

IN THE HIGH COURT OF JHARKHAND AT RANCHI
L.P.A. No. 413 of 2025

1. The State of Jharkhand through the Chief Secretary, Govt. of Jharkhand, officiating at Project Building, H.E.C Colony, P.O & P.S. Dhurwa, District Ranchi.
2. The Secretary, Water Resources Department, Govt. of Jharkhand, officiating at Nepal House, P.O & P.S. Doranda, District Ranchi.
3. The Special Secretary, Water Resources Department, Govt. of Jharkhand, officiating at Nepal House, P.O & P.S. Doranda, District Ranchi.
4. The Engineer-in-Chief, Water Resources Department, Govt. of Jharkhand, officiating at Nepal House, P.O & P.S. Doranda, District Ranchi.
5. The Joint Secretary, Water Resources Department, Govt. of Jharkhand, officiating at Nepal House, P.O & P.S. Doranda, District Ranchi.
6. The Under Secretary, Water Resources Department, Govt. of Jharkhand, officiating at Nepal House, P.O & P.S. Doranda, District Ranchi **Respondents/Appellants**

Versus

1. Sampad Kumar Mahto, S/o Thakur Das Mahto, R/o Mahavir Colony, Lowadih, P.O Lowadih, P.S. Chutia, District Ranchi.
2. Bijay Kumar Nirala, S/o Nand Kishor Thakur, Ward No. 24, Officer Colony, Nilkanthpuri, P.O, P.S & District Deoghar.
3. Abinash Kumar Mishra, S/o Late Surya Kant Mishra, R/o Bajrang Colony, Pokhara Tiltia, Pandit B N Jha Road, P.O, P.S & District Deoghar.
4. Vinod Kumar, S/o Babu Lal Sharma, R/o MI Division, P.O – Sector 12 P.S. Marafari, District Bokaro.

5. Md. Parwez Akhtar, S/o Md. Farooq, Bathua Bajar, P.O Bathua Bajar, P.S & District Gopalganj, Bihar.

6. Shashi Kant Keshri, S/o Rambriksh Keshri, R/o Near Hanuman Mandir, Lakarka Colliery No. 9, Akashkanali P.O Lakarka, P.S and District-Dhanbad

... .. **Petitioners/Respondents**

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**CORAM : HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY
HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA**

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For the Appellants : Mr. Ashutosh Anand, A.A.G.-III
For the Respondents : Mr. Manoj Tandon, Advocate

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Order No. 06/Dated, the 17th March, 2026

Per Rongon Mukhopadhyay, J.

Heard Mr. Ashutosh Anand, learned A.A.G.-III for the appellants and Mr. Manoj Tandon, learned counsel appearing for the respondents.

2. This appeal is directed against the order dated 03.09.2024 passed by the learned Single Judge in W.P.(S) No. 5508 of 2023, whereby and whereunder, the order contained in Memo No. 4190 dated 27.07.2023, by which, the writ-petitioners were transferred from the present place of posting to the places shown in the transfer order has been quashed and the writ-petitioners who had already joined in the transferred place of posting were ordered to be reverted back to the places where they were working prior to the issuance of the impugned order.

3. Briefly stated the facts reveal that the writ-petitioners were appointed as Junior Accounts Clerk in the Water Resources Department and their respective dates of joining ranges from 12.04.1993 to 21.11.2007. The post of Junior Accounts Clerk has been renamed as Senior Accounts Clerk vide letter no. 2388 dated 08.07.2014 and this was confined to those Junior Accounts Clerk who had joined service till 08.07.2004. Based on the said resolution the post of writ-petitioners nos. 1 to

5 has been renamed as Senior Accounts Clerk and all are presently posted as Senior Accounts Clerk. The Jharkhand Accounts Clerical Service Cadre (Recruitment, Promotion and Terms of Service) Rule, 2018 (in short, the Rules of 2018) came into existence vide notification as contained in Memo No. 1745 dated 24.04.2018 formulating rules to regulate the Promotion and Service Conditions in the Jharkhand Accounts Cadre by which the Accounts Clerk Cadre has been given the status of State Cadre. It has been stated that the Joint Secretary, Drinking Water & Sanitation Department, Govt. of Jharkhand vide office order as contained in Memo No. 2418 dated 28.10.2020 communicated to all concerned that the Cadre of the writ-petitioners and similarly situated persons is now State Cadre and, therefore, the decision with respect to the transfer of the said cadre personnel shall be taken by the Departmental Establishment Committee under the Chairmanship of the Secretary of the Department. The Secretary, Drinking Water & Sanitation Department, Govt. of Jharkhand vide office order as contained in Memo No. 2946 dated 22.12.2020 had communicated to all concerned about the constitution of the Departmental Establishment Committee for transfer and appointment of the cadre of the writ-petitioners and similarly situated persons in the light of the Rules of 2018. The other necessary authorities were also communicated to follow the necessary instructions relating to the Departmental Secretary being the competent authority in terms of the Rules of 2018. It was the grievance of the writ-petitioners that the writ-petitioners and other similarly situated persons have been transferred from their respective offices to different offices / zones by virtue of Memo No. 4190 dated 27.07.2023 issued by the Under Secretary, Water Resources Department, Govt. of Jharkhand and this was challenged in W.P.(S) No. 5508 of 2023, in which, an order was passed by the learned Single Judge on 03.09.2024 quashing the

said order with a further direction that the writ-petitioners who had already joined at the transferred place of posting shall be reverted back to the places where they were working prior to the issuance of the impugned memo. The order dated 03.09.2024 passed in W.P.(S) No. 5508 of 2023 has been challenged by the State in the present appeal.

