

GAHC010196502023



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

Case No. : WP(C)/5107/2023

RAMESH CHANDRA ROY
S/O LATE KAILASH ROY, R/O BHANDANI, P.S.-DHUPGURI, DIST-
JALPAIGURI, PIN-735210, WEST BENGAL

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
PIN-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
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

17.11.2023

1. Heard Mr. I. Rafique, learned counsel for the petitioners and Ms. B. Sarma, learned CGC for the respondents.
2. Petitioner is a Constable in Railway Protection Force at Alipurduar Division under the North East Frontier Railway Zone.
3. By Force Order No. 24/2023 dated 21.07.2023 issued by the Principal Chief Security Commissioner, NF Railway, Maligaon, Guwahati, the petitioner has been transferred from Alipurduar Division and posted at Rangia Division. Being aggrieved, the petitioner has filed this writ petition on the ground that the same is not in consonance with Clause (xix) and Clause (xxix) of the Directive 58.
4. Petitioner is seeking similar relief as that of WP(C) No. 4744/2023, wherein the Court considered and issued order of status-quo pertaining to transfer orders of other Constables serving under the Chief Security Commissioner, NF Railway, Maligaon, Guwahati.
5. However, Ms. B Sarma, learned CGC by placing a communication dated 09.08.2023 issued by the Inspector of Railway Protection Force, Alipurduar Junction, NF Railway, Alipurduar submits that since 25.07.2023, the petitioner

unauthorizedly remained absent in his duty at Alipurduar Junction.

6. I have heard the counsels for the parties.

7. The letter dated 31.07.2023, issued by the DIG (Establishment) Government of India, Ministry of Railways (Railway Board), is to the effect that one-time exemption has been granted for completion of periodical transfer of RPF personnel till 31.03.2024, in respect of the Force Order No.24/2023 dated 21.07.2023. As such, in view of the above letter dated 31.07.2023, the petitioner has to be given time till 31.03.2024 to join his new place of posting, pursuant to Force Order No.24/2023 dated 21.07.2023.

8. The submission of the learned CGC with regard to the unauthorized absence of the petitioner from his duty at Alipurduar Junction, i.e. his present place of posting, is a different cause of action and an issue which may be dealt separately by the respondent authorities. The only issue to be decided in the present case is with regard to whether the transfer of the petitioner, vide the Force Order No.24/2023, was sustainable or not. As stated in the foregoing paragraph, in view of the letter dated 31.07.2023, the petitioner and all other persons who have been transferred, in terms of the Force Order No.24/2023, have been granted time till 31.03.2024 to join their new place of posting. Further, the implementation of Force Order No.24/2023 is now in consonance with Clause (xix) and Clause (xxix) of the Directive No.58, which is the guidelines for transfer laid down by the State respondents. Consequently, there is no infirmity with Force Order No.24/2023, in view of the letter dated

31.07.2023. Accordingly, the petitioner is allowed to remain in his present place of posting and would have to join his new place of posting by 31.03.2024, which would be in line with Force Order No.24/2023 and the letter dated 31.07.2023.

9. As stated earlier, the issue with regard to the unauthorized absence of the petitioner from his duty is altogether a different issue, which can be taken up by the respondent authorities as per law.

10. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant