

GAHC010106872023



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

Case No. : WA/222/2023

ATIN PADUNG
S/O LATE TATAN PADUNG, VILLAGE LEDUM, PO AND PS PASIGHAT, EAST
SIANG DISTRICT, ARUNACHAL PRADESH,

VERSUS

STATE OF ARUNACHAL PRADESH AND ANR.
THROUGH THE CHIEF SECRETARY GOVT. OF ARUNACHAL PRADESH,
ITANAGAR,

2:THE DEPUTY COMMISSIONER
KAMLE DISTRICT
GOVT. OF ARUNACHAL PRADESH
PO AND PS RAGA
ARUNACHAL PRADESH

For the appellant	: Mr. P. Sharma, Advocate (through video conferencing)
For the respondents	: Mr. N.N.B. Choudhury, Additional Advocate General, Arunachal Pradesh

– B E F O R E –

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

18-07-2023

S. Mehta, C.J.

The instant writ appeal has been preferred on behalf of the original writ petitioner Atin Padung for assailing the order dated 15.03.2023 passed by the learned Single Bench of this Court at Itanagar Bench dismissing WP(C) 412/2022 filed by the appellant/writ petitioner for questioning the legality of the order dated 23.09.2022 whereby the appellant/writ petitioner, who was an Arunachal Pradesh Civil Services (APCS) Officer working as In-charge Additional Deputy Commissioner (ADC), Kamle, was transferred and posted as Sub-Divisional Officer (SDO), Khonsa.

The sole ground on which the appellant/writ petitioner questioned the transfer order dated 23.09.2022 was that the transfer has resulted into demotion of the appellant/writ petitioner because the post of SDO is lower than the post of ADC.

The State authorities in their counter affidavit took a pertinent stand that the post of ADC as per the Rules is to be manned by an APCS Officer having Administrative Grade. As the petitioner was a candidate having only Selection Grade, he could not be appointed on the post of ADC.

We have heard and considered the submissions advanced by Mr. P. Sharma, learned counsel appearing on behalf of the appellant through video

conferencing as well as Mr. N.N.B. Choudhury, learned Additional Advocate General representing the respondents and have gone through the impugned order and the documents placed on record.

The fervent contention of Mr. Sharma, learned counsel for the appellant is that there was a grave anomaly in passing of the transfer order because as per the original order dated 17.08.2020, the appellant/writ petitioner was transferred from the post of EAC, Seppa to the post of ADC, Raga. However, in the impugned transfer order dated 23.09.2022, his present place of posting has been shown as In-charge ADC, Kamle. Thus, as per Mr. Sharma, the transfer order is vitiated as the same suffers from incongruity and non-application of mind.

Per contra, Mr. N.N.B. Choudhury, learned Additional Advocate General representing the respondents pointed out that Kamle is the district headquarter whereas Raga is a sub-division. Thus, there is no anomaly in the transfer order.

At this stage, Mr. Sharma, learned counsel for the appellant tried to rake up an issue that the appellant has already served as an APCS Officer for 18 years and thus, he is entitled to claim Administrative Grade and has the qualification to be posted as an ADC. However, as the respondents have failed to convene the DPC for last nearly five years, the appellant/writ petitioner is being deprived of his rightful service benefits.

Having considered the entirety of the facts and circumstances available on record and after going through the impugned order of the learned Single Bench, we are of the firm view that the impugned transfer order does not suffer from any anomaly or illegality because, admittedly, the petitioner not having acquired the Administrative Grade in the APCS, was not entitled to hold the post of ADC.

Consequently, leaving the appellant/writ petitioner at liberty to take recourse of suitable remedy seeking upgradation in the APCS cadre, the instant writ appeal is dismissed as being devoid of merit.

No order as to cost.

JUDGE

CHIEF JUSTICE

Comparing Assistant