

GAHC040009862024



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

Case No. : WP(C)/315/2024

Jipak Lomdak
Son of Late Taji Lomdak, Block Resource Centre Coordinators, Puchigeko, PO Raga,
PS Raga, District Kamle, Arunachal Pradesh

VERSUS

The State of AP and 4 Ors
represented by the Secretary Education, Govt of Arunachal Pradesh 2:The
Deputy Commissioner
Age: 0
Occupation :

3:The DDSE cum District Project Officer
Age: 0
Occupation :

4:Rotom Tibin
Age: 0
Occupation :

5:T B Don
Age: 0
Occupation

Advocate for the Petitioner : Binny Nyaruce

Advocate for the Respondent : GA (AP)

**BEFORE
HONBLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

09.08.2024

1. Heard Mr. B. Nyaruce, learned counsel for the petitioner. Also heard Mr. T. Tagum, learned Standing Counsel for the Education Department, State of Arunachal Pradesh representing the respondent Nos. 1 and 3 and Ms. P. Pangu, learned State Counsel representing the respondent No. 2.
2. The present writ petition is filed by the petitioner assailing transfer order dated 31.07.2024 issued by the respondent No. 3, transferring the petitioner from the post of BRCC, Puchigeko, Kamle District, Arunachal Pradesh to the post of TGT, GUPS, Hankar, Kamle District, Arunachal Pradesh.
3. The fundamental grounds of such challenge are that the transfer order has been issued for the reason of the petitioner not being a supporter of ruling political party and that health condition of the petitioner does not permit to travel to such a distant place of posting, who is stated to be having difficulty in walking due to his multiple fracture in legs and the repair thereof done in a surgery in the month of April, 2024.
4. Mr. Tagum, learned Standing Counsel for the Education Department, submits that the transfer order was issued in the public interest and it is a regular transfer order whereby, different persons were transferred. It is the further case of the Education Department that the petitioner's appointment as BRCC is not substantive post and therefore, the same cannot be termed as transfer inasmuch as he is put back to his substantive post.
5. At this stage, the learned counsel for the petitioner submits that his employer being a model employer should examine his prayer for staying the transfer order for the reason of his health condition inasmuch as under the transfer-policy, the employer need to consider such ground. Accordingly, he submits that the

respondents may be directed to consider his case on the health ground.

6. In view of the aforesaid, this Court is also of the view that as a model employer, when a grievance is raised, the State should consider the same in accordance with law. The transfer policy 2019-20, also permits such consideration involving certain health conditions.
7. In view of the aforesaid, the present writ petition stands disposed of at the motion stage directing the respondent No. 3 to consider the case of the petitioner. The petitioner is permitted to file a fresh representation before the respondent No. 3, within a period of one week from today and if such representation is filed within the period fixed, the respondent No. 3 shall consider the same in accordance with law and such decision be taken within a period of two weeks from the date of receipt of the representation to be filed by the petitioner.
8. Till such representation is disposed of, it is provided that the status quo as regards posting of the petitioner as on 07.08.2024 shall be maintained.
9. In terms of the aforesaid decisions and directions, this writ petition stands disposed of.

JUDGE

Comparing Assistant