
(2008) 07 PAT CK 0201
In the Patna High Court
Case No : CWJC No. 8198 of 2008

Sawan Kumar Karn

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 17-07-2008

Acts Referred:

Citation : (2008) 4 PLJR 410

Hon'ble Judges : C.M. Prasad, J

Bench : Single Bench

Advocate : Pramod Mishra, for the Appellant; Fazal Rahman, for the Respondent

Final Decision : Allowed

Judgement

C.M. Prasad, J.—The petitioner challenges Annexure-1, the transfer order of the Director-in-Chief, Health Services, Bihar whereby the petitioner, who is a Class-III employee has been transferred from the Office of District Family Welfare Officer, Saharsa to the Office of the Civil Surgeon, Kishanganj. The grievance of the petitioner is that he is an employee of district cadre and he has been transferred from one district to another district without any kind of request or any complain against him. It is submitted that by virtue of transfer from one district to another, the petitioner will loose his seniority and the instant transfer will be prejudicial to him and it will be a punitive transfer without any reason or ground.

2. In this case no counter affidavit was filed on behalf of Director-in-Chief, Health Services who is respondent no. 3. However, counter affidavit was filed on behalf of respondent nos. 4 and 5, Civil Surgeon, Saharsa and the Additional Chief Medical Officer, Saharsa respectively. In Para-9 of the counter affidavit, it is admitted that the petitioner is employee of district cadre.

3. In the impugned Annexure-1, transfer order, it is mentioned that the transfer was being effected on the representation filed by the petitioner but the petitioner has categorically denied in Para-5 of his petition that he never filed any

representation praying for his transfer. The counter affidavit does also not say anything about filing of any representation by the petitioner. Thus statement of the petitioner that he never filed any representation is not denied by the respondents.

4. The Learned Counsel for the petitioner referred to Annexure-2 which is a petition filed by the petitioner before the Director-in-Chief, Health Services stating that he has never filed any representation, for his transfer and on that ground he prayed for cancellation of transfer order. In response thereto Letter at Annexure-3 of the Joint Director, Health Services was issued wherein it was stated that the transfer of the petitioner was made in compliance to assurance given in the Bihar Legislative Assembly under question No. 60. But the details and nature of assurance has not been motioned to show that it is specifically related to any complain against the petitioner. In this view of the matter, presently there is nothing to show that there was anything against the petitioner to justify his inter-district transfer. Even the ground of representation filed by the petitioner as taken in the Annexure-1, the order of transfer is non-existent.

5. The inter-district transfer of the petitioner will definitely be prejudicial to him because it will affect his seniority in the district where he is to go. Since there being nothing against the petitioner, the impugned order of transfer i.e. Annexure-1 being not found in consonance with principles of natural justice as well as any reasonable ground supporting such transfer, it is hereby quashed. Thus, the writ petition stands allowed.