

GAHC010097712023



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

Case No. : WP(C)/2515/2023

NO. 074610482 CONST/ GD MRIDUL CHANDRA MALAKAR
S/O- BHABEN CH. MALAKAR,
RESIDENT OF QUARTER NO. ADX10, CISF UNIT, OPS, NOONMATI,
PATHARQUARY,
P.S- NOONMATI, GUWAHATI-20

VERSUS

THE UNION OF INDIA AND 5 ORS
REP. BY THE SECERTARY OF HOME AFFAIRS , NEW DELHI-01

2:THE DIRECTOR GENERAL
CENTRAL INDUSTRIAL SECURITY FORCE (MINISTRY OF HOME AFFAIRS)
BLOCK 13
CGO COMPLEX
LODHI ROAD
NEW DELHI-03

3:THE INSPECTOR GENERAL
NEZ
HQRS. GUWAHATI
ASSAM
PIN-781040

4:THE DEPUTY INSPECTOR GENERAL
NEZ
HQRS. GUWAHATI
ASSAM
PIN-781040

5:THE ASSISTANT INSPECTOR GENERAL
NEZ

HQRS. GUWAHATI
ASSAM
PIN-781040

6:THE ASSISTANT COMMANDANT
CENTRAL INDUSTRIAL SECURITY FORCE UNIT
OPS NOONMAT

Advocate for the Petitioner : MR. D BORAH

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

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 10.05.2023

Heard Mr. D. Borah, the learned counsel appearing on behalf of the petitioner and Mr. U. K. Goswami, the learned Standing counsel appearing on behalf of the respondent Nos. 1 to 6.

2. The petitioner herein has approached this Court by filing the instant writ petition challenging the order dated 03.05.2023 whereby the petitioner has been transferred from OPS Noonmati to ONGC, Nazira. It further appears from the order itself that it is an Inter Unit Transfer.

3. Be that as it may, it is the case of the petitioner that a child was born on 02.12.2022 to the petitioner and his wife and the process of immunization of the child is going on at Guwahati. Further to that, it is also the case of the petitioner that the petitioner has been diagnosed at P3 (Shape-III). It is also apparent from a perusal of the writ petition that on 02.05.2023, a representation has also

been submitted to the Deputy Inspector General CISF Headquarter, NEZ Guwahati.

4. I have heard the learned Standing counsels for the parties and also perused the materials on record. The scope of the jurisdiction under Article 226 of the Constitution in respect to transfer matters is limited and circumscribed as held by the Supreme Court in the case of ***Public Services Tribunal Bar Association Vs. State of U.P. and Another*** reported in (2003) 4 SCC 104 wherein the Supreme Court had categorically observed that it is only in rare cases where the transfer has been made in the vindictive manner, such transfer can be interfered with. This was so observed by the Supreme Court taking into account that the transfer is an incident of service.

5. Now coming to the reasons assigned challenging the transfer order of the petitioner that the new born baby's immunization and vaccination process is presently going on at Guwahati in the opinion of this Court cannot be a justifiable cause to challenge the transfer order taking into account that such services are very well available at Nazira also. As regards the ailment of the petitioner as contended in the writ petition to be P3 (Shape-III), it has been submitted by Mr. U. K. Goswami, the learned Standing counsel for the respondents that it comes within the ambit of a lower medical category.

6. Taking into account the same, this Court does not find any reason to interfere with the said impugned order dated 03.05.2023. However, this Court also deems it fit to observe that the petitioner would be at liberty after complying with the order of transfer dated 03.05.2023 to submit a representation to the authority concerned who shall duly consider the same in accordance with law and keeping in mind its administrative exigency.

7. With above observations and directions, the instant petition stands disposed of.

JUDGE

Comparing Assistant