

(1991) 02 PAT CK 0002
In the Patna High Court
Case No : C.W.J.C. No. 429 of 1991

Basudeo Prasad Pathak

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 13-02-1991

Acts Referred:

Citation : (1991) 1 BLJR 622 : (1991) 2 PLJR 461

Hon'ble Judges : U.P. Singh, J;S. Hoda, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. After hearing the learned Counsel for the petitioner and the respondents-State, this application is being disposed of at the stage of admission itself with their consent.

2. The petitioner, an Assistant Engineer Road Construction at Siwan, has challenged the order of transfer contained in Annexure-4 dated 31.12.1990 by which 318 persons were transferred for administrative reasons. The petitioner is one amongst them) and he has been directed to report at the Head quarters.

3 The first ground of challenge is that the petitioner had not completed the full term of three years and the second ground is that the Establishment Committee had not recommended his transfer. Yet another ground was raised that the Establishment Committee had recommended the names of 94 persons but the Minister-in-charge of the department added all the subsequent names.

4. As against this, learned Counsel for the State representing all the respondents, contended that the order of transfer was made in the interest of administration and for administrative reasons as also in the interest of the public. These transfer were valid.

5 Continuance on a particular post for any officer for a full term of three years is not by itself a right. Of course normally, one is allowed to continue for three

years but that does not confer any right as such that he must continue for three years. If for administrative reasons, the transfer is required it can be so done even before the completion of three years. As regards the second and the third contention that the Establishment Committee had not recommended the transfer of the petitioner we do not find any material for such an allegation. Before we proceed to consider the allegation made in the writ application, there must be sufficient material in support of such pleadings and assertions so that the court can proceed to consider it. The allegation that the Minister-in-charge made changes in the impugned notification is again a bald statement without any material whatsoever. Such statement has been made in paragraph 8 of the writ application which is based on information derived from the relevant papers, of the case. When asked to produce such a material, nothing could be placed except that an oral reference was made to a news published in the newspaper. We have no reason to proceed in a writ application on the basis of any news or information published in the newspaper. The contention that there is no denial to these assertions is not relevant for the reason that the allegation itself is based on no material and if there are no materials before this Court such assertion and bald allegation cannot be entertained. The contention that the recommendation of the Establishment Committee is mandatory is equally without any merit. Reference has been made to a decision of this Court in the case of *Man Singh v. State of Bihar* 1982 BBCJ 392 but the same has not laid down the proposition that the recommendation of the Establishment Committee is mandatory. In a given case, one may be required to be transferred immediately when there may not be any possibility of constituting a Establishment Committee. Invariably, of course, wherever, it is possible for the Establishment Committee to consider, it may do so but it cannot be held to be mandatory.

6. In the present case, we have before us the order of transfer of a large number of officers for administrative reasons and we do not find any ground to interfere with such order of transfer. The application is accordingly, dismissed. There shall be no order as to costs.