

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4935 of 2017

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Dinesh Kumar Singh Son of Shree Damodar Singh, Resident of Village-
Sisai, P.S.- Goryakothi, District- Siwan, at present posted as Jeep Driver at
Block Office Raghunathpur, P.S.- Raghunathpur, District- Siwan.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Secretary, General Administration Department, Govt. of Bihar, Patna.
3. The Principal Secretary, Rural Development Department, Govt. of Bihar,
Patna.
4. The Secretary, Rural Development Department, Govt. of Bihar, Patna.
5. The Director, Rural Development Department, Govt. of Bihar, Patna.
6. The Commissioner, Saran at Chapra.
7. The Collector cum the Magistrate, Siwan, District- Siwan.
8. That Deputy Collector, Establishment, Siwan, District- Siwan.
9. The Block Development Officer, Raghunathpur, District Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Mishra, Advocate
For the Respondent/s : Mr. Md.Nashrul Hoda Khan-SC1

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

4 10-02-2026 Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The petitioner has filed the instant application
praying for quashing the order dated 26.8.2014 and 30.8.2014



whereby the Deputy Collector and the District Magistrate, Siwan, have rejected the application of the petitioner for being substantively transferred from the post of Jeep Driver to where the petitioner is at present working to one of the Lower Division Clerk in terms of Rule 56 of the Bihar Service Code.

3. The case of the petitioner in brief is that pursuant to a selection having been conducted by the Bihar Staff Selection Commission, Patna, the petitioner was appointed as a Jeep Driver on 27.10.2006. A copy of the appointment letter has been brought on record as Annexure-1 to the writ application.

4. It is the case of the petitioner that inspite of the petitioner having filed an application on 1.3.2013 before the Block Development Officer, Raghunathpur, Siwan to consider the petitioner's service for substantive transfer to the post of a Lower Division Clerk ('LDC' in short) by conversion in terms of Rule 56(a) of the Bihar Service Code, the same came to be rejected by the respondents by the orders impugned dated 26.8.2014 and 30.8.2014. Hence the instant writ application for the relief as stated herein above.

5. It is submitted by learned counsel for the petitioner that Rule 56(a) of the Bihar Service Code clearly provides that the State Government may transfer Government servant from



one post to another on his written request. The petitioner having filed an application for his transfer to the post of LDC as has been done in similar other case, the application should have been allowed and the petitioner's service converted to that of the LDC. Learned counsel places reliance on the judgment in the case of **Shailendra Kumar Pathak versus State of Bihar & Ors.; 2001(2) PLJR 614.**

6. The application is opposed by learned counsel for the respondents.

7. Referring to the counter affidavit filed, learned counsel submits that the petitioner was originally appointed as a Jeep Driver against permanent vacancy vide appointment letter dated 27.10.2006. The application of the petitioner for conversion of his post to LDC has been rejected by the order impugned. Rule 56(a) does not provide for substantive conversion from the original post and it is not a matter of right that as soon as an application is filed, the applicant has an indefeasible right of his post being converted.

8. Heard learned counsel for the parties and perused the material on record.

9. The relevant facts in brief are that the petitioner who was working as a Jeep Driver in the office of the



respondent authorities, his application for conversion of his post from that of Jeep Driver to LDC has been rejected by orders impugned. Learned counsel has placed reliance on Rule 56(a) of the Bihar Service Code to submit that the respondents should have allowed the prayer made by the petitioner in his representation. For ready reference Rule 56(a) of the Bihar Service Code is reproduced hereinbelow.

“56. (a) The State Government may transfer a Government servant from one post to another:

Provided that, except;—

(1) on account of inefficiency or misbehaviour, or

(2) on his written request,

a Government servant shall not be transferred substantively to, or except in a case covered by Rule 103 appointed to officiate in a post carrying less pay than the pay of the permanent post on which he holds a lien, or would hold a lien, had his lien not been suspended under Rule 70.”

10. A bare perusal of the provision would show that the the provision does not make it mandatory that any application filed by the applicant has necessarily to be allowed by the State Government. Further, the option of the transfer is given to the State Government and the provision of Rule 56(a) mainly provides that a person shall not be transferred



substantively to or be asked to officiate in a post carrying less pay than the pay of the permanent post on which he holds a lien unless he is being transferred on account of inefficiency or misbehavior or the transfer is being made on his written request.

11. In the opinion of the Court, Rule 56(a) is not a provision enabling the petitioner to file an application or giving a right to the petitioner to get himself substantively transferred on another post as desired by him. So far as the judgment in the case of Shailendra Kumar Pathak (supra) is concerned, the petitioner therein was affected on account of his transfer being made to officiate on a post carrying less pay. The Court in the said judgment held that the petitioner of the said case having been transferred on the ground of inefficiency, Rule 56(a) provided that he can be asked to officiate in the post carrying less pay than the pay of his permanent post. Taking this into consideration, the Court did not interfere with the transfer of the petitioner.

12. In the opinion of this Court, the judgment in the case of Shailendra Kumar Pathak (supra) is of no assistance to the petitioner in the facts and circumstances of the instant case.

13. Having heard learned counsel for the parties and having perused the contents of the petition, the Court is of



the opinion that the petitioner has not made out a case for grant of relief in the instant writ application.

14. The application is dismissed.

(Partha Sarthy, J)

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