

The State of Bihar and ors. Vs. Bindeshwari Prasad Singh and anr.

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Court : Patna

Decided On : Oct-18-2006

Judge : Barin Ghosh and A.K. Tripathy, JJ.

Appeal No. : L.P.A. No. 1120 of 1997

Appellant : The State of Bihar and ors.

Respondent : Bindeshwari Prasad Singh and anr.

Advocate for Def. : None

Advocate for Pet/Ap. : Ram Bilash Mahto, A.A.G.8

Disposition : Appeal dismissed

Judgement :

Barin Ghosh and A.K. Tripathy, JJ.

1. The writ petitioner was transferred to Rohtas in the end of December, 1996. Thereafter by order dated 26th April, 1997 the writ petitioner was transferred out of Rohtas. This transfer order was impugned in the writ jurisdiction. A counter affidavit was filed by the Additional Secretary, Department of Rural Development, wherein it was stated that Rohtas is that home district of the writ petitioner. It does not appear that it was contended that since Rohtas was the home district of the writ petitioner, he could not be transferred to Rohtas and accordingly the original

transfer order transferring him to Rohtas was issued by inadvertance, which was sought to be rectified by the transfer order, as was impugned in the writ petition.

2. The Learned Single Judge in that background held that there was no just reason to transfer the writ petitioner within two months from the date of his transfer to a particular place. The learned Single Judge pointed out that the Rohtas was the home district of the writ petitioner was known to the transferring authority at the time of transferring the petitioner to Rohtas and accordingly, the same was not a new fact, which came to the knowledge suddenly, and as such that was no ground for effecting retransfer within a period of two months. The Court by the impugned order quashed the impugned transfer and at the same time awarded cost of Rs. 5,000/- to be paid by the State Government, with further direction that the State Government shall recover the same from the officer who is responsible for issuing the transfer order.

3. In the instant appeal it is being contended that the transfer of writ petitioner to Rohtas i.e. his home town, was contrary to the policy decision of the government and accordingly the same was corrected by the impugned transfer order. In the event it is the policy decision of the government that no government employee shall be posted at his home town it was incumbent upon the government to prefer an appeal against the impugned order in its entirety in order to uphold the said decision and not to that part of the order which imposes the cost only.

4. For that reasons as above, we are not inclined to accept said contention. This appeal is dismissed.

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