

GAHC010137482023



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

Case No. : WP(C)/3619/2023

MANASH KANTI CHOUDHURY
S/O LATE MOHITOSH CHOUDHURY, R/O HOSPITAL ROAD,
DULLAVCHERRA, P.O.-DULLAVCHERRA, DIST- KARIMGANJ, ASSAM, PIN-
788736

VERSUS

THE STATE OF ASSAM AND 3 ORS
TO BE REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, LAND AND REVENUE DEPARTMENT, DISPUR,
GUWAHATI-781006

2:THE DEPUTY COMMISSIONER
KARIMGANJ
P.O. AND DIST-KARIMGANJ
ASSAM
PIN-788710

3:THE CIRCLE OFFICER
RAMKRISHNA NAGAR REVENUE CIRCLE
P.O.-R.K. NAGAR
DIST-KARIMGANJ
ASSAM
PIN-788166

4:THE CIRCLE OFFICER
PATHARKANDI REVENUE CIRCLE
P.O.-PATHARKANDI
DIST- KARIMGANJ
ASSAM
PIN-78872

Advocate for the Petitioner : MR. A R TALUKDAR

Advocate for the Respondent : SC, REVENUE

**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

Date : 21-06-2023

1. Heard Mr. A.R. Talukdar, learned counsel for the petitioner.
2. The petitioner who was working as Lot Amin under R.K. Nagar Revenue Circle is transferred to Pathar Kandi Revenue Circle by the impugned order dated 15.06.2023. The only ground for such challenge is that the petitioner is being subjected to frequent transfers.
3. According to him, prior to issuance of the impugned order he was transferred to R.K. Nagar, from the Office of the Deputy Commissioner, Karimganj by an order dated 04.08.2022 and prior to that, he was transferred on 15.03.2022.
4. Raising the aforesaid grievance, the petitioner has preferred a representation before the Deputy Commissioner, Karimganj (Annexure – 5 to the writ petition).
5. According to Mr. Talukdar, such representation has still not been addressed.
6. It is by now well settled that transfer is an incidence of service and such order of transfer can judicially be reviewed in exercise of power under Article 226 only in certain circumstances, when such order of transfer is passed by an authority not competent to pass such order, when the order of transfer changes the position and status of the employee and when such order is passed in malafide exercise of power. Sometimes frequent orders of transfer are also interfered when the

employer transfers such person by abuse of power and without having any administrative exigency. However, in the present case, none of the aforesaid conditions are discernible.

7. Having held that, at the same time this Court can't be oblivious of the fact that a duty is cast upon the employer to give a consideration to any of the grievances raised by its employee. Therefore, the present writ petition is disposed of with a direction to the respondent that the Deputy Commissioner shall take on record the representation filed by the petitioner on 16.06.2023 and pass an order in that application.

8. While parting with the record, it is clarified that this court has not expressed any opinion on the merit of the representation filed by the petitioner and the Deputy Commissioner shall be at liberty to apply his mind to the representation filed by the petitioner and to take a considered decision being an employer and taking note of exigency of the service.

9. Such exercise should be carried out within a period of 15 days from the date of receipt of a certified copy of this order passed today or till the date of disposal of the representation whichever is earlier and the present status of the posting of the petitioner be maintained.

10. The petitioner shall furnish a copy of this order within a period of 7 (seven) days. If no such copy is furnished within 7 (seven) days, this order shall have no effect. The petitioner is also permitted to serve a copy of this order downloaded from the website.

11. Accordingly in view of the aforesaid terms, the writ petition stands disposed of.

JUDGE

Comparing Assistant