

GAHC010255712023



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

Case No. : WP(C)/6564/2023

DHARMESWAR BARMAN
S/O- SATYA SINGH BARMAN @ SATYA MARAMSA, R/O- VALLEY VIEW
DIPHU, P.O. RONGKHELANG, P.S. DIPHU, DIST. KARBI ANGLONG, ASSAM,
PIN- 785462.

VERSUS

THE STATE OF ASSAM AND 5 ORS
TO BE REPRESENTED BY THE PRINCIPAL SECRETARY TO THE
GOVERNMENT OF ASSAM, FINANCE DEPARTMENT, DISPUR, GUWAHATI-
06.

2:THE DIRECTOR OF ACCOUNTS AND TREASURIES
ASSAM
KAR BHAWAN
GUWAHATI-06.

3:THE DISTRICT COMMISSIONER KARBI ANGLONG
DIPHU
PIN- 785460.

4:THE TREASURY OFFICER
DIPHU
KARBI ANGLONG
ASSAM
PIN- 785460.

5:THE TREASURY OFFICER

BOKAJAN SUB- TREASURY
BOKAJAN
ASSAM

6:ABU MD. RAFIQUE
PRESENTLY RESIDING AT DEPUTY COMMISSIONERS COLONY
KARBI ANGLONG
DIPHU
P.O. AND P.S. DIPHU
PIN- 785640

Advocate for the Petitioner : MR H TALUKDAR

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

14.11.2023

1. Heard Mr. H. Talukdar, learned counsel for the petitioner, who submits that the impugned order dated 03.11.2023, by which the petitioner, who is the Senior Accounts Assistant has been transferred from Diphu Treasury to Bokajan Sub-Treasury, should be set aside, inasmuch as, the transfer of the petitioner has not been made in public interest, but has been made malafide. He submits that the petitioner is 59 years of age and he should be allowed to continue in Diphu Treasury, till his retirement.

2. Mr. D. Borah, learned counsel appears for the respondent no.3 and submits that the transfer being in the exigencies of service, the same should not be interfered with.

3. I have noticed the petitioner's representation dated 07.11.2023 issued to the Deputy Commissioner/District Commissioner, Karbi Anglong, Diphu, requesting cancellation of the transfer order and the fact that no decision has been made on the same by the Deputy Commissioner/District Commissioner, Karbi Anglong, Diphu.

4. In the case of ***S.C. Saxena vs. Union of India & Others***, reported in ***(2006) 9 SCC 583***, the Supreme Court has held that a Government servant cannot disobey a transfer order by not reporting at the place of posting and instead going to the Court to ventilate his grievance. It is his duty to first report for work where he is transferred and then make a representation as to what may be his personal problems. Such tendency of not reporting at the place of posting and indulging in litigation needs to be curbed.

5. In view of the judgment of the Apex Court, as referred to above, this Court is not inclined to entertain this writ petition. The above being said, it is the case of the petitioner that he has been working in the Diphu Treasury since 06.11.2020, which means that he has been working there for more than 3 (three) years, i.e. beyond the normal tenure of posting. Further, the allegation of malafide cannot be accepted, in the absence of any officer being arrayed as a party in his individual capacity in this writ petition.

6. In view of the reasons stated, this writ petition is dismissed. However, the respondent no.3 is directed to examine and dispose of the petitioner's representation against the transfer order, within a period of 10 (ten) days from the date of receipt of a copy of this order. The decision taken should thereafter be communicated to the petitioner. In the event, the petitioner has not been relieved of his post, *status quo* as on today shall be maintained, till a decision is taken by the respondent no.3 on the petitioner's representation.

JUDGE

Comparing Assistant