

GAHC040017312023



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

Case No. : WP(C)/614/2023

Nabum Gamin

S/o Shri Nabum Saha, permanent resident of Sopo Village, presently serving as Assistant Engineer (Electricals), under Doimukh Electrical Sub Division Papum Pare District, Arunachal Pradesh, Phone No. 9436047111

VERSUS

The State of AP and 3 Others

represented by Commissioner (Power), Govt. of Arunachal Pradesh, Itanagar.

2:The Commissioner, Department of Power, Civil Secretariate, Block No.3, 5th floor, Room No.1, Govt. of Arunachal Pradesh, Itanagar.

3:The Deputy Secretary, Department of Power, Govt. of Arunachal Pradesh, Itanagar.

4: Shri Nich Raja, Assistant Engineer (Electrical), Naharlung Electrical Division, Papum Pare District.

Advocate for the Petitioner : T. Tagum

Advocate for the Respondent : Lissing Perme

**BEFORE
HONBLE MR. JUSTICE KARDAK ETE**

ORDER

Date : 18-12-2023

Heard Mr. T. Tagum, learned counsel for the petitioner. And also heard Mr. L. Perme, the learned Standing Counsel, Department of Power for the respondent Nos. 1, 2 and 3, and Mr. T. Torun, learned counsel for the respondent No.4 who has entered appearance and made argument without notice being issued to the respondent No.4.

2. Since the parties have advanced their arguments, this writ petition is disposed of at this motion stage.

3. The challenge made in this writ petition is the impugned Transfer Order vide Memo No. POWER-12015/6/2022-Pwr-Br-POW-ELEC dated 13.12.2023 issued by the Commissioner (Power) Government of Arunachal Pradesh, whereby, the petitioner has been transferred from Doimukh Electrical Sub-Division to Mengio Electrical Sub-Division as AE(E) vice respondent No.4.

4. The learned counsel for the petitioner submits that the impugned order of transfer is in flagrant violation of Clause 3(a) and (b) of the Transfer and Posting Guidelines which is a professed norms in the State of Arunachal Pradesh issued vide Circular No. APPTT/-19/90, dated

02.06.1998, whereby, normally, the transfer should be affected in the first week of the April of the year but the petitioner has been transferred in the month of the December, which is against the professed norms as prescribed in the Transfer and Posting Guidelines. The petitioner has 7(seven) years old daughter, who is attending school as day-scholar at St. Thomas School, Doimukh and she is in her mid academic session and her examination is likely to be conducted in the 2nd week of March'2024. In such situation, the transfer order has caused immense hardship to the petitioner as well as to his family including his daughter. Therefore, the petitioner prays that the impugned transfer order dated 13.12.2023, may be interfered with for the ends of justice. The learned counsel for the petitioner further submits that the petitioner has submitted representation before the Commissioner (Power) on 14.12.2023, which is still pending.

5. Mr. L. Perme, the learned Standing Counsel for the respondents No.1, 2 and 3 submits that transfer and posting is an incidence of service, and guidelines referred to above is not enforceable in law. The transfer can be affected with at any point of time in the interest of public service and administrative exigency. The Clauses referred to by the learned counsel for the petitioner provides that it cannot be enforced if it is passed in the interest of public or administrative exigency. The learned Standing Counsel further submits that the

respondent No.4 has already joined on 13.012.2023 on the same day when the transfer order was issued as dutiful employee of the State by complying with the order of his higher authority.

6. Mr. T. Torun, learned counsel for the respondent No.4 submits that in compliance to the transfer and posting order dated 13.12.2023, the respondent No.4 has already joined and functioning to the satisfaction of the higher authority in the department.

7. On above submission of the respondents, the learned counsel for the petitioner, Mr. T. Tagum submits that though the respondent No.4 has already joined at Doimukh pursuant to the transfer order dated 13.12.2023, the petitioner is yet to hand over charges to the respondent No.4 awaiting the consideration of his grievances being put forwarded to the Commissioner (Power) by submitting representation on 14.12.2023.

8. Considering the grievances raised and submissions of the learned counsel for the parties, I deem it appropriate to disposed of this writ petitioner with a direction to the respondent authority i.e. particularly to the Commissioner (Power) Government of Arunachal Pradesh to disposed of the representation of petitioner dated 14.12.2023 within 15 days from date of receipt of a certified copy of this Order. Till the

disposal of the representation, *status quo* in respect of petitioner shall be maintained. However, it is made clear that service of the respondent No.4, at Doimukh shall not be disturbed.

With the above direction, the writ petition stands disposed of.

JUDGE

Comparing Assistant