

GAHC040013302023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : WP(C)/470/2023

Shri Jumdo Karbak
S/o Shri Lijum Karbak, presently under transfer to the office of the Director, Land Management, Itanagar, PO/PS Itanagar, Papum Pare District, Arunachal Pradesh.

VERSUS

The State of AP and 3 Others
represented by the Secretary, Land Management, Govt. of Arunachal Pradesh, P.O/P.S
Itanagar, Papum Pare District, Arunachal Pradesh. 2:The Secretary
Age: 0
Occupation :

3:The Director
Age: 0
Occupation :

4:The Deputy Commissioner
Age: 0
Occupation

Advocate for the Petitioner : Duge Soki

Advocate for the Respondent : GA (AP)

BEFORE
HONBLE MR. JUSTICE AJIT BORTHAKUR

ORDER

09.10.2023

Heard Mr. D. Soki, learned counsel for the petitioner. Also heard Mr. D.

Kamduk, learned Standing Counsel, Land Management Department representing the respondent Nos. 1, 2 and 3 as well as Mr. N. Lowang, learned Sr. Government Advocate, representing the respondent No.4.

2. This writ petition has been filed for directing the Deputy Commissioner, Tawang to release the petitioner from his current place of posting at Tawang so as to enable him to join in the office of the Director, Land Management in terms of the transfer order, dated 29.08.2023 issued by the Director, Land Management, Govt. of Arunachal Pradesh, whereby the petitioner has been transferred from Tawang and posted at Itanagar.

3. The grievance of the petitioner, in a nutshell, is that he was appointed as Mandal by the Director of Land Management, Govt. of Arunachal Pradesh vide order No. LM-69/Estt/2013, dated 12.11.2014. Thereafter, he was transferred from the Office of the Deputy Commissioner, Itanagar Capital Region to Tawang vide order No. LM/ESTT-109/2014/414, dated 21.07.2021. Accordingly, on being transferred, the petitioner joined his office at Tawang. But, during the course of his stay at Tawang, due to high altitude and harsh condition, the petitioner developed hypertension and other health conditions. Moreover, his wife was posted at Doordarshan Kendra, Itanagar along with his minor child. Therefore, the petitioner made a representation to the Director, Land Management on 08.05.2023 requesting him to transfer to a lower altitude region. The Director, Land Management, Govt. of Arunachal Pradesh/respondent No.3 herein, taking into consideration the aforementioned difficulties of the petitioner vide order No. LMD-11013/39/2021/825, dated 29.08.2023 transferred the petitioner from Tawang to the Office of the Director, Land Management at Itanagar.

4. Pursuant to the aforesaid transfer order, the petitioner approached the

Deputy Commissioner, Tawang/respondent No. 4 to release him so as to enable him to join at his new place of posting at Itanagar. However, the Deputy Commissioner, Tawang directed the petitioner to complete certain pending works at Tawang and assured to release him after completion of the work. After completion of the said works on 15.09.2023, the petitioner approached the respondent No. 4 and submitted a representation for releasing him, however, no response was received. On 20.09.2023, the petitioner again submitted a representation to the respondent No. 4 to enable him to join at his new place of posting at Itanagar. However, the respondent No. 4 although did not pass any order rejecting the representation of the petitioner, verbally refused to release the petitioner from Tawang till some reliever joins in his place at Tawang. Hence, the petitioner has filed the instant writ petition.

5. Mr. D. Soki, learned counsel for the petitioner, submits that the act of the respondent No. 4 in not releasing the petitioner from his present place of posting at Tawang despite the transfer order, dated 29.08.2023 issued by the Director, Land Management, is arbitrary, irrational, unfair and illegal and hence, it is a fit case where this Court may exercise its extra ordinary power under Article 226 of the Constitution of India directing the respondent No. 4 to comply with the aforementioned transfer order. Mr. Soki further submits that the petitioner has been transferred on his request due to serious health issues referred by him without TTA.

6. Mr. D. Kamduk, learned Standing Counsel, Land Management Department, submits that the petitioner cannot be released from Tawang district unless other officials on transfer to Tawang vide the transfer order No. LMD-11013/39/2021/825, dated 29.08.2023, whereby 9(nine) officials have been transferred, joins their duties and as the petitioner is the only authorized person

to conduct any kind of land survey in Tawang district and other land verification for MACP/Promotion/Pension etc. which is time bound in nature.

7. Upon hearing the learned counsel for both sides in detail as above and considering the averments made in the petition along with the documents annexed thereto, this Court finds it expedient to direct the Deputy Commissioner, Tawang district/respondent No. 4 to comply with the order No. LMD-11013/39/2021/825, dated 29.08.2023 issued by the Director, Land Management, Govt. of Arunachal Pradesh/respondent No.3 and release the petitioner from his present place of posting at Tawang so as to enable him to join his new place of posting at Itanagar, **within a period of 7(seven) days** from the date of receipt of a certified copy of this order, which shall be furnished by the petitioner.

With the above direction, the petition stands disposed of.

JUDGE

Comparing Assistant