

GAHC010271032022



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

Case No. : WP(C)/8455/2022

APARAJEET PATTANAYAK
S/O- ANANT KISHOR PATHNAYAK,
RESIDENT OF BISWAJIT BORA PATH,
KAMARCHUBURI, TEZPUR,
DISTRICT- SONITPUR, ASSAM,
PIN- 784001.

VERSUS

THE UNION OF INDIA AND 4 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA,
MINISTRY OF COMMUNICATIONS AND INFORMATION TECHNOLOGY,
DEPARTMENT OF POSTS, DAK BHAWAN,
SANSAD MARG, NEW DELHI- 110001.

2:THE CHIEF POST MASTER GENERAL
DEPARTMENT OF POSTS
ASSAM CIRCLE

PANBAZAR
GUWAHATI- 781001.

3:THE DIRECTOR OF POSTAL SERVICES (HQ)
OFFICE OF THE CHIEF POST MASTER GENERAL

DEPARTMENT OF POSTS
ASSAM CIRCLE
PANBAZAR

GUWAHATI- 781001.

4:THE ASSISTANT DIRECTOR (STAFF)

OFFICE OF THE CHIEF POST MASTER GENERAL
DEPARTMENT OF POSTS

ASSAM CIRCLE
PANBAZAR
GUWAHATI- 781001.

5:KAMAL MAHATO
SUPERINTENDENT OF POSTS
CACHAR DIVISION
SILCHAR
ASSAM. PIN- 788001

Advocate for the Petitioner : MR. M PHUKAN

Advocate for the Respondent : DY.S.G.I.

Linked Case : I.A.(Civil)/207/2023

THE UNION OF INDIA AND 4 ORS
REPRESENTED BY THE SECRETARY
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DEPARTMENT OF POSTS
ASSAM CIRCLE
PANBAZAR
GUWAHATI-781001.

4: THE ASSTT
DIRECTOR (STAFF)

OFFICE OF THE CHIEF POST MASTER GENERAL
DEPARTMENT OF POSTS
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VERSUS

APARAJEET PATTANAYAK
S/O- ANANT KISHOR PATTANAYAK
R/O- BISWAJIT BORA PATH
KAMAR CHUBURI
TEZPUR
DIST. SONITPUR
ASSAM
PIN- 784001.

Advocate for : MR. K K PARASAR
Advocate for : MR. M PHUKAN appearing for APARAJEET PATTANAYAK

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

01.02.2023

Heard Mr. W. R. Medhi, learned counsel appearing for the petitioner. Also heard Mr. K. K. Parasar, learned Central Govt. Counsel, appearing for the respondents. The basic challenge in this writ petition is pertaining to the transfer order dated 23.11.2022 (Annexure-A) issued by the authorities transferring the petitioner from Tezpur and posting him as Senior Superintendent of Post Offices, Cachar Division, Silchar. According to the petitioner, the transfer order is in clear

violation of the policy guidelines inasmuch as he has been sought to be transferred before completion of the normal tenure.

By virtue of an interim order dated 28.12.2022 the petitioner is continuing in his present place of posting at Tezpur.

The learned departmental counsel, on the other hand, submits that the order of transfer has been issued in the exigencies of public service and the law is well settled that a Government servant can be transferred even in a single day if the exigencies of public service so demands. It is also the submission of Mr. Parasar that the petitioner had already completed three years in his present place of posting and therefore, there is no ground for this Court to interfere with the transfer order.

While appreciating the arguments advanced by the learned counsel for both the sides, this Court has also taken note of the fact that the petitioner has a nine years old daughter studying in Class-IV, who is in her mid-academic session and therefore, if the petitioner is compelled to shift from Sonitpur to Cachar at this stage, then the academic career of his child will suffer.

By the order dated 27.01.2023 passed on the stay vacating application filed by the respondents registered as I.A.(Civil) No.207/2023 arising out of WP(C) No.8455/2022, this Court had requested the learned departmental counsel to seek specific instructions as to whether the petitioner can be permitted to remain in his present post till 31.03.2023. The petitioner's counsel was also asked to obtain instruction as to whether his client would be ready and willing to submit an unconditional undertaking to that effect.

Today, when the matter is called up, Mr. Parasar submits on instructions obtained from the departmental authorities that they are willing to allow the

petitioner to continue in the present place of posting till 28.02.2023.

Mr. Medhi, on the other hand, submits that his client is seeking time till 01.04.2023 to join in the new place of posting and to that extent he is willing to give an undertaking.

The fact of the matter is that on 28.02.2023 the petitioner's daughter's academic sessions will not be over. If that be so, no practical purpose would be served by directing him to join in the new place of posting on 28.02.2023.

Therefore, taking note of the overall facts and circumstances of the case as well as the stand taken by the learned counsel for both the sides, this writ petition and the connected I.A. is being disposed of by providing that if within seven days from today the petitioner submits an unconditional undertaking in writing before the respondent No.2 stating that he would join in his new place of posting as per the transfer order dated 23.11.2022 on or before 31.03.2023 then in that event the petitioner shall be permitted to continue in his present place of posting till 31.03.2023. It is, however, made clear that if for any reason whatsoever, the petitioner fails to give such an unconditional written undertaking and/or fails to comply with the undertaking given by him, then in that event, it would be open for the authorities to take appropriate action against the petitioner, in accordance with law, without serving any further notice upon him.

With the above observation, the writ petition and the I.A. stand disposed of.

JUDGE

Comparing Assistant