

(2007) 11 PAT CK 0008
In the Patna High Court

Navin Bhushan

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 12-11-2007

Acts Referred:

Citation : (2007) 11 PAT CK 0008

Hon'ble Judges : Navin Sinha, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Navin Sinha, J.—Heard the learned Counsel for the petitioner, learned Counsel for the State and the learned Counsel appearing on behalf of the respondent No. 7.

2. The petitioner questions the order dated 1.6.2007 at Annexure 7. The order transfers him from Sahkund Anchal to Jasgdishpur Anchal. The petitioner holds the post of Circle Inspector.

3. Learned Counsel for the petitioner submitted that the petitioner had been posted at Jagdisdhpur Anchal as recently as 26.6.2006 on the basis of his request. His wife who was also in government service was posted in the same Anchal. For the aforesaid reason the Government acceded to his request. The policy guidelines* of the Government regulating transfer and posting dated 1.3.2007 stipulated that a person shall be considered to be transferred after he completes at least three years at his present place of posting. The transfer of the petitioner in a year's time was basically to favour respondent No. 7 in the guise of administrative reasons. The counter affidavit purports to disclose the administrative grounds as certain allegations against the petitioner having been received in discharge of his official duties. The transfer was therefore as a measure of punishment and was vitiated. The order was based on no nest grounds in as much as the order of transfer is dated 1.7.2007 for the alleged irregularities when the enquiry report in respect of the same has been submitted on 27.7.2007. Even the enquiry was not conclusive.

4. Learned Counsel for the State and the private respondent sought to support the impugned order by relying upon the reason for the administrative decision as urged in the counter affidavit.

5. The normal rule stipulated by the Government for transfer visualized such consideration after three years. But, an order of transfer on administrative ground can be issued at any time. Normally it will not be the jurisdiction of this Court to require the respondents to disclose the administrative grounds. On challenge being made, if the respondents chose to do so, the scope for this Court to interfere with the administrative decision would again be very limited unless this Court were to arrive at a finding that the reason urged in support of the administrative decision was arbitrary, irrational, was an act of favoritism etc.

6. In the facts of the present case, the government policy of keeping the husband and wife together has been subject matter of much consideration both by this Court and the Apex Court. It has been held that it does not create a vested legal right but that it only furnishes an opportunity to represent to be considered in the wisdom of the Government. In so far as the facts of the present case are concerned, this Court does not find any force in the submission on behalf of the petitioner that the transfer was punitive. The fact that the enquiry against the petitioner may not have been conclusive, to this Court, will not preclude the authorities from taking appropriate decision keeping in mind best interests of administration. The law stands well settled that if there be any material before the authorities requiring them to consider the matter from administrative view point, it is not necessary for them to hold full fledged enquiry and neither will the order of transfer based on the same assume the purport of punishment. It is apparent from the counter affidavit of the official respondents that some grievances were purportedly received inter alia against the petitioner on 1.3.2007. This was forwarded with queries on 8.5.2007 and in pursuance of which report came to be submitted. To this Court, the words "administrative reasons" mentioned in the impugned order stood satisfied when the authorities received certain complaints and in their wisdom considered it prudent to post the petitioner out. The fact that the report may be inconclusive will not vitiate the administrative reason urged in the impugned order. The administrative reason will not mean always a positive finding of mis demeanor on the part of the employee.

7. In any event of the matter, learned Counsel for the petitioner very fairly conceded that the distance between the two Anchals was hardly 40 Km.

8. This Court finds no merit in this application. It is accordingly dismissed.