

(2015) 04 PAT CK 0101

In the Patna High Court

Case No : Appeal No.1183 of 2014 in Civil Writ Jurisdiction Case No. 13840 of 2013

Ranjan Kumar

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 10-04-2015

Acts Referred:

Citation : (2015) 3 BLJud 1

Hon'ble Judges : L. Narasimha Reddy, C.J. and Mr. Shivaji Pandey, J.

Bench : Division Bench

Advocate : Mr. Purushottam Kumar Jha and Mr. Avanindra Kumar Jha, Advocates, for the Appellants; Mr. Kundan Bhadur Singh, S.C. 22, for the Respondents

Final Decision : Disposed Off

Judgement

L. Narasimha Reddy, C.J. (Oral)—It is startling to note that on an average each teacher in the State of Bihar has two cases to his credit in the High Court. Hardly they evince any interest in teaching and they have the habit of rushing to the Court at every stage, if not to different authorities, on one pretext or the other. The result is that the High Court is flooded with the litigations pertaining to teachers and hardly the teachers have any time to impart instructions to the students. The appellants herein seem to be almost in the leading front.

2. The appellants were appointed as teachers and they were extended the benefit of Trained Graduate Teachers with effect from 31.12.2012. On account of the enhancement of their status, it has become necessary to shift them to other nearby places within the district. Having availed the benefit of promotion or up gradation, the appellants who started litigating the matter pertaining to the transfer. They wanted to remain at the places of their choice at any cost. The Rules framed by the Government are such that a teacher is permitted to remain at a place of his choice for decades together.

3. The petitioners approached the Deputy Development Commissioner, the 2nd respondent herein, feeling aggrieved by their transfer to other places. The matter is still pending. However, they filed C.W.J.C. No.13840 of 2013, with a prayer to direct the respondent authorities to allow and grant the posting of the petitioners at the place of their choice, in view of Rule-3 of Bihar Nationalized Elementary Teachers-Transfer Rules, 2006 and guidelines in this regard, issued by the Director of Primary Education on 11.6.2011. Learned single Judge dismissed the writ petition through order dated 5.6.2014.

4. Hence, this Letters Patent Appeal. Heard Shri Purushottam Kumar Jha and Shri Avanindra Kumar Jha, learned counsel for the appellants, and Shri Kundan Bahadur Singh, learned counsel for the respondents.

5. We take serious exception to the cantankerous nature and litigating tendency of the petitioners. The transfer became inevitable on account of the up gradation. If they did not want to move out from the place, they ought to have foregone the promotion. However, the petitioners wanted promotion and at the same time, to remain at the place of their choice.

6. We have perused the relevant Rules. They are purely in relation to ordinary transfers. Clause 7 thereof simply enables the aggrieved person to submit a complaint before the 2nd respondent herein. It is not even an appellate forum, much less any adjudication takes place there. The guidelines issued by the Director of Primary Education on 11.6.2011 are in the context of the choosing places for effecting general transfers. They do not get attracted in cases of the transfers which are made as a sequel to up gradation.

7. We, therefore, dismiss the Appeal with costs of Rs.2000/- against each of the appellants. The amount shall be recovered from the salaries of the appellants by the Head Master, and the same shall be utilized for the purpose of improving the facilities in the respective schools. Compliance shall be reported to the District Superintendent of Education. It is also made clear that in future, if the same approach is adopted by the appellants, the amount of costs may be enhanced, and whenever it is found that a teacher is indulging in such type of litigations, similar approach would be considered.

8. Interlocutory application, if any, stands disposed of.