्दली का पदनाम कार्यालय परिचारी एवं परिपत्र संख्या 11358 दिनांक 01.09.2017 द्वारा समूह 'घ' के अन्य पदों का पदनाम परिचारी (विशिष्ट) किया गया है।

4. कार्यालय परिचारी / परिचारी (विशिष्ट) के पद



पर कार्यरत कर्मी अल्प वेतन भोगी होते हैं। इसलिए इनके स्थानान्तरण के संबंध में पूर्व में संसूचित निर्णय को पुनः परिचारित किये जाने की आवश्यकता महसूस की गयी।

5. अतः सम्यक विचारोपरान्त निदेश दिया जाता है कि-

"चूंकि कार्यालय परिचारी/परिचारी (विशिष्ट) के पद पर कार्यरत कर्मी अल्प वेतन भोगी हैं फलतः इन लोगों को एक स्थान से दूसरे स्थान पर स्थानान्तरण करने से इन लोगों को काफी असुविधा होती है एवं नये स्थान पर इनके सामने आवास की भी कठिन समस्या आ जाती है . अतः इन लोगों को विशेष प्रशासनिक कारणों को छोड़कर (जैसे पद समाप्त होने पर , आदि) एक स्थान से दूसरे स्थान पर स्थानान्तरण नहीं किया जाय। यदि वे सचिवालय में कार्यरत हैं तो वे सचिवालय में ही काम करेंगे। यही स्थिति विभिन्न अनुमंडल तथा प्रखंड में कार्यरत कार्यालय परिचारी / परिचारी (विशिष्ट) पर भी लागू होगी पर स्वास्थ्य अथवा मनोवांछित आधार पर स्थानान्तरण की कार्रवाई उनके आवेदन पर की जा सकेगी।"

6. अतः अनुरोध है कि उपर्युक्त कंडिका -5 से अपने अधीनस्थ पदाधिकारियों / कर्मचारियों को अवगत कराते हुए इसका दृढ़ता से अनुपालन करने हेतु निर्देशित करने की कृपा की जाय।"

6. Since such decision has now been communicated by the General Administration Department, Government of Bihar.



It is submitted that the same is required to be considered, and petitioners are entitled to the benefits due to them in the matter of their posting/s by placing reliance on the decision, as contained in letter dated 26-05-2023.

7. The petitioners would thus be at liberty to approach the Authorities for benefit in terms of the decision contained in letter dated 26.05.2023. If the petitioners submit their representations seeking benefit of the government decision dated 26-05-2023 within 6 weeks, the authority would be obliged to pass orders thereupon having due regard to the governmental decision/s and in accordance with law, within 8 weeks thereafter.

8. The writ petition is accordingly disposed of.

(Madhuresh Prasad, J)

Raj kishore/-

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