

GAHC010077952021



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

Case No. : WP(C)/3598/2021

JAMUNA RANI GOSWAMI
W/O- SHRI SATYENDRA GOSWAMI, R/O- BAGHARBARI, CHANEKI PATH,
PANJABARI, KAMRUP (M), ASSAM- 781037

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, HEALTH AND
FAMILY WELFARE DEPTT., DISPUR, GHY-06

2:THE COMM. AND SECY.
GOVT. OF ASSAM
FINANCE DEPTT.
DISPUR
GHY-06

3:THE DIRECTOR OF HEALTH SERVICES
GOVT. OF ASSAM
HENDERABARI
GHY-36

4:THE JOINT DIRECTOR OF HEALTH SERVICES
MAHENDRA MOHAN CHOUDHURY HOSPITAL
PANBAZAR
GHY
ASSAM
PIN- 781001

5:THE JOINT DIRECTOR OF HEALTH SERVICES
SILCHAR CACHAR
ASSAM
PIN- 788001

6:THE SUPERINTENDENT OF MAHENDRA MOHAN HOSPITAL

PANBAZAR
GHY-0

Advocate for the Petitioner : MR. R MAZUMDAR

Advocate for the Respondent : SC, FINANCE

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 10/04/2023

Heard Mr. R. Mazumdar, learned counsel for the writ petitioner. Also heard Ms. S. Sarma, learned Standing Counsel, Health Department, Assam, appearing for the respondents.

By the order dated 04/02/1992, the writ petitioner was appointed as a Pharmacist at the M.M. C. Hospital and posted at the OPD section of the Hospital. While serving as above, by order dated 23/06/2008, the petitioner was transferred from the MMC Hospital and her services were placed at the disposal of the Joint Director of Health Services, Cachar, Silchar, for assigning her a posting against existing vacant post of Pharmacist.

It appears that on 11/07/2008, the petitioner was released from the MMC Hospital so as to enable her to join the new place of posting. However, she did not join in the new place. According to Mr. Mazumdar, the transfer order dated 23/06/2008 was never served upon his client, as a result of which, she was not aware about the new place of posting. While waiting for clear instruction in this regard, the petitioner suffered from *Schizophrenia*, as a result of which, she was unable to continue to discharge her services. Mr. Mazumdar submits that till today, the petitioner is in a precarious health condition.

Ms. S. Sarma, learned Standing Counsel, Health Department, Assam, on the other hand, submits that a copy of the transfer order was marked to the petitioner and, therefore, it cannot be said that she was not aware of the place of posting.

I also find from the materials available on record that the petitioner had not joined at Cachar in terms of the transfer order dated 23/06/2008. Whether or not she was served with a copy of the transfer order, is a disputed question of fact, which cannot be adjudicated in this writ petition. However, the fact remains that many years have passed since the petitioner was transferred and there is nothing on record to show that the authorities had initiated any disciplinary proceeding against the petitioner. Her service has also not been terminated.

Mr. Mazumdar submit that all that his client is seeking at this stage is consideration of her request for voluntary retirement /compulsory retirement, so that, she can somehow survive the rest of her life with some pensionary support from the Government.

The prayer made by Mr. Mazumdar will have to be considered by the departmental authorities at the first instance. Therefore, without expressing any opinion on the merit of the claim of the petitioner and as agreed to by learned counsel for both the sides, this writ petition is being disposed of by providing that within two weeks from today, the petitioner may submit a representation before the Director of Health Services, Assam, making her request as noted above.

If such a representation is submitted by enclosing a copy of this order, the same may be considered in accordance with law and disposed of by a reasoned order, as expeditiously as possible, but not later than 90(ninety) days thereafter.

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

JUDGE

sukhamay

Comparing Assistant