

GAHC010167712023



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

Case No. : WP(C)/4405/2023

BIKASH KUMAR PATAR AND 18 ORS.
S/O- LATE RATNESWAR PATAR, R/O- RUPAHI BORI, P.O. DIGHAL BORI,
DIST.- MORIGAON, ASSAM, PIN- 782105.

2: ASHIM AICH
S/O- GOPAL AICH
R/O- SANTIR BAZAR
SOUTH TRIPURA
STATE- TRIPURA.

3: ANUP KUMAR DEY
S/O- SRI NAREN BARUAH
R/O- SOUTH HILL COLONY
LUMDING
ASSAM

4: NARAYAN GHOSH
S/O- BHAJENDRA GHOSH
R/O- VILL.- JHOOPON POOL ROAD
LUMDING
ASSAM

5: SUBHASH BARMAN
S/O- LATE PRABHA RAM BARMAN
R/O- NALBARI
P.S. NALBARI
PIN- 781337.

6: SATYABRATA GOSWAMI
S/O- PURNENDA GOSWAMI
R/O- HAREKHOLA
P.O. KAMALPUR
DIST. DHALAI
TRIPURA.

7: AJIT PASHI
S/O- PANNALAL PASHI
R/O- VILL.- ADAMTILLA
P.O. KALKALIGHAT
DIST. KARIMGANJ
ASSAM

8: BHARAT CH. DAS
S/O- LATE BISHAY RAM DAS
R/O- VILL.- TOKRADIA
P.O. TOKRADIA
DIST. KAMRUP
ASSAM
PIN- 781102.

9: ARABINDA SONOWAL
S/O- SINGHESWAR SONOWAL
R/O- BORBARI GAON
P.O. EKARANI
DIST.JORHAT
ASSAM
PIN- 785631.

10: BROJEN BARUAH
S/O- SHRI RAMEN BARUAH
R/O- DHAKIAJULI
DIST. JORHAT
ASSAM
PIN- 785009.

11: RAJIB MEDHI @ RAJIB KR. MEDHI
S/O- LATE KMALESWAR MEDHI
R/O- PUB TUPAKUCHI
RAHA
NAGAON
ASSAM

12: SARBESWAR DAS
S/O- LATE SONESWAR DAS
R/O- MALABARI
P.S. KHETRI
DIST. KAMRUP(M)
PIN- 782403
ASSAM

13: BABUL DAS
S/O- RUP RAM DAS

R/O- NEW BONGAIGAON
B.G. COLONY
RLY QTR NO. 156/C
P.O. NEW BONGAIGAON
DIST. BONGAIGAON
ASSAM

14: R. ZONUN SANGA
S/O- LATE R. LALHMUA KALIANA
R/O- VAIRENGTE
DIST. KOLASIB
MIZORAM
PIN- 796101.

15: LITON NAMA
S/O- LALMOHON NAMA
R/O- RAGBER
P.O. KALAM CHOWRA
DIST. SEPAHJAJALA
PIN- 794102
TRIPURA.

16: SEROZO NARO
S/O- PUSIINE NARO
R/O- VILL.- DZIIHA
P.O. AND P.S. CHOZUBA
DIST. PHEK
NAGALAND
PIN- 79104.

17: KAUSHIK RANJAN BHUYAN
S/O- KANU RANJAN BHUYAN
R/O- GOVINDA BHAWAN
HOUSE NO. 29
W/NO. 22
LUTMA
P.O. VINOBANAGAR
GUWAHATI-781018.

18: AK SURCHANDU SINGH
S/O- AK NIMAI SINGH
R/O- THOUBAL
DIST. THOUBAL
MANIPUR.

19: MD. DAWLAT KHAN
S/O- IBOCHA KHAN
R/O- SANGAIYUMPHAM

P.O. WANGHING
DIST. TIWAT
MANIPUR
PIN- 295148

VERSUS

THE UNION OF INDIA AND 3 ORS
TO BE REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF
INDIA, MINISTRY OF RAILWAYS, RAIL BHAVAN, RAISINA ROAD, NEW
DELHI, PIN- 110001.

2:THE DIG (ESTABLISHMENT)
RAILWAY BOARD
RAIL BHAVAN
RAISINA ROAD
NEW DELHI-110001.

3:THE DIRECTOR GENERAL OF RAILWAY PROTECTION FORCE
RAIL BHAVAN
RAISINA ROAD
NEW DELHI
PIN- 110001.

4:THE PRINCIPAL CHIEF SECURITY COMMISSIONER
NORTHEAST FRONTIER RAILWAY
MALIGAON
GUWAHATI-781011
ASSA

Advocate for the Petitioner : MR I RAFIQUE

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

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

02-08-2023

Heard Mr. I. Rafique, learned counsel for the petitioners and Ms. B. Sarma, learned Central Government Counsel for all the respondent Nos. 1 to 4.

