

GAHC010064362023



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

Case No. : WP(C)/2344/2023

THE UNION OF INDIA AND 3 ORS
REPRESENTED BY THE SECRETARY, RAILWAY BOARD, MINISTRY OF
RAILWAYS, GOVERNMENT OF INDIA, NEW DELHI-110006

2: THE GENERAL MANAGER
N.F. RAILWAY
MALIGAON
GUWAHATI-781011

3: THE GENERAL MANAGER (CONSTRUCTION) N.F RAILWAY
MALIGAON
GUWAHATI-781011

4: THE ASSISTANT PERSONNEL OFFICER(GAZ)
N.F. RAILWAY
MALIGAON
GUWAHATI-78101

VERSUS

AJEET SINGH AND ANR.
S/O MR. JAGJIWAN RAM, P/R/O QAURTER NO. 477, NAMBARI OFFICERS
COLONY, MALIGAON, GUWAHATI-11

2:SRI BOM BOM PANDEY
SRI BOM BOM PANDEY
TO BE SERVED THROUGH THE ASSISTANT PERSONNEL OFFICER
GAZETTED N.F. RAILWAY
MALIGAON
GUWHATI

3:BOM BOM PANDEY
(TO BE SERVED THROUGH THE ASSISTANT PERSONNEL OFFICER
GAZETTED

N.F. RAILWAY
MALIGAON
GUWAHATI-1

Advocate for the Petitioner : MR H GUPTA

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

26.06.2023

(M. Zothankhuma, J)

Mr. H. Gupta, learned counsel appears for the writ petitioners. None appears for the respondents.

2. Affidavit dated 01.06.2023 has been filed by the petitioners, showing that notice by way Dasti Service has been affected upon respondent No. 1 on 18.05.2023 and upon respondent No. 2 on 19.05.2023. The writ petitioners have prayed for setting aside the order dated 14.03.2023 passed by the Central Administrative Tribunal, Guwahati, by which the impugned transfer order of the respondent No. 1 has been stayed by the learned Tribunal.

3. The respondent No. 1 has challenged the impugned transfer order dated 09.03.2023 on the ground that he has been frequently transferred to different places. His case is that on 17.01.2022, he was transferred to Maligaon and he joined Maligaon on 28.02.2022. He occupied the official bungalow and had also put his children to school. However, vide the impugned transfer order dated 09.03.2023, the respondent No. 1 had

again been transferred from Maligaon to Rangiya. The learned Tribunal stayed the impugned transfer order in view of the fact that after the impugned transfer order had been issued on 09.03.2023, the respondent No. 1 had made a representation against the same on 10.03.2023. However, without disposing the representation submitted by the respondent No. 1, the respondent No. 1 had been released from his post, vide a release order issued through Whatsapp at 7:15 p.m on 13.03.2023. The respondent No. 2 was to join the post of the respondent No. 1 on 13.03.2023.

4. The learned counsel for the writ petitioners submits that at the time of filing of the case before the learned Tribunal, the children of the respondent No. 1 were taking exams, which has now been completed. He also submits that the writ petitioners have taken a decision to allow the respondent No. 1 to continue to remain in his bungalow. He also submits that the transfer of the respondent No. 1 is within the same zone and the travelling time between Maligaon and Rangiya would be around an hour. He also submits that the release order that has been sent to the respondent No. 1 on 13.03.2023 was the same date when the respondent No. 1 had filed his case before the learned Tribunal. As such, the respondent No. 1 did not wait for the disposal of his representation prior to approaching the learned Tribunal.

5. The learned counsel for the writ petitioners submits that in a similar matter, the learned Tribunal had dismissed a challenge made to a transfer order and the same has been upheld by the Division Bench of this Court, vide order dated 03.05.2023 passed in WP(C) No. 2309/2023 (Prem

Prakash Pandey Vs. Union of India & 4 Others). He accordingly prays that the impugned order dated 14.03.2023 passed by the learned Tribunal in O.A No. 46/2023 (Annexure-1) should be set aside.

6. We have perused the impugned order dated 14.03.2023 passed by the learned Tribunal in O.A No. 46/2023. In the said order, the writ petitioners have been directed to file their written statements within four weeks and rejoinder, if any, by the respondent No. 1 within two weeks thereafter. The matter was to be listed for completion of pleadings on 09.05.2023.

7. On a query been raised by this Court as to the status of the O.A No. 46/2023 before the learned Tribunal, Mr. H. Gupta submits that written statement had been filed by the writ petitioners in the month of May, 2023. He also submits that the learned Tribunal had fixed the date of hearing of the O.A No. 46/2023 on 25.08.2023, which is a long way off.

8. As the learned Tribunal is already seized of the matter, we are not inclined to decide the issue raised in this case. However, on considering the fact that the present case pertains to a challenge to a transfer order dated 09.03.2023 and the position of the respondent No. 1 is important, in view of the various developmental works being undertaken in the North East region, we are of the view that any delay in taking a decision in the case, can have an impact on the impending and current developmental works in the region, which would in turn affect the Public Exchequer. Accordingly, we are of the view that the fixing of the hearing date of the O.A No. 46/2023 by the learned Tribunal on 24.08.2023 should be preponed to an earlier date. Accordingly, we direct the learned Tribunal to

take a decision on O.A No. 46/2023 expeditiously and preferably within a period of one (1) month from the date of receipt of a certified copy of this Order, after giving notice to the respondent No. 1.

9. Writ petition is accordingly disposed of.

JUDGE

JUDGE

Comparing Assistant