

GAHC040012232024



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

Case No. : WP(C)/413/2024

Dr. Bobby Taipodia
Wife of Dr. Samson Borang, resident of Village Mirbuk, PO and PS Pasighat, East Siang District, Arunachal Pradesh and presently serving as GDMO, Sille, East Siang District, Govt of Arunachal Pradesh.

VERSUS

The State of AP and 3 Ors
represented by the Commissioner (Health and Family Welfare) Govt of Arunachal Pradesh, Itanagar. 2:The Commissioner
Age: 0
Occupation :
Health and Family Welfare
Govt of Arunachal Pradesh
Itanagar.

3:The Under Secretary
Age: 0
Occupation :
Health and Family Welfare-II
Govt of Arunachal Pradesh
Itanagar.

4:The Director of Health Services
Age: 0
Occupation :
Govt of Arunachal Pradesh
Naharlagun

Advocate for the Petitioner : Rage koyu, Tana Roma Tara,Nikh Jelly,Hage Tai,Likha Tabin

Advocate for the Respondent : Taba Tagum, SC(Health)

**BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE**

ORDER

Date : 13-09-2024

Heard Mr. R. Koyu, learned counsel for the petitioner. Also heard Mr. T. Tagum, learned Standing counsel for the Health and Family Welfare Department, Government of Arunachal Pradesh representing all the respondents.

2. Considering the nature of prayer and the grievance raised, this petition is disposed of at the motion stage itself.

3. The challenge made in this writ petition is to the impugned order dated 20.08.2024, issued by the Commissioner (Health & Family Welfare) Government of Arunachal Pradesh, whereby, as many as 31 (thirty-one) Medical Officers/GDMOs (Allopathy) have been transferred, including the petitioner, who is sought to be transferred from PHC Sille under DMO East Siang District to District Hospital Hayuliang under DMO Anjaw.

4. The petitioner is SMO (SG) (Allopathy), who is serving at PHC, Sille, on being posted in the year 2021, for the last 3 (three) years. The petitioner has challenged the impugned order on the ground that she has filed a representation on 27.08.2024 before the respondent No. 2, i.e. the Commissioner (Health & Family Welfare), Government of Arunachal Pradesh for review/retention of the petitioner at PHC Sille on the ground that her daughter, who is special child with 40% permanent disability needs her care and nursing. Her daughter is studying in Class-XII, who will

be appearing for CBSE Examination in the month of February to April, 2025, from Siang Royal School, Pasighat, East Siang District. The other ground, which the petitioner has projected is to the effect that the Transfer & Posting Policy dated 18.10.2023, which regulates the transfer and posting of doctors serving under the Department of Health & Family Welfare, Government of Arunachal Pradesh, has special emphasis on the timeline, medical ground and reliever. However, while issuing the impugned transfer order in respect of the petitioner, the authorities have failed to consider the conditions stipulated under the aforesaid policy.

5. Mr. R. Koyu, learned counsel for the petitioner submits that apart from the hardship that would be faced by the petitioner, in view of her daughter being 40% permanently disabled, who needs special care and the examination of Class-XII that would be held in the Month of April, 2025, as the child is studying in Siang Royal School, Pasighat, East Siang District, non-consideration on the timeline and other conditions stipulated in the said policy is arbitrary and as such, impugned transfer order in respect of the petitioner is not sustainable. He submits that the respondent authorities are duty bound to consider the hardships faced by the petitioner and also to follow the professed norms as enshrined in the Transfer & Posting Policy dated 18.10.2023. He further submits that since the petitioner has moved a representation for her retention on the above grounds, the respondent authorities may be directed to consider and allow the petitioners to continue at PHC, Sille, till the month of May, 2025.

6. Mr. T. Tagum, learned Standing counsel for the Health & Family Welfare Department, fairly submits that he would not have any objection

as regards disposal of the representation by the respondent authorities.

7. Having considered the submissions, without commenting on the merits of the claim of the petitioner, I deem it appropriate to dispose of this writ petition with a direction to the respondent authority to consider and dispose of the representation filed by the petitioner.

8. Accordingly, the respondent authority, particularly, the respondent No. 2, i.e. the Commissioner (Health & Family Welfare), Government of Arunachal Pradesh, is directed to take on the representation of the petitioner and consider and dispose of the same, within a period of 20 (twenty) days from today.

9. The petitioner is at liberty to file a detailed representation in addition to the representation already submitted by the petitioner on 27.08.2024.

10. Till the disposal of the representation, the impugned order dated 20.08.2024, issued by the Commissioner (Health & Family Welfare) Government of Arunachal Pradesh, in respect of the petitioner, shall not be given effect to.

11. The writ petition stands disposed of, in terms above.

JUDGE

Comparing Assistant