

GAHC010283292023



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

Case No. : WP(C)/7319/2023

DR. MOUSHUMI DAS
D/O- LATE SURJYA KUMAR DAS, HOUSE NO. 8, BAGHARBARI SHIV
MANDIR PATH, PANJABRI (NEAR CHILDRENS PARK), DISTRICT- KAMRUP
(M), ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, FINANCE (TAXATION) DEPARTMENT

2:THE COMMISSIONER OF TAXES
KAR-BHAVAN HEAD OFFICE
DISPUR
GUWAHATI- 781006

3:THE JOINT SECRETARY
GOVERNMENT OF ASSAM
FINANCE (TAXATION) DEPARTMEN

Advocate for the Petitioner : MR. B DEKA

Advocate for the Respondent : SC, FINANCE AND TAXATION

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

Date : 18-12-2023

Heard Mr. B. Deka, learned counsel for the petitioner. Also heard Mr. B. Choudhury, learned Standing Counsel, Finance & Taxation Department.

The petitioner is aggrieved by the impugned transfer order dated 13/09/2023 issued to the petitioner whereby the petitioner has been transferred as an Inspector of Taxes from the Head Office to the Inspector of Taxes Goalpara Unit. This order was passed by the competent authority vide notification dated 13.09.2023 whereby the transfer order was issued along with other similarly situated persons. The grievance of the petitioner is that the petitioner is undergoing severe health ailments. Referring to a certificate issued by the competent medical professional learned counsel for the petitioner submits that she was advised to undergo surgery at the earliest. By another medical advice she was also asked to refrain from travelling during the period of her treatment. All these circumstances were urged by the petitioner while filing the representation before the competent authority requesting for stay of the transfer order dated 13.09.2023 for a few more months considering that the medical ailments she has been suffering from. The petitioner filed her representation before the competent

authority vide the representation dated 15.10.2023. This representation was followed by subsequent reminders. Learned counsel for the petitioner submits that till date the representation has not been disposed of. The petitioner is now required to go and join in her place of posting exposing her to serious health hazards because of the ailments she is suffering from. The limited prayer made by the learned counsel petitioner is for stay of the transfer order dated 13.09.2023 in so far as the petitioner is concerned till her treatment is complete at Guwahati.

Mr. B. Choudhury, learned Standing Counsel, Finance & Taxation Department submits that there is no infirmity in the order. It is a matter of regular transfer and the petitioner can pursue her treatment in her new place of posting also. He however, submits that he has no instructions on the status of the representation dated 15.10.2023 stated to have been filed before the Department.

Considering the prayer made in the writ petition as well as upon careful perusal of the pleadings on record, this Court is of the view that the matter can be disposed of with a direction to the Commissioner, Department of Finance & Taxation to dispose of the representation dated 15.10.2023 filed by the petitioner requesting for temporary stay of the transfer order dated 13.09.2023 issued in respect to the petitioner, which is stated to be pending before the authorities. The said copy of the representation which is enclosed to the writ petition reflects that all medical documents and other necessary papers are enclosed to the

representation. The concerned authority will look into the matter and examine all necessary documents and thereafter, pass an appropriate order, if possible, taking into account the ailments stated to have been suffered by the petitioner. The competent authority will pass a speaking order and a copy thereof shall be served to the petitioner. This above direction will be carried out within a period of 30 (thirty) days from the date of receipt of a certified copy of this order. Till such order is passed the impugned transfer order dated 13.09.2023 in so far as the petitioner is concerned shall not be enforced. It is made clear that no further notice is required to be issued by the authority while disposing of the representation since the petitioner is represented by the learned counsel and this order is passed in the presence of both the counsels. Liberty is granted to the learned Standing Counsel, Finance & Taxation Department also to furnish a copy of this order before the competent authority so that the directions issues by this can be carried out.

In terms of the above, the writ petition stands disposed of.

JUDGE

Comparing Assistant