

GAHC010115302023



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

Case No. : WP(C)/3047/2023

BIPUL TALUKDAR
S/O LATE CHANDRA KANTA TALUKDAR, P/R/O H/NO-37, WARD NO. 03,
VILL-SARTHEBARI, P.O.-SARTHEBARI, DIST-BARPETA, STATE-ASSAM

VERSUS

THE UNION OF INDIA AND 6 ORS.
REPRESENTED BY THE SECRETARY OF HOME AFFAIRS, NEW DELHI-01

2:THE DIRECTOR GENERAL
CENTRAL INDUSTRIAL SECURITY FORCE
(MINISTRY OF HOME AFFAIRS)
BLOCK NO. 13
CGO COMPLEX
LODHI ROAD
NEW DELHI-03

3:THE INSPECTOR GENERAL
NES
HQRS GUWAHATI
ASSAM
PIN-781040

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

5:THE ASSISTANT INSPECTOR GENERAL
NES HQRS
GUWAHATI

ASSAM
PIN-781040

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

7:DEPUTY COMMANDANT
ADMINISTRATION
CENTRAL INDUSTRIAL SECURITY FORCE
GUWAHATI CENTRAL INDUSTRIAL SECURITY FORC

Advocate for the Petitioner : MR. K BHATTACHARJEE

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

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 24-11-2023

Heard Mr. K. Bhattacharjee, learned counsel for the petitioner as well as Ms. B. Sarma, learned CGC for the respondents.

2. The petitioner is employed under the CISF. The writ petitioner is aggrieved by the order of transfer dated 31.05.2022 passed by the respondent authorities transferring the petitioner from Guwahati to Dibrugarh. The petitioner is a person with benchmark disability of 60% (locomotor disability). According to the petitioner because of his disability condition the transfer of the petitioner to his new place of posting will cause sufficient hardship. It is submitted that his disability condition ought to have been taken into account by the CISF authorities before issuing the transfer order. Being aggrieved by the said order, he had approached this Court.

3. This Court while issuing notice by order dated 29.05.2023 stayed the order of transfer dated 31.05.2022 as well as the office order dated 15.05.2023 issued by the Assistant Commandant, CISF Unit OPS, Noonmati in so far as the petitioner is concerned. This interim order was extended from time to time.

4. The respondents have filed their counter-affidavit and the petitioner has also filed his re-joinder affidavit. From the affidavits exchanged it is evident that at the time when the petitioner approached this Court, a representation was pending before the competent authority i.e. the CISF. This representation was disposed of by a communication dated 29.05.2023 by which the petitioner was intimated that his representation was disposed of and he was directed to submit three places of his choice for posting other than Guwahati immediately for onward submission to higher formation.

5. However, in response to the said communication the petitioner submitted that the matter being subjudiced before the High Court, he is not in a position to comment. At this stage, the learned counsel for the petitioner submits that as per the Circular dated 15.04.2023 relating to "inter-unit transfer-2023" certain conditions were required to be taken into account by the competent authority while issuing transfer orders. Amongst the circumstances mentioned in the said Circular dated 15.04.2023, which may require consideration prior to issuance of transfer orders are those cases where the wards of such personnel are pursuing their academics in the 10th and 12th classes of the academic session 2023-24.

6. The learned counsel for the petitioner submits that this memo is a clarification issued by the Department in matters relating to extension of tenure regarding the posting of personnel by taking into consideration of their children's education as per Circular no.22 of 2017 dated 25.09.2017.

7. The learned counsels have been heard. The pleadings on record have been carefully

perused. As per the clause 26 of the Circular no.22 of 2017 dated 25.09.2017 which reads as under:

Extension Of Tenure On Education Ground

NGOs will be permitted an extension in his/her present unit for one year if his/ her ward is studying in 10th and 12th class in the current academic year and staying with him at the place of posting. He/she will not be given extension in the next year on the ground of 2nd ward/wards studying in 10th or 12th class in the subsequent year. This policy is applicable only for two living children and can be availed once for one child's education. However, if there are operational and administrative considerations, these facilities curtailed.

8. The petitioner at this stage submits that he would like to reply to the communication dated 29.05.2023, whereby the petitioner was asked to give three places of choice for posting other than Guwahati.
9. The learned counsel for the petitioner further submits that in view of the clause 26 of the Circular 22 of 2017 read with the memo relating to inter unit transfer-2023 dated 15.04.2023, the authorities should sympathetically consider the case of the petitioner and thereafter pass appropriate orders in the matter.
10. In that view of the matter, the writ petition stands closed with liberty to the petitioner to file an application before the CISF authority for consideration of his case in terms of the provision of Circular no.22 of 2017 read with the memo dated 15.04.2023, wherein personnel whose wards are studying in 10th and 12th classes are given due consideration at the time of issuance of transfer orders and posting.
11. The representation be filed by the petitioner within 2(two) weeks from today and the

authorities concerned will thereafter pass appropriate orders within a further period of 2(two) weeks from the date of filing of the application along with a certified copy of this order.

12. The interim order passed by this Court earlier will continue till the representation is finally disposed of by the competent authorities.

13. Writ petition in terms of above stands closed and disposed of.

JUDGE

Comparing Assistant