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**(2008) 12 JH CK 0062**  
**In the Jharkhand High Court**

Umesh Narayan Prasad

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

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**Date of Decision :** 10-12-2008

**Acts Referred:**

**Citation :** (2009) 1 JCR 498

**Hon'ble Judges :** Rakesh Ranjan Prasad, J

**Bench :** Single Bench

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### Judgement

R.R. Prasad, J.—Heard learned Counsel appearing for the petitioner, learned Counsel appearing for the State of Jharkhand, learned Counsel appearing for the State of Bihar and learned Counsel appearing for the Union of India.

2. Learned Counsel appearing for the petitioner submits that the petitioner while was working as Drawing Instructor at Industrial Training Institute (ITI), Garhwa, State of Jharkhand came into existence with effect from 15.11.2000 under the provision of Bihar Reorganization Act. During the process of cadre allocation, a notification was Issued whereby applications were invited from the persons intending to have cadre allocation on mutual basis. Accordingly, petitioner made an application for allocating cadre of Bihar on mutual basis with one Shashi Prakash Mahto but no order was passed on that application by State Advisory Committee rather on 24.4.2006 the petitioner was finally allocated to the cadre of State of Jharkhand but subsequently, on an application supported by an affidavit said to have been filed jointly by this petitioner and one Shashi Prakash Mahto (respondent No. 7) seeking allocation of cadre of Bihar to the petitioner and cadre of Jharkhand to respondent No. 7 an order was passed whereby the petitioner was allocated to the State of Bihar whereas respondent No. 7 was allocated to the State of Jharkhand but that application and also the affidavit, upon which the order of mutual transfer was passed bear the forged signatures of the petitioner and, as such it could none other than respondent No. 7, who by playing fraud got the aforesaid order Issued. When the petitioner came to know about the said mischief he reported the matter to the authority and also lodged a

criminal case against the respondent but in spite of that an order was passed as contained in Annexure 10 whereby the petitioner was directed to hand over charge by 15.6.2008 and at the same time, it was stated that if the petitioner does not hand over the charge, he would be deemed to have been relieved with effect from 25.6.2008 which order is against the provision of the Service Code as there has been no such provision under the Jharkhand Service Code which stipulates about the deemed relieving.

3. On the other hand, from the counter affidavit filed on behalf of the respondent No. 7, it does appear that on an application jointly filed by the petitioner and respondent No. 7, the order was passed, under which this petitioner was allocated to cadre of State of Bihar whereas respondent No. 7 was allocated to cadre of Jharkhand.

4. However, it is the stand of the Union of India that the petitioner has finally been given allocated to cadre of Jharkhand and the Union of India has nothing to do with the matter of mutual transfer of the petitioner and the respondent No. 7.

5. Since the matter relating to filing of the application supported by an affidavit upon which State cadre was allocated to the petitioner and respondent No. 7 is disputed one it can not be decided in this writ application rather, the matter needs to be enquired into.

6. Accordingly, the Secretary, Department of Personnel Administrative Reforms and Rajbhasha, Government of Jharkhand, respondent No. 2 is directed to hold an enquiry and to pass order after hearing both the petitioner and respondent No. 7 within a period of three months from the date of receipt/production of a copy of this order.

7. With this observation/direction, this writ application is disposed of.