

GAHC040012642024



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

Case No. : WP(C)/428/2024

Vijay Kumar Gupta
Son of Muni Lal Gupta, District Longding, Arunachal Pradesh.

VERSUS

The State of AP and 3 ors
represented by the Commissioner/ Secretary, Public Work Department, Govt of
Arunachal Pradesh, Itanagar. 2:The Chief Engineer

Age: 0

Occupation :

Central Zone-B

PWD

Govt of Arunachal Pradesh

Pasighat

East Siang District. Arunachal Pradesh.

3:The Superintending Engineer

Age: 0

Occupation :

Khonsa Circle

3rd Floor Niman Bhawan

0 point Tinali

Itanagar

Papumpare District

Arunachal Pradesh.

4:The Executive Engineer

Age: 0

Occupation :

Kanubari Division

PWD

Longding District

Arunachal Pradesh

Advocate for the Petitioner : Uttam Deka, Wanglat Khomrang, Nannu Yubi, Maji Dui, M Lego, Tame Rimi, K Gara, N Tania, Chorpok Modi

Advocate for the Respondent : GA (AP),

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 20.09.2024

Heard Mr. C. Modi, learned counsel for the petitioner. Also heard Ms. G. Ete, learned Govt. Advocate appearing for the respondents.

2. The learned counsel for the petitioner has submitted that the petitioner was previously transferred by order dated 31.05.2023 and thereafter, he was again transferred by an order dated 30.08.2024 from Namsai to Pasighat in a short tenure. It is also projected that the petitioner is suffering from certain eye ailments, which is supported by the medical documents annexed to this writ petition. It is submitted that against the transfer, the petitioner has submitted a representation before the authorities on 10.09.2024 for retaining him at Kanubari and accordingly, the present writ petition has been filed under Article 226 of the Constitution of India for interfering with the transfer order dated 30.08.2024.

3. Ms. G. Ete, learned Additional Senior Govt. Advocate has opposed the prayer made in the writ petition and it is submitted that the transfer is the prerogative of the employer and therefore the Court ought not to interfere with that.

4. The Office Order dated 31.05.2023 discloses that in partial modification of the Office Order dated 25.05.2023, the petitioner was re-posted

to the office of the Executive Engineer, Kanubari Division. Accordingly, the order dated 31.05.2023 is not an order of transfer and therefore, it is only an order of re-posting. Therefore, the petitioner has been transferred only by order dated 30.08.2024 from the office of the Executive Engineer, Kanubari Division, PWD to the office of the Chief Engineer, Central Zone-B, PWD, Pasighat.

5. On a perusal of the representation dated 10.09.2024, which is addressed by the petitioner to the Superintending Engineer, Coordination, PWD, we note that the said representation was sent by registered post on 13.09.2024. There is no material to show that the said representation has been received by the competent authority.

6. As we find that this is the first transfer of the petitioner, the Court does not find any merit to entertain the writ petition. The earlier tenure of the petitioner in the earlier place of posting is not disclosed in this writ petition. Accordingly, the writ petition stands closed.

7. Be that as it may, before parting writ the records, as the learned counsel for the petitioner has submitted that medical documents annexed to this writ petition discloses that the petitioner is suffering from eye cancer, the Court is of the considered opinion that the petitioner be given liberty to send the representation dated 10.09.2024 to the Superintending Engineer, Coordination, PWD by email along with a scanned copy of the certified copy of this order with all medical documents.

8. On receipt of said representation, the Superintending Engineer, Coordination, PWD shall take a decision on the said representation within a period of 10 (ten) days.

9. In the event the Superintending Engineer, Coordination, PWD is not

the competent authority, he would forward the said representation to the competent authority at the earliest.

10. It is also provided that any order which is passed on the representation submitted by the petitioner shall be communicated to the petitioner at his email address to be disclosed by the petitioner and such a reply would construe due service of reply to the petitioner.

2. Till the period of 10 (ten) days calculated from 23.09.2024 and/or disposal of the representation, the Superintending Engineer, Coordination, PWD shall not initiate any coercive steps against the petitioner.

JUDGE

Comparing Assistant