2. Petitioners 19 in numbers are serving under the Railway Protection Force as Head

Constables and Constables at different places under North East Frontier Zone and have completed their tenures at their respective places of posting in said North East Frontier Zone.

3. The Railway Board in the Ministry of Railways, Government of India vide No.2014/Sec(Spl)/6/12 dated 13.03.2023 issued Directive No.58 pertaining to Transfer of the Members of the Force specifying that all transfers of the Members of the Force shall be governed by the provisions laid down in Rules 90 to 93 RPF Rules, 1987 and the said policy was issued under Directive No.58.

4. Clause C of said Directive No.58 issued on 13.03.2023 relates to "Periodical Transfers" and Clause xix of said Clause C provides 'the Process of Annual Transfers' which reads as follows:-

(xix) The process of annual transfers: All annual periodical transfers shall be processed in the month of January every calendar year and completed on or before 15th of March or before end of the local Academic sessions, whichever is earlier; so as the Officers & Staff so affected could get sufficient time to plan for settling of their families and admissions of their wards, as the case may be.

5. Clause xxix of Clause C of said Directive No. 58 issued on 13.03.2023 reads as follows:-

(xxix) The entire process of periodical transfers including sparing and joining of the members of the Force at the transferred place, shall invariably be completed on or before 31st March of every calendar year. Thus for all the persons having joined their new places of postings on or before 31st June, the deemed date of start of their tenure shall be 31st March only. In all other cases, the tenure shall be counted commencing from 31st March of the next calendar year.

6. The petitioners submitted that though as per the requirement of Clause C-xix, noted above, the annual periodical transfer is required to be processed in the month of January every calendar year and should be completed on or before 15th of March, or before the end of the local Academic session, whichever is earlier, so that the officers and staff so affected could get sufficient time to plan for settling of their families and admissions of their wards, as the case may be.

7. It is stated by the petitioners that by the Force Order No.24/2023 and Force Order No.26/2023 both dated 21.07.2023 issued by the Principal Chief Security Commissioner, Northeast Frontier Railway transferring the petitioners from their respective places of postings

in the midst of academic session of their children are in violation of the provisions of Clause C-xix of said Directive No. 58 dated 13.03.2023.

8. Petitioners stated that their children are students ranging from Class-I to Class-XII in different Schools in their respective places of posting.

9. Hence, this writ petition by the petitioners praying for setting aside and to quash the impugned orders of their transfer vide Force Order No.24/2023 and Force Order No.26/2023 both dated 21.07.2023 issued by the Principal Chief Security Commissioner, Northeast Frontier Railway.

10. It is also placed before the Court that the Inspector of Railway Protection Force, NF Railway, Guwahati by communication No.GPF/E-3/2023 dated 24.07.2023 spared the petitioner No.1, Bikash Kumar Patar at Srl. No. 10 in the Force Order No.26/2023 transferring him from Guwahati-Lumding Division to Katihar Division directing him to report before the authority concerned in his new place of posting at Katihar on or before 04.08.2023.

11. The petitioners relied on a decision of the Hon'ble Orissa High Court dated 14.07.2023 passed in WP(C) No. 22069/2023 (*Tapan Kumar Parida Vs. Director General, Railway Protection Force, New Delhi and others*) preferred by a similarly placed RPF personnel Tapan Kumar Parida against an order of his transfer dated 12.07.2023 following the provisions of Clause xix of the Directive No.58.

12. During the deliberation of the matter, Ms. B. Sarma, learned Central Government Counsel, placed before the Court a communication of the Railway Board, Ministry of Railways, Government of India under No.2023/Sec(E)/TR-3/54(IRT) dated 31.07.2023 issued by the Deputy Inspector General (Establishment), Railway Board communicated to all the Principal Chief Security Commissioner/RPF All Zonal Railways of India pertaining to the said Directive No.58 issued on 13.03.2023, noted above clarifying that the Railway Board in the Ministry of Railways, Government of India have granted one time exemption for completion of periodical transfer of Railway Protection Force Personnel till 31st July, 2023 in place of 30th June, 2023 for the present financial year of 2022-2023 and that the date of start of their tenure shall be deemed to be from 31st March, 2024 only for the purpose of tenure transfer which has the approval of the Director General of Railway Protection Force.

13. In view of such one time exemption issued by the said communication dated 31.07.2023 by the Railway Board, the prayer of the petitioners made in this writ petition has become infructuous as their tenure on such transfer issued under Force Order Nos. 24/2023 and 26/2023 dated 21.07.2023 shall now be deemed to be from 31st of March, 2024.

14. Accordingly, this writ petition being infructuous, stands dismissed.

15. Copy of the communication dated 31.07.2023 issued by the Deputy Inspector General (Establishment), Railway Board, placed before the Court today by Ms. B. Sarma, learned Central Government Counsel, be kept as part of the record.

JUDGE

Comparing Assistant