

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1297 of 2024

In
Civil Writ Jurisdiction Case No.17726 of 2023

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Jitendra Kumar, S/o Late Siddhnath Prasad, R/o- ward No-7,P.H.E.D Campus,
village- Sisauna, Post + P.S- Jokhihat Dist-Araria.

... .. Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. Of Bihar Patna.
2. The Add. Chief Secretary, General Administration Department.
3. The principal Secretary, Public Health Engineering Department, Govt. of Bihar Patna.
4. The Engineer-in-chief cum Special secretary Public Health Engineering Department, Govt. of Bihar, Patna.
5. The Zonal Chief Engineer, Public Health Engineering Department, Govt. of Bihar, Patna, Purnia Zone, Purina.
6. The Superintendent Engineer Public Health Engineering Circle, Purina.
7. The Executive Engineer, Public Health Division, Araria.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Siyaram Pandey, Advocate
For the Respondent/s	:	Mr. P.K. Verma, AAG-3
		Mr. Sanjay Kumar Ghosarvey, AC to AAG-3

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 12-08-2025

The present Letters Patent Appeal has been filed under provisions of Clause 10 of the Letters Patent of the Patna High Court Rules against the judgment dated 28.11.2024 rendered by learned Single Judge in CWJC No. 17726 of 2023, by which the learned Single Judge dismissed the writ petition filed by the present appellant/original petitioner.



2. Heard Mr. Siyaram Pandey, learned counsel appearing on behalf of the appellant/original petitioner and Mr. P.K. Verma, learned Additional Advocate General No. 3 appearing on behalf of the respondent-State.

3. Learned counsel for the appellant/original petitioner would mainly assail the impugned judgment passed by the learned Single Judge on the ground that learned Single Judge has not properly considered Clause 4(iii) of policy/letter bearing Memo No. 1243 dated 08.10.2014. It is submitted that as per the said policy of the Government, in case there is charge on an employee and if the employee is disobeying the order of the authority and not discharging his duty properly, a show-cause is required to be issued to the employee and he is required to be asked to explain his case, but he cannot be transferred. It is submitted that in the present case, the respondent authority has passed the order of transfer, copy of which is placed on record at Page-67 of the compilation, because of certain allegations levelled against the present appellant/original petitioner. Learned counsel referred to the order of transfer dated 01.11.2023 in which there is a reference with regard to Letter No. 341 dated 07.10.2023 written by Chief Engineer, Public Health Engineering Department, Purnea Division to Engineer-



in-Chief, Public Health Engineering Department, Bihar, Patna. Learned counsel referred to the said letter dated 07.10.2023, copy of which is placed on record at Page-157 of the compilation. After referring to the same, it has been contended that in the said letter certain allegations are levelled against the appellant/original petitioner that he has misbehaved with his superior officers and, therefore, because of the said allegation, request was made to transfer the appellant/original petitioner, and relying upon the said letter now the impugned letter dated 01.11.2023 has been issued by which the appellant/original petitioner has been transferred at a distance of more than 600 kms. from the place at which he was working. Learned counsel, therefore, submits that learned Single Judge has failed to consider the aforesaid aspect of the matter and, therefore, the order passed by learned Single Judge be set aside and thereby the action of the respondent authority of transferring the appellant/original petitioner from one place to another, i.e., at a distance of 600 kms. be set aside.

4. On the other hand, learned Additional Advocate General has opposed the present appeal. Learned Additional Advocate General would mainly refer to the reasoning recorded by learned Single Judge while dismissing the petition filed by



the appellant/original petitioner. Learned Additional Advocate General appearing for the respondents further submits that the appellant/original petitioner has not been transferred from one place to another because of the allegation levelled against him. Learned Additional Advocate General has referred to the order dated 01.11.2023 passed by the respondent authority by which the appellant/original petitioner has been transferred. It is submitted that in public interest and due to administrative exigency the appellant/original petitioner has been transferred. Thus, when the respondent authority has taken the decision in public interest to transfer the appellant/original petitioner from one place to another, the learned Single Judge has rightly not interfered with the said decision taken by the respondent authority. Learned Additional Advocate General, therefore, urged that present appeal be dismissed.

