

GAHC010109852023



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

Case No. : WP(C)/2910/2023

CHONBENTHUNG YANTHAN
DIRECTOR (G) STATE UNIT (SU)- TRIPURA AND MIZORAM GSI, NER, 79,
TILL, KUNJABAN, AGARTALA, TRIPURA-799006.

VERSUS

THE UNION OF INDIA AND 2 ORS.
THROUGH ITS SECRETARY, MINISTRY OF MINES, GOVT. OF INDIA, A
WING, SHASTRI BHAWAN, DR. RAJENDRA PRASAD ROAD, NEW DELHI-
110001.

2:THE DIRECTOR GENERAL (DG)

GEOLOGICAL SURVEY OF INDIA
27
JAWAHAR LAL NEHRU MARG
KOLKATA
WEST BENGAL-700016.

3:DEPUTY DIRECTOR GENERAL (DDG)

HRD DIVISION
CHQ
GEOLOGICAL SURVEY OF INDIA
C/O- DIRECTOR GENERAL GEOLOGICAL SURVEY OF INDIA
27
JAWAHAR LAL NEHRU MARG
KOLKATA
WEST BENGAL-700016

For the petitioner : Mr. N.Z. Lotha, Advocate
For the respondents: Mr. D.J. Das, Central Govt. Counsel

– B E F O R E –

HON'BLE THE CHIEF JUSTICE
HON'BLE MRS. JUSTICE MITALI THAKURIA

23-05-2023

S. Mehta, C.J.

The instant writ petition under Article 226 of the Constitution of India has been filed by the petitioner herein for challenging the order dated 12.05.2023 passed by the Central Administrative Tribunal, Guwahati Bench whereby Original Application No.041/00270/2022 and associated Miscellaneous Application No.041/027/2023 were dismissed. The original application was filed by the petitioner challenging the order of transfer dated 18.10.2022 whereby he was transferred from his present place of posting SU: Tripura & Mizoram at Agartala to SU: Maharashtra at Pune and the order dated 09.12.2022 whereby representation preferred by the petitioner seeking cancellation of his transfer was dismissed.

Mr. N.Z. Lotha, learned counsel representing the petitioner vehemently and fervently contended that the transfer of the petitioner is contrary to the Office Memorandum dated 30.09.2009. The petitioner's wife is serving in the Tata Institute of Social Sciences and is posted at Guwahati. As such, the authorities were not justified in transferring the petitioner to such a far off location i.e. Pune because the family life of the petitioner will be disrupted by this transfer. In support of his contentions, learned counsel for the petitioner has placed reliance on the judgment rendered by Delhi High Court in the case of ***Amarjeet Singh Dagar vs. Union of India and others*** [WP.(C) 6311/2020 & CMS 22412/2020, 23078/2020, decided on 07.03.2022].

Per Contra, Mr. D.J. Das, learned Central Government Counsel representing the respondents has vehemently and fervently opposed the submissions advanced by the petitioner's counsel. He drew attention of this Court to the reasoned order dated 09.12.2022 whereby the representation submitted by the petitioner seeking cancellation of his transfer order was dismissed. He pointed out that the petitioner has remained posted in the Eastern Region for the last 16 years. For the last 10 years, he has been posted at SU: Manipur & Nagaland at Dimapur and Tripura & Mizoram at Agartala. Under the policy, as laid down vide Office Memorandum 30.09.2009, an employee cannot stay in one station for more than 10 years. He further urged that the transfer of the petitioner was made purely on administrative grounds and is an incident of service, and hence, the decision of the authorities in transferring the petitioner was rightly not interfered by the Tribunal. He further pointed out that under the Office Memorandum dated 30.09.2009, the policy to post the spouses together is only applicable in cases of husband and wife working in a Government department. As the petitioner's wife is not working in a Government department, the petitioner cannot claim the benefit of the said Office Memorandum.

We have considered the submissions advanced at Bar and have gone through the material available on record. It cannot be disputed that transfer of a government employee is an incident of service. By order dated 18.10.2022, as many as 18 officers all in the rank of Director were transferred in the interest of public service. Thus, it is not a case of isolated transfer being effected so as to unsettle the petitioner from his present place of posting. The competent authority, while considering the representation of the petitioner, passed a detailed reasoned order, wherein it has been mentioned that the petitioner has remained posted in the home station in the North Eastern Region for the last nearly 11 years. In addition thereto, he remained posted at Kolkata which is again a part of the

Eastern India for five years. Thus, the transfer of the petitioner was absolutely essential.

Having considered the entirety of the facts and circumstances as above, we find that the transfer order dated 18.10.2022 does not suffer from any malice or arbitrariness nor the same can be termed to be in contravention of the Office Memorandum dated 30.09.2009. The impugned orders do not suffer from any infirmity warranting interference of this Court. Hence, this writ petition is dismissed.

No order as to cost.

JUDGE

CHIEF JUSTICE

Comparing Assistant