

GAHC010131392023



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

WP(C)/2694/2023

KARABI BARUAH
C/O- SRI BRAJEN SAIKIA
VILL. AND P.O. DULIAPATHAR
DIST. LAKHIMPUR
ASSAM
PIN- 784164.

VERSUS

THE STATE OF ASSAM AND 2 ORS.
TO BE REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM
SOCIAL WELFARE DEPARTMENT
DISPUR
GUWAHATI-781006.

2:THE DIRECTOR OF WOMEN AND CHILD DEVELOPMENT
ASSAM
UZANBAZAR
GUWAHATI-1.

3:THE CHILD DEVELOPMENT PROJECT OFFICER
NARAYANPUR ICDS PROJECT
NARAYANPUR
DIST. LAKHIMPUR
ASSAM

Advocate for : MR. T R SARMA

Advocate for : GA

ASSAM appearing for THE STATE OF ASSAM AND 2 ORS.

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 28.06.2023

Heard Mr. T.R. Sarma, the learned counsel appearing on behalf of the Petitioner. Mr. D.Nath, the learned Senior Government Advocate appears on behalf of all the Respondents.

2. The instant writ petition was filed challenging the order dated 09/05/2023, whereby the Petitioner herein was transferred from the post of the Supervisor, Karunabari ICDS Project, Lakhimpur to the Office of the Majuli, ICDS Project, Majuli.

4. It appears from the record that this Court vide an order dated 17/5/2023 taking into consideration that from a perusal of the impugned order dated 9/5/2023 it was punitive in nature, stayed the operation of the transfer order dated 9/5/2023 and further observed that the Petitioner shall be allowed to work as a Supervisor at Karunabari ICDS Project until further orders.

5. The Respondents in the writ petition had filed an application for vacation/modification and/or alteration of the order dated 17/5/2023 which was registered and numbered as I.A. (C) No. 1706/2023. The learned Senior Govt. Advocate submits that the said application may be treated as the affidavit of the Respondent Authorities.

6. Attention of this Court was drawn to the impugned order dated 9/5/2023 wherein there was also a direction to the Joint Director, Women and Child Development and Branch Officer, Eastern Establishment Branch to initiate disciplinary proceedings against the Petitioner for violation of official discipline and decorum and insubordination to the higher authority as per the provisions of the Assam Services (Discipline and Appeal) Rules, 1964. The learned Sr. Government Advocate submitted

that in view of the order dated 9/5/2023 having been stayed by this Court, the proposed disciplinary proceedings which is required to be drawn up in terms with Rule 9 of the Assam Services (Discipline and Appeal) Rules, 1964 could not be proceeded with and it is under such circumstances, the application has been filed for vacation/modification and/or alteration of the order dated 17/5/2023. The learned Sr. Govt. Advocate further has drawn the attention of this Court to paragraph 7 of the application and submitted that the Respondent Authorities are not going to pursue with the said transfer order dated 9/5/2023 taking into account that this Court in the order dated 17/5/2023 had already observed that the said order was punitive in nature.

7. Upon hearing the learned counsels for the parties and taking into account that the cause of action for filing the instant writ petition was to challenge the order of transfer dated 9/5/2023 and in view of the specific undertaking being given at Paragraph No. 7 of the application to the effect that the Respondent Authorities are not going to pursue with the order of transfer dated 9/5/2023, this Court is of the opinion that nothing survives in the instant writ petition.

8. The learned counsel for the Petitioner however submitted that the Petitioner apprehends that the Respondent Authorities shall not conduct the disciplinary proceedings in the manner envisaged under the provisions of the Assam Services (Discipline and Appeal) Rules, 1964. The Sr. Government Advocate however submits that steps as regards the disciplinary proceedings shall be done in compliance with the Rule 9 of the said Assam Services (Discipline and Appeal) Rules, 1964.

9. Taking into account the above, this Court therefore closes the writ petition in view of the specific statement made at Paragraph No. 7 to the effect that the Respondent Authorities shall not pursue with the transfer order dated 9/5/2023. This Court further granted the liberty to the Respondent Authorities to initiate disciplinary actions in terms with the Assam Services (Discipline and Appeal) Rules, 1964.

10. With the above the petition stands disposed off.
11. Pending application, if any, also stands disposed off in view of the above order.

JUDGE

Comparing Assistant