5. Learned Additional Advocate General has placed reliance upon the decision rendered by the Hon'ble Supreme Court in the case of *Union of India and others vs. Janardhan Debanath and another*, reported in (2004) 4 SCC 245. It is submitted that the Hon'ble Supreme Court in similar type of case has observed in Paragraph 14 that it is open for the concerned authority to transfer the employee from one place to



another. Learned Additional Advocate General, therefore, urged that present appeal be dismissed.

6. We have considered the submissions canvassed by learned Advocates. We have also perused the materials placed on record and have also gone through the reasoning recorded by the learned Single Judge while passing the impugned order.

7. It would emerge from the record that the appellant/original petitioner was appointed on compassionate ground on 12.02.2011. The impugned order of transfer came to be passed on 01.11.2023 transferring the appellant/original petitioner from Public Health Division, Araria to Public Health Division, Bhabua on administrative ground.

8. Learned counsel for the appellant/original petitioner has mainly contended that as per the policy dated 08.10.2014 and more particularly Clause 4 (iii) of the said policy, copy of which is placed on record at Page 70 of the compilation, once the allegation has been levelled against the employee, he cannot be transferred from one place to another on the basis of the allegation and it is the case of the appellant/original petitioner that the appellant/original petitioner has been transferred from one place to another because of certain allegations levelled against him.



9. With a view to appreciate the aforesaid contention taken by learned counsel for the appellant/original petitioner, we have gone through the impugned order passed by the concerned respondent authority, copy of which is placed on record at Page-67 of the compilation. It transpires from the transfer order that the respondent authority has taken the decision to transfer the appellant/original petitioner from one place to another in public interest due to administrative exigency and no allegation has been levelled against the appellant/original petitioner in the said transfer order. However, there is a reference of one communication dated 07.10.2023 in the said order but that does not mean that the appellant/original petitioner has been transferred from one place to another because certain allegations are levelled against him.

10. Even otherwise, at this stage, we would like to refer to the decision rendered by the Hon'ble Supreme Court in the case of *Union of India and others vs. Janardhan Debanath and another* (supra). The Hon'ble Supreme Court has observed in Paragraph-14 as under:-

“14. The allegations made against the respondents are of serious nature, and the conduct attributed is certainly unbecoming. Whether there was any misbehaviour is a



question which can be gone into in a departmental proceeding. For the purposes of effecting a transfer, the question of holding an enquiry to find out whether there was misbehaviour or conduct unbecoming of an employee is unnecessary and what is needed is the prima facie satisfaction of the authority concerned on the contemporary reports about the occurrence complained of and if the requirement, as submitted by learned counsel for the respondents, of holding an elaborate enquiry is to be insisted upon the very purpose of transferring an employee in public interest or exigencies of administration to enforce decorum and ensure probity would get frustrated. The question whether the respondents could be transferred to a different division is a matter for the employer to consider depending upon the administrative necessities and the extent of solution for the problems faced by the administration. It is not for this Court to direct one way or the other. The judgment of the High Court is clearly indefensible and is set aside. The writ petitions filed before the High Court deserve to be dismissed which we direct. The appeals are allowed with no order as to costs.”

11. From the aforesaid observation made by the Hon’ble Supreme Court, it can be said that whether there was



any misbehaviour is a question which can be gone into in a departmental proceeding. For the purposes of effecting a transfer, the question of holding an enquiry to find out whether there was misbehaviour or conduct unbecoming of an employee is unnecessary and what is needed is the *prima facie* satisfaction of the authority concerned on the contemporary reports about the occurrence complained of and if the requirement of holding an elaborate enquiry is to be insisted upon the very purpose of transferring an employee in public interest or exigencies of administration to enforce decorum and ensure probity would get frustrated.

12. We are of the view that in the present case though there is reference with regard to letter dated 07.10.2023 in the impugned order of transfer passed by the respondent authority, from the impugned order of transfer it is clear that the appellant/original petitioner has been transferred in public interest due to administrative exigencies.

13. We have also gone through the reasoning recorded by the learned Single Judge while dismissing the petition and we are of the view that learned Single Judge has not committed any error while dismissing the petition and, therefore, no interference is required in the present appeal.



14. Accordingly, Letters Patent Appeal stands dismissed.

15. Interlocutory Application(s), if any, shall also stand disposed of.

(Vipul M. Pancholi, CJ)

(Partha Sarthy, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	19.08.2025
Transmission Date	

