

(2003) 11 PAT CK 0097
In the Patna High Court
Case No : L.P.A. No. 19 of 1994

The State of Bihar and Others	Vs	APPELLANT
Surya Kant Tripathy and Another		RESPONDENT

Date of Decision : 07-11-2003

Acts Referred:

Citation : (2004) 2 PLJR 161

Hon'ble Judges : Ravi S. Dhavan, C.J.; Shashank Kr. Singh, J

Bench : Division Bench

Advocate : V.N. Sinha and Ajat Shatru, for the Appellant; Rajiv Giri and Khurshid Alam, for Intervenor, for the Respondent

Final Decision : Allowed

Judgement

1. This issues related in this case cannot be extricated out and examined separately. Before taking up this matter along with it issues have been resolved in L.P.A. No. 1255 of 1998 arising out of C.W.J.C. No. 2022 of 1998. The pattern of sending police personnel on deputation to the transport department was a circumstance which had happened. This perhaps created complications to third parties sufficiently reflected in the present case also. The substantive staff of the transport department felt that should the personnel of the police department be absorbed then the possibility cannot be ruled out that their chances of promotion may get affected by such persons. The fact is that these issues are denied by the Respondents-Appellants. Some staff of the transport department are intervenors in this appeal.

2. Unusual as circumstances are in the present case the Court fails to understand why so much interest has been shown by a Sub-Inspector for pushing the file upto the Hon'ble Chief Minister. This is certainly not an ideal way of running an administration and for many others whether within the police department or the transport department. Such a bad style has given complications to be resolved by the Courts, by competing claims.

3. The contention on behalf of the intervenors is that of the rules framed in. 1991 to give effect to promotion within the transport department finality of the issues rested with an order of the Supreme Court. If the Petitioners-Respondents (Surya Kant. Tripathy and Umesh Pandey) are to be absorbed then it may make a dent on the promotional chances of the substantive staff of the transport department. In equity such a state of affairs should not be rendered that staff from another department may affect the chances of promotion of the substantive staff to which the deputationists were sent or there was an exercise to absorb them.

4. On the other hand, it has been contended by learned Counsel for the State Mr. V.N. Sinha, G.R 9, that the lien of the Petitioners--Respondent is available at the police department. The Petitioners--Respondents will not be out of their job and they cannot insist that they be absorbed in the transport department. Deputations are meant to come to an end unless some exceptional circumstances permits deputationists to continue. There are no exceptional circumstances in the present case except that a Sub-Inspector could reach himself to the Hon"ble Chief Minister, which an ordinary Sub-Inspector cannot do. If the Petitioners-Respondents have their deputations converted into absorption then the balance of promotion could be upset. This is acknowledged by learned State counsel. Petitioner-Respondents themselves acknowledge this. It will only be fair that the Petitioners--Respondents return to the police department as in Any case their lien is waiting for them.

5. The appeal of the State of Bihar succeeds.