

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13275 of 2022

Chandradeep Kumar, S/o Sri Balram Ray, R/o Village and Post-Rasonk, P.S. Morkahi, District-Khagaria (Bihar).

... .. Petitioner

Versus

1. Bihar State Power (Holding) Company Limited Vidyut Bhawan, Bailey Road, through its Chairman.
2. The Chief Managing Director (CMD), Bihar State Power Holding Company Limited, Vidyut Bhawan, Bailey Road, District-Patna.
3. Managing Director, North Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, District-Patna.
4. The State of Bihar, Department of Social Welfare through its Director, Directorate of Social Welfare-cum-Empowerment of persons with Disability, Government of Bihar, Patna.

... .. Respondents

Appearance :

For the Petitioner	:	Mr.Purushottam Jha, Advocate Mr. Jitendra Acharya, Advocate
For the Respondent (NBPDCCL)	:	Mr. Vinay Kirti Singh, Sr. Advocate Mr. Vijay Kumar Verma, Advocate Mr. Akhileshwar Singh, Advocate
For the State	:	Mr. Md. Raisul Haque, SC-10

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 06-04-2023 Heard learned counsel for the petitioner and Mr. Vinay Kriti Singh, learned Senior Counsel representing the North Bihar Power Distribution Company Limited (in short 'NBPDCCL').

2. The petitioner in the present case is seeking the following reliefs:-

“(i) For issuance of an Order/Direction or a Writ in the nature of Certiorari for quashing that part of Notification No. N-III/T&P-JEE-1305/2019-126/Patna, dated 18.05.2022 issued by the Under Secretary, North Bihar Power Distribution Company



Ltd. (Annexure-2), whereby and whereunder the petitioner has been transferred from JEE-1, MRT Division, Darbhanga to JEE-1, MRT Division, Kishanganj, which is in the teeth of the provisions of Section 20 & 21 of the Rights of Persons With Disability Act, 2016.

AND CONSEQUENT UPON THE QUASHING OF THE IMPUGNED TRANSFER ORDER AS CONTAINED IN ANNEXURE-2 TO THIS WRIT APPLICATION

(ii) A Writ in nature of Mandamus may kindly be issued by this Hon'ble Court communicating the respondents concerned to allow the petitioner to work at JEE-1, MRT Division, Darbhanga or the petitioner may be transferred to his native place i.e. Khagaria or any place near to his native place, particularly in view of Section 20 & 21 of the Rights of Persons with Disability Act, 2016 and other relevant Rules framed thereunder/Guidelines issued in this regard by the Government of India and the Judicial pronouncements in this regard, which provides for exemption from routine exercise of transfer/rotational transfer/posting for disable employees.

(iii) Issuance of an Order, Direction or a writ in the nature of Mandamus commanding the Respondents concerned to pay to the petitioner a sum of Rs. 5 (five) lakhs as exemplary cost for causing unnecessary harassment to the petitioner, who is a disabled employee and in addition thereto the Respondents concerned may also be directed to pay a further sum of Rs. 1(One) Lakh in favour of the petitioner as the cost of the present litigation.

(iv) For grant of any other relief(s) to which the petitioner may be found entitled to in the facts and



circumstances of this case.”

3. In course of hearing, learned counsel for the petitioner submits that he would not press the relief as contained in paragraph 1(ii) in which he has prayed for his transfer to his native place i.e. Khagaria. Learned counsel submits that he has been transferred from JEE-1, MRT Division, Darbhanga to JEE-1, MRT Division, Kishanganj which would be in the teeth of Section 20 and 21 of the Rights of Persons with Disability Act, 2016 and the guidelines issued from time to time.

4. The sheet anchor of the argument of learned counsel for the petitioner is that the petitioner is a differently abled person suffering from some physical disability and his transfer to a long distant place would prove detrimental to his health and other conditions. Instead of transferring him to a far distant place like Kishanganj, he could have been transferred at a place like Begusarai, Samastipur or Saharsa. In this regard, he has submitted a representation dated 19.05.2022 as contained in Annexure ‘3’ to the writ application.

5. In Course of argument, learned counsel has drawn the attention of this Court towards the statements made in paragraph ‘12 of the writ application. It is submitted that some of the persons who were transferred earlier have been re-



transferred within a short period. Instances have been given of one Shri Sushil Kumar Prasad who was transferred from Matihani to Piprahi, Sheohar vide Annexure '2' but very soon he has been transferred from Piprahi, Sheohar to Manigachhi (Benipur). And another person namely Smt. Kumari Sweta Sinha was transferred from Benta, Darbhanga to Chapra, Sadar, Chapra (W). She has been transferred within one month from Chapra Sadar, Chapra (W) to Biharsharif. It is submitted that the representation of the petitioner has remained pending without consideration.

6. Mr. Vinay Kriti Singh, learned senior counsel for the NBPDCCL submits that the petitioner cannot be transferred to his home district, however, the competent authority may be advised to consider his representation keeping in view the report of the Medical Board showing 55% handicappedness of the petitioner.

7. Having regard to the submissions noted hereinabove and the materials available on the record, without forming any opinion on the merit of the case, this Court directs the Managing Director, NBPDCCL to consider the case of the petitioner in terms of the transfer policy of the NBPDCCL and at the same time, ensure that no discrimination takes place in the



matter of transfer of the employees similarly situated. Such decisions shall be taken within a period of two months from the date of receipt/production of a copy of this order.

8. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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