

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.952 of 2024
In
Civil Writ Jurisdiction Case No.13664 of 2024

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Nawin Kumar Son of Kishori Prasad Sahu, Resident of 431/C, Durga Ashram Gali, South of Rishi Lodge, Prem Bhawan Gali, Sheikhpura, BV College, Patna.

... .. Appellant/s

Versus

1. The State of Bihar through Additional Chief Secretary Department of Health Government of Bihar New Secretariat, Patna.
2. The Additional Chief Secretary, Government of Bihar, New Secretariat, Patna.
3. The Officer on Special Duty, Department of Health Government of Bihar,Patna.
4. The Civil Surgeon, Araria.
5. The District Magistrate, Araria

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Sanjeev Kumar Mishra, Advocate
Ms.Manini Jaiswal, Advocate

For the Respondent/s : Mr.P.K. Shahi, Advocate General

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 27-09-2024 Defect(s) ignored.

2. We heard learned Counsel for the appellant and
learned Advocate General.

3. The appellant was aggrieved with the order of



the learned Single Judge which refused to interfere with the transfer order passed against him.

4. Admittedly, there is a disciplinary proceeding initiated against him in which the Enquiry Officer has exonerated him. The matter is pending before the Disciplinary Authority for consideration as to the efficacy of the findings of the Enquiry Officer. It is also an admitted fact that there was a vigilance case registered, on the identical allegation, against the appellant, which is a trap case and the same is pending before the appropriate Court. The appellant is a Drug Inspector, who was posted in Araria and the appellant has now been transferred to the headquarters for administrative reasons.

5. Transfer, as is trite, is an incidence of service and can be challenged only if it is punitive in nature, if the post is not transferable, the authority who transferred, does not have such power, and, if there are *mala fides* alleged. The appellant has spoken of bias of the department. There is nothing to substantiate the same, but for the trap case, which has resulted in a disciplinary enquiry and initiation of criminal proceedings, which is not sufficient ground to find a



departmental bias. If on doubtful integrity, an officer is transferred from a field posting to the headquarters, it cannot be termed punitive and it is purely administrative discretion exercised.

6. In the totality of the circumstances, we find no reason to interfere with the transfer or the judgment of the learned Single Judge.

7. The appeal is dismissed *in limine*.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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