

GAHC010190192023



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

Case No. : WP(C)/4927/2023

HIMAN JYOTI RAJBONGSHI
SON OF ARUN RAJBONGSHI, RESIDENT OF VILLAGE- KHARJARA, P.O.
GOPAL BAZAR, P.S. NALBARI, DISTRICT- NALBARI, ASSAM, PIN- 781353

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF
ASSAM, HEALTH AND FAMILY WELFARE, DEPARTMENT, ASSAM
SECRETARIAT, DISPUR, GUWAHATI-06

2:THE MISSION DIRECTOR
NATIONAL HEALTH MISSION
SAIKIA COMMERCIAL COMPLEX
CHRISTIAN BASTI
GUWAHATI
DISPUR
GHY-05
ASSAM

3:THE DIRECTOR OF HEALTH SERVICES
ASSAM
HENGRABARI
GUWAHATI- 36

4:THE JOINT DIRECTOR OF HEALTH SERVICES
BAKSA
MUSHALPUR
BAKSA
BAKSA
BTAD
ASSAM

PIN- 781372

5:THE BLOCK PRIMARY HEALTH CENTRE
TAMULPUR
BAKSA
DISTRICT- BAKSA
PIN- 781361

6:NILAMANI DAS
RESIDENT OF VILLAGE- ALLIA
P.S. GHAGRAPAR DISTRICT- NALBARI
PIN- 781369 PRESENTLY WORKING AT PHARMACIST BALAJAN BLOCK
PRIMARY HEALTH CENTRE RBSK MOBILE HEALTH TEAM BALAJAN
KOKRAJHA

Advocate for the Petitioner : MR. J KALITA

Advocate for the Respondent : SC, HEALTH

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

28.08.2023

Heard Mr. J Kalita, learned counsel for the petitioner and Mr. B Gogoi, learned Standing counsel, Health and Family Welfare Department as well as National Health Mission, Assam for the respondent Nos. 1 to 5.

2. On the basis of his selection as Pharmacist under Rashtriya Bal Swasthya Karyakram (RBSK); the Mission Director, National Health Mission (NHM), Assam by order dated 01.03.2014 posted the petitioner at Katlicherra Block Primary Health Centre (BPHC), District-Hailakandi.

3. By an order dated 28.01.2022, the Mission Director, National Health Mission, Assam transferred the petitioner from Katlicherra BPHC, District-Hailakandi and posted him in the same capacity under the RBSK Mobile Health Team in the Tamulpur BPHC, District-Baksa.

4. Accordingly, on being released from Katlicherra BPHC, District-Hailakandi on 09.02.2022, the petitioner on 11.02.2022 joined his service before the Joint Director of Health

Services, District-Baksa.

5. By the impugned order issued under No. NHM-31013(13)/2/2022-HRD-NHM/e-28589 dated 14.08.2023, within a short period of 1 year 4 months, the Mission Director, National Health Mission, Assam again transferred the petitioner from Tamulpur BPHC, District- Baksa to Balajan BPHC in the district of Kokrajhar.

6. The petitioner on 16.08.2023 submitted a representation before the Mission Director, NHM, Assam stating that his wife is in the advanced stage of pregnancy and the doctor has anticipated the probable date of delivery on 01.09.2023.

7. As such, the petitioner in his said representation dated 16.08.2023 prayed before the Mission Director, NHM, Assam to consider his place of posting at Tamulpur BPHC, District-Baksa for some time.

8. It is also stated that said representation of the petitioner dated 16.08.2023 is yet to be considered by the Mission Director, NHM, Assam.

9. The petitioner has also annexed a prescription and other medical documents issued in favour of the wife of the petitioner.

10. It is seen that by order dated 14.08.2023 while transferring the petitioner from Tamulpur BPHC, District-Baksa to Balajan BPHC in the district of Kokrajhar under BTC; the respondent No. 6, Pharmacist serving under the RBSK Scheme at Balajan BPHC, District-Kokrajhar has been transferred in the same capacity and posted at Tamulpur BPHC of district Baksa in place of the petitioner.

11. On being enquired, Mr. B Gogoi, learned Standing counsel, Health and Family Welfare Department as well as National Health Mission, Assam submitted that pursuant to the order dated 14.08.2023, the respondent No. 6 has not yet been released from the post of Pharmacist (RBSK) at Balajan BPHC, District-Kokrajhar.

12. Considering the entire aspect of the matter and the finding that the wife of the petitioner is in the advanced stage of pregnancy and that the doctor has given the probable date of her delivery on 01.09.2023, the Mission Director, National Health Mission, Assam shall dispose of the representation of the petitioner dated 16.08.2023 that was received by the

said authority on 17.08.2023 in accordance with law, intimating the petitioner about the outcome of the same.

13. The petitioner shall submit the certified copy of this order along with a copy of this writ petition including the Annexures appended thereto, copy of his representation dated 16.08.2023 and the up-to-date medical prescription of his wife, before the Mission Director, National Health Mission, Assam forthwith, obtaining necessary acknowledgment from the said authority in that regard.

14. Till such disposal of the representation of the petitioner dated 16.08.2023 submitted before the Mission Director, National Health Mission, Assam, the impugned order of transfer of the petitioner under No. NHM-31013(13) /2/2022-HRD-NHM/e-28589 dated 14.08.2023 issued by the Mission Director, National Health Mission, Assam; transferring the petitioner from Tamulpur BPHC, District- Baksa to Balajan BPHC of Kokrajhar district shall not be given effect to/shall remain suspended.

15. With the above observation and direction, this writ petition stands disposed of.

JUDGE

Comparing Assistant