4. It has been submitted by Mr. Ashutosh Anand, learned A.A.G.-III that almost all the writ-petitioners have remained stationary at the same place for more than a decade. It has been submitted that the learned Single Judge has failed to take into consideration that the office order dated 24.09.2019 issued by the Water Resources Department related to the power of transfer of Class-III and Class-IV employees of the Water Resources Department by which the power of transfer has been delegated to the Engineer-in-Chief-II. The order dated 03.09.2024 passed in W.P.(S) No. 5508 of 2023 is erroneous for the reason that the executive order dated 24.09.2019 has been overruled by the subsequent notification dated 28.10.2020 issued vide Memo No. 166 by the Drinking Water & Sanitation Department which prompted the learned Single Judge to quash the order of transfer without noticing the fact that the Water Resources Department is a separate department and any order issued by the Drinking Water & Sanitation Department will not have any bearing or any binding force upon the Water Resources Department. Mr. Ashutosh Anand, learned A.A.G.-III has submitted that the Engineer-in-Chief is the competent authority under the Public Works Department Code-2012 even in the matter of transfer and posting of Class-III and Class-IV employees.

5. Mr. Manoj Tandon, learned counsel appearing for the respondents herein (writ-petitioners) has submitted that the learned Single Judge has appreciated the fact that the order of transfer was not passed by the Departmental Establishment Committee under the Chairmanship of the Departmental

Secretary and the Engineer-in-Chief was not authorized as there was no delegation of power upon him by the Departmental Secretary and the Rules of 2018 also does not provide for any delegation of power. Mr. Tandon has submitted that as per Memo No. 879 dated 15.02.2024 with respect to the Accounts Clerk Cadre which has become a State Level Cadre the competent authority is the Departmental Secretary and, therefore, the learned Single Judge has correctly arrived at a finding that the order of transfer was not issued by the competent authority.

6. We have heard the learned counsels for the respective parties and have also perused the various affidavits on record.

7. The Jharkhand Accounts Clerical Service Cadre (Recruitment, Promotion and terms of service conditions) Rules, 2018 was modified vide notification dated 24.04.2018. The “controlling authority” has been defined in Rule 2 (xi) and the same designates authorization / declaration of a controlling authority by the respective departments. Rule 11 states about posting / transfer and for that purpose the controlling authority has been designated with such powers. The learned Single Judge has taken into consideration Memo No. 2418 dated 28.10.2020 issued by the Joint Secretary, Drinking Water & Sanitation Department while setting aside the transfer of the writ-petitioners and this resolution categorizes that for the purposes of posting / transfer of the Accounts Clerical Cadre, it is the Departmental Establishment Committee headed by the Departmental Secretary which is the competent authority. This resolution according to learned A.A.G.-III will not be applicable to the writ-petitioners since the same was issued by the Drinking Water & Sanitation Department and not by the Water Resources Department to which the writ-petitioners belonged. When we peruse the order of transfer dated 27.07.2023, we find that the same has been issued at the behest of the Engineer-in-Chief-II of the concerned

area. Much prior to the issuance of the transfer order dated 27.07.2023 an order as contained in Memo No. 879 dated 15.02.2021 was issued by the Under Secretary, Water Resources Department, Govt. of Jharkhand, in which, it has been categorically mentioned that all matters pertaining to the Cadre of Accounts Clerk shall be dealt with at the departmental level and the competent authority will be the Departmental Secretary. This communication issued in terms of the Rules of 2018 convincingly answers the eligibility or otherwise of the Engineer-in-Chief-II of the concerned department in the matter of posting and transfer of persons of Accounts Clerk Cadre which has been raised by the learned A.A.G.-III. The Memo No. 879 dated 15.02.2020 will be an added feature indicating that the Engineer-in-Chief-II of the concerned department was not the competent authority to transfer the writ-petitioners.

8. In view of the aforesaid findings, we do not find any reason to interfere in the order dated 03.09.2024 passed by the learned Single Judge in W.P.(S) No. 5508 of 2023 and consequently we dismiss this appeal.

9. Pending Interlocutory Application(s), if any, stands closed.

(Rongon Mukhopadhyay, J.)

(Pradeep Kumar Srivastava, J.)

Dated, the 17th day of March, 2026

A. Sanga /-

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