

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17216 of 2023

1. Biresh Kumar Singh Son of Late Rajeshwar Singh, Resident of Village-Kunwarpur, Chintamanpur Halt Station, P.O.- Parsurampur, P.S.- Pipra, District- East Champaran at Motihari, presently working as Lower Division Clerk, Public Health Division, Bhagalpur East, District- Bhagalpur.
2. Binod Kumar Singh, Son of Arjun Prasad Singh, Resident of near Ford Company Chowk, P.H.E.D. Colony, Purnea, P.S. Khazanchi Hatt, District- Purnea, Presently working as Upper Division Clerk, Public Health Division, Gaya.
3. Indrajeet Kumar Singh @ Indrajeet Kumar, Son of Late Kamla Prasad Singh, Resident of Sita Bhawan, Mohan Nagar, Koyali Pokhar, Gaya, P.S.- Rampur, District- Gaya, Presently working as Upper Division Clerk, Public Health Division, Purnea.
4. Pramod Kumar, Son of Late Maheshwar Prasad, Resident of Mohalla-Sipahi Tola, Chunapur Road, Gali No. 3, North, Purnea, P.S. Khazanchi Hatt, District- Purnea, Presently working as Senior Accounts Clerk, Public Health Division, Bettiah.
5. Prem Prakash, Son of Jai Narayan Jha, Resident of Village and P.O. Bhatwaliya, P.S.- Sangrampur, District- East Champaran at Motihari, Presently working as Senior Accounts Clerk, Public Health Division, Purnea.

... .. Petitioners

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Public Health and Engineering Department, Government of Bihar, Patna.
3. The Engineer-in-Chief-cum-Special Secretary, Public Health and Engineering Department, Government of Bihar, Patna.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Vijay Kumar Singh, Advocate
For the Respondent/s	:	Mr. Vikash Kumar (Sc11)
		Mr. Ravish Chandra, AC to SC-11

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 04-07-2025

In the instant petition, petitioners have prayed for
the following reliefs:



(i) for issuance of an appropriate writ in the nature of **CERTIORARI** for quashing the office order dated 04.09.2023 passed by the respondent no.3 and contained in his memo no.1007 dated 04.09.2023 whereby and where under the respondent no.3 was pleased to transfer the petitioners on administrative ground as follows:-

(a) The petitioner no.1 from Public Health Division, Bettiah to Public Health Division, Bhagalpur East.

(b) The petitioner no.2 from Public Health Division, Purnea to Public Health Division, Gaya.

(c) The petitioner no.3 from Public Health Division, Gaya to Public Health Division, Purnea.

(d) The petitioner no.4 from Public Health Division, Purnea to Public Health Division, Bettiah and

(e) The petitioner no.5 from Public Health Division, Bettiah to Public Health Division, Purnea.

On the ground that the post of Clerks/Accounts Clerk are the Circle Cadre but contrary to that the Respondent no.3 had transferred the petitioners from one Circle to another Circle as also contrary to the letter no.1243 dated 08.10.2014 which clearly provides that on the administrative ground, if the charges have been framed against the government servants then after taking their show-cause, the action is being taken against them for imposing punishment



and not for their transfer.

*(ii) Consequent upon issuance of an appropriate writ in the nature of **MANDAMUS**, commanding and directing the Respondent Authorities to post the petitioners to their earlier place of post from where they have been transferred to the present place of posting pursuant to the impugned order.*

(III) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioners would be found entitled under the facts and circumstances of the case.”

2. Petitioners, who are working in the respective circle as staff in the level of the cadre they have been transferred from one circle to another circle and based on complaints against certain petitioners.

3. Learned counsel for the petitioners contended that level of the cadre persons cannot be transferred from one circle to another circle and that too based on certain complaints against the petitioners. On this score, the petitioners' transfer from one circle to another circle are liable to be set aside.

4. *Per contra*, learned counsel for the Respondents resisted the aforementioned contention and submitted that in terms of Rule 14 of the Bihar Public Health Engineering Circle Level Clerical Cadre (Recruitment & Service Conditions) Rules,



2016. It is the discretionary power which can be exercised depending upon the sudden necessity or exigencies etc. Therefore, in the administrative exigency, the petitioners have been transferred. Hence, no interference is called for.

5. Heard learned counsels for the respective parties.

It is undisputed fact that the petitioners are all in the level of the cadre in the light of Rules 14 (cited supra). It is necessary to reproduce Rule 14 of the Bihar Public Health Engineering Circle Level Clerical Cadre (Recruitment & Service Conditions) Rules, 2016. It reads as under:

“14. Level of the cadre. - This cadre shall be at circle level, but in case of sudden necessity or exigencies like shortage of staff in a circle, the concerned zonal Chief Engineer / Engineer- in- Chief- Special Secretary shall have powers to transfer an employee maintaining his seniority on the basis of his entry into the service.”

Reading of the aforementioned statutory provision, it is crystal clear that authorities have discretion to transfer level of the cadre from one circle level to another circle level in case of a sudden necessity or exigencies like shortage of staff in a circle, while maintaining his seniority on the basis of entry into the service, therefore, transfer is in public interest and



petitioners right or service conditions are not altered in any manner. Therefore, the contention of the petitioners that level of the cadres, who are working in a particular circle cannot be transferred to another circle is not tenable.

6. Learned counsel for the petitioners submitted based on complaints they had been transferred. Therefore, impugned transfer orders are liable to be set aside. On this issue, learned counsel for the Respondents is relying on Hon'ble Supreme Court decision in the case of ***Sri Pubi Lombi versus The State of Arunachal Pradesh & Ors. (2024 INSC 200)*** decided on 13.03.2024 to the extent that transfer of employees could be given effect to based on complaints in order to keep such employee away from the office where the complaints were made against such of those employees.

7. At this stage, learned counsel for the petitioner tried to impress that there is no sudden necessity to transfer the petitioners is not forthcoming, that issue cannot be examined in view of the fact that administrative authorities have ample power to transfer its employees from one place to another place, in such matters Court cannot interfere. In this regard, the Hon'ble Supreme Court in the case of ***State of Punjab and Others vs. Joginder Singh Dhatt*** reported in ***AIR 1993 SC***



2486 elaborately considered to the extent that in respect of transfer of employee, it is ultimately employer’s power that cannot be interfered, since he is the best judge to analyze which employee to be posted where and all.

8. In the light of these facts and circumstances, the petitioners have not made out a case. Hence, Writ petition stands dismissed.

9. At this juncture, learned counsel for the petitioner is relying on Annexure- P-7 dated 08.10.2014 issued to the GAD to the extent that if there are any complaint, in that events, Government servants cannot be transferred or shifted from one place to another place. In this regard, petitioners are at liberty to approach the next higher authority to the transfer authorities to examine in the light of Circular dated 08.10.2014.

(P. B. Bajanthri, J)

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AFR/NAFR	N.A.F.R
CAV DATE	N.A
Uploading Date	08.07.2025
Transmission Date	N.A

