

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14853 of 2024

Jai Prakash Sharma, Son of Late Rama Shanker Sharma, resident of Andar, Post Office and Police Station- Ander and District- Siwan, Bihar, presently residing at C/o- Amresh Priyadarshi, opposite Night School, Brahmpura, Police Station- Brahmpura and District Muzaffarpur, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary, Department of Home, Government of Bihar, Patna.
3. The Secretary, Department of Home, Government of Bihar, Patna.
4. The Director Prosecution, Government of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Avinash Chandra, Advocate
For the Respondent/s	:	Mr. Ragwanand, GA 11
		Mr. Prabhat Kumar, AC to GA 11

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

- 2 01-10-2024 The petitioner was appointed as Additional Prosecution Officer in the year 2017. He was promoted to the Sub-Divisional Prosecution Officer in the year 2023. While working as Sub-Divisional Prosecution Officer at Muzaffarpur, he was transferred vide an order dated 28th August 2024 on the basis of Notification No. 1756 issued by the Home Department, Directorate of Prosecution, as Law Officer in the Office of the Directorate General of Police, Bihar, Patna. It is contended on behalf of the petitioner that prior to the issuance of the impugned transfer order dated 28th August 2024, if any APO or



Sub-Divisional Prosecution Officer is required to be transferred from the Court of the learned Magistrate or the learned Sessions Judge, his consent was obtained by the Directorate of Prosecution. However, in the instant case, the consent of the petitioner was not obtained.

2. Moreover, it is submitted by the learned advocate for the petitioner that the petitioner is an aspirant of the Higher Judicial Service. As per the rule for appointment to the Higher Judicial Service, a recommendation is required to be obtained from the District Prosecution Officer, and on the basis of the said recommendation, the learned District Judge of the jurisdictional district issues a fitness certificate for appearing in the Higher Judicial Service Examination. If the petitioner is posted as a Law Officer, the experience as Law Officer would not be counted, and he will not be able to compete in Higher Judicial Service. The petitioner has filed a representation before the Secretary, Department of Home, Government of Bihar, Patna. However, the said representation has not yet been disposed of.

3. It is submitted by the learned counsel for the respondents that the representation ought to be filed before the Additional Chief Secretary, Department of Home, Government



of Bihar, Patna, being the respondent no. 2 herein.

4. In view of such circumstances, respondent no. 3 is requested to forward the representation filed by the petitioner to respondent no. 2.

5. The respondent no. 2 is directed to dispose of the representation filed by the petitioner in accordance with law by speaking and reasoned order within 60 days from the date of communication of this order.

6. With the above direction, the instant writ petition is disposed of.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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