



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

Case No. : WP(C)/114/2024

Licha Ampi
Wife of Late I Lollen, permanent resident of Lekhi Village, PO and PS
Naharlagun, Itanagar Capital Complex, Papumpare District, Arunachal Pradesh

VERSUS

The State of AP and 2 Ors
represented by the Secretary, Department of Industries, Textiles and Handicraft,
Govt of Arunachal Pradesh, Itanagar

2:The Director
Age: 0
Occupation :
Textiles and Handicraft, Govt of Arunachal Pradesh, Itanagar

3:The Deputy Director of Textile and Handicraft
Age: 0
Occupation:
Textiles and Handicraft, Papumpare District, Govt of Arunachal Pradesh.

Advocate for the Petitioner : Tagum Jamoh, K. Tabang, N. Doji, L. Murtem

Advocate for the Respondent : GA (AP)

BEFORE
HONBLE MR. JUSTICE N. UNNI KRISHNAN NAIR
ORDER

Date : 13-03-2024

Heard Mr. T. Jamoh, learned counsel for the petitioner. Also heard Mr. N. Ratan, learned Additional Advocate General assisted by Ms. P. Pangu, learned Government Advocate appearing for the State Government.

2. The challenge in the present proceedings by the petitioner is to an order, dated 08.02.2024, issued by the Director, Textiles & Handicrafts, Government of Arunachal Pradesh, transferring and posting the petitioner from Yupia to Tawang.

3. The petitioner was serving as a Lower Division Clerk (LDC) at Yupia, under the Department of Textiles & Handicrafts, Government of Arunachal Pradesh. While working in such capacity, the petitioner was vide the order, dated 08.02.2024, transferred and posted from Yupia to Tawang. It is the contention of the petitioner that the said order of transfer was so issued without there being any administrative exigency and the public interest involved in the same. The petitioner being aggrieved by the said order of transfer, approached the Director of Textiles & Handicrafts, Government of Arunachal Pradesh, vide a representation, dated 22.02.2024, praying for her retention at Yupia or for giving her a posting at Doimukh. In justification of her prayer, the petitioner has highlighted in the said representation, the problems that she and her family

stands to face in the event she is required to undertake the transfer to Tawang. It is projected in the writ petition that the petitioner, thereafter, on not receiving a response from the Director of Textiles & Handicrafts, had approached the Secretary of the Department as well as the Minister in charge of the Department and prayed that she be retained at Yupia in view of the medical condition faced by herself and her family members. It is contended in the writ petition that the prayer of the petitioner was considered and a note was issued by the Departmental Minister, to the effect that the transfer of the petitioner be not effected till the elections are over, in view of the medical ailments as faced by her, for which a posting at Tawang was not desirable. In spite of the said developments taking place in the matter, the Deputy Director of Textiles & Handicrafts, Papumpare District, Yupia, vide order dated 22.02.2024 proceeded to release the petitioner from her services. It is contended that the copy of the said release order was forwarded to the petitioner on WhatsApp by a colleague of her and at the relevant point of time, she was in New Delhi attending to her ailing younger brother, who had undergone a brain surgery and also for availing treatment for herself and for her sick minor daughter. The petitioner thereafter on return from New Delhi had instituted the present proceedings.

4. The learned counsel for the petitioner, by referring to the materials brought on record, had drawn the attention of this Court to the health condition of the petitioner as well as her minor daughter and has contended that a posting with the said ailments at Tawang is not feasible and accordingly, this Court is required to interfere with the said order of transfer.

5. The learned Additional Advocate General has contended that the transfer

is an incident of service and the petitioner having been posted at Yupia for a long period of time, she cannot object to her transfer as effected vide the order dated 08.02.2024.

6. I have heard the learned counsels for the parties as well as perused the materials available on record.

7. It is seen from the order, dated 08.02.2024 that along with the petitioner, 3 (three) other incumbents were subjected to transfer. However, it is seen that the petitioner although posted from Yupia to Tawang in the capacity as an LDC, no person had replaced her at Yupia, vide the said order of transfer. The said order of transfer also reflects that the person at serial no. 1 and 4, thereof, were so transferred basing on a request made by them for effecting such transfers in their respective cases.

8. A perusal of the materials brought on record reveals that the petitioner in pursuance to the said order of transfer had brought on record before the respondent authorities by way of her representation, dated 22.02.2024, the problems that she and her family including her younger daughter and mother stands to face on account of the ailments suffered by them, in the event the petitioner is to undertake the transfer to Tawang. The petitioner has further contended that being at Yupia, she is facilitated to have her daughter and herself treated at the Tomo Riba Institute and Health and Medical Sciences, Naharlagun and comparable facility for such treatment not being available at Tawang, she had prayed before the authorities for her retention at Yupia.

9. On perusal of the materials brought on record, it is seen that the respondents, more particularly, the Director of Textiles & Handicrafts had not considered the grievances raised by the petitioner. Although, it is a settled law that transfer is an incident of service and a person who has been subjected to an order of transfer is required to undertake the same but given the grievances as raised by the petitioner in her representation, dated 22.02.2024 as well as the directions, thereon, passed by the Higher Authorities of the Department, it was bounded duty on the part of the Director to take into consideration such grievances raised by the petitioner and thereafter, arrive at a conclusion as to whether the petitioner is required to be so transferred at this stage to Tawang. More so, when no person was posted in place of the petitioner in terms of the order dated 08.02.2024.

10. The Director of Textiles & Handicrafts, Government of Arunachal Pradesh, is accordingly directed to take on record the said representation of the petitioner, dated 22.02.2024 and to consider the same, on its own merits by also reckoning the recommendation as made by the Higher Departmental Authorities on the body, thereof and thereafter, to dispose of the same by way of a speaking order, after providing an opportunity of hearing to the petitioner in the matter. The petitioner, for the said purpose, shall submit a certified copy of this order before the Director, Textile and Handicraft for taking the matter forward, within a period of 7 (seven) days from the date of receipt of a certified copy of this order.

11. Till the representation of the petitioner is disposed of in the manner directed, hereinabove, the order of transfer dated 08.02.2023, insofar as it

concerns the petitioner, herein, as well as the order of release, dated 22.02.2024, shall be kept in abeyance and the petitioner shall be allowed to continue in her services as LDC in the Office of the Deputy Director, Textile and Handicraft, Papum pare District, Yupia.

12. With the above observations and directions, the writ petition stands disposed of.

JUDGE

Comparing Assistant