

GAHC010187532022



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

Case No. : WP(C)/6074/2022

RANA KUMAR DAS
S/O LATE MONIRAM DAS, R/O BUNGLOW NO. 444, NAMBARI RAILWAY
OFFICER COLONY, MALIGAON, GUWAHATI, DIST-KAMRUP(M), ASSAM,
PIN-781011

VERSUS

THE UNION OF INDIA AND 5 ORS.
REPRESENTED BY SECRETARY TO THE GOVERNMENT OF INDIA,
MINISTRY OF RAILWAYS, NEW DELHI-110006

2:THE RAILWAY BOARD
REPRESENTED BY ITS SECRETARY
MINISTRY OF RAILWAYS
GOVERNMENT OF INDIA
NEW DELHI-110006

3:THE NORTHEAST FRONTIER RAILWAY
REPRESENTED BY ITS GENERAL MANAGER
MALIGAON
GUWAHATI-781011

4:THE GENERAL MANAGER (PERSONNEL)
NORTHEAST FRONTIER RAILWAY
MALIGAON
GUWAHATI-781011

5:THE PRINCIPAL CHIEF ENGINEER
NORTHEAST FRONTIER RAILWAY
MALIGAON
GUWAHATI-781011

6:THE PRINCIPAL CHIEF SAFETY OFFICER
NORTHEAST FRONTIER RAILWAY
MALIGAON
GUWAHATI-78101

Advocate for the Petitioner : MR. U K NAIR

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

BEFORE

HON'BLE THE CHIEF JUSTICE (ACTING) MR. N. KOTISWAR SINGH
HON'BLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

18.01.2023

[N. Kostiswar Singh, CJ (Acting)]

Heard Mr. M. Mahanta, learned counsel for the petitioner. Also heard Mr. S.S. Roy, learned CGC for the respondents.

The only issue raised before this Court is that though on 29.01.2022 a decision was taken by the General Manager, NFR, that the representation submitted by the petitioner against his transfer order should be decided by the Principal Chief Safety Officer (PCSO) and the Principal Chief Engineer (PCE) jointly, the same has not been done. The said decision of the General Manager reads as follows:

“Note No.#41

Let PCSO and PCE jointly decide on the cancellation.”

The purport of the said decision is that the representation submitted by the petitioner on the cancellation of his posting should be decided by both the PCSO and the PCE jointly and not individually and separately. However, what the records indicate is that the PCSO individually had decided the issue on the ground that the name of petitioner was proposed by the PCE and as such, directed that the petitioner should be released immediately for joining as Sr. DSO/TSK. The note of the PCSO reads as

follows:

“Note No.#45

Since name of Rana Kumar Das was proposed by PCE, he must have taken all these items into account before proposing his name. Therefore, Rana Kumar Das should be released immediately for joining as Sr. DSO/TSK, Post of Sr.DSO/TSK cannot be left vacant.”

We have completely perused those notes.

We have not seen any note by the PCE in this regard.

Since, there is nothing on record to show that the PCSO and the PCE had jointly taken any decision regarding the issue of cancelation of the petitioner’s transfer order, which was directed to be done by the GM, NFR, we are of the view that the issue of transfer of the petitioner should be decided by the PCSO and the PCE jointly and not separately, as directed by the GM, NFR, on 29.01.2022.

Accordingly, we allow this petition, as the learned Central Administrative Tribunal, Guwahati Bench had not considered this aspect.

For the above reasons, the impugned order dated 26.07.2022 passed by the learned Central Administrative Tribunal, Guwahati Bench in O.A. No.26/2022 is set aside by directing both the PCSO and the PCE to decide on the issue of transfer of the petitioner jointly in terms of the decision of the G.M., NFR, taken on 29.01.2022 and till such decision is taken by the PCSO and the PCE jointly, the *status quo* as regards the posting of the petitioner as on today, shall be maintained.

JUDGE

CHIEF JUSTICE (ACTING)

Comparing Assistant