

GAHC040013572024



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

Case No. : WP(C)/453/2024

Dunying Padung
Son of Shri Taring Padung, resident of Yemsing Village, PO Kebang, PS Pangin,
Siang District, Arunachal Pradesh.

VERSUS

The State of AP and 2 Ors
represented by the Secretary (Power) Govt of Arunachal Pradesh, Itanagar.

2:The Superintending Engineer (E)
Age: 0
Occupation :
Electrical Circle H-Department of Power
Pasighat,
Arunachal Pradesh.

3:The Assistant Engineer
Age: 0
Occupation :
Department of Power
Siang District
Boleng
Arunachal Pradesh

Advocate for the Petitioner : Nalo Pada, Joshep Gao,Juel Saroh,Bomnya Kamdak

Advocate for the Respondent : Lissing Perme, SC(Power)

**BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE**

ORDER

Date : 04-10-2024

Heard Mr. N. Pada, learned counsel for the petitioner. Also heard Mr. L. Perme, learned Standing counsel for the Power Department, representing all the respondents.

2. By filing this writ petition, the petitioner has challenged the transfer order dated 16.09.2024, passed by the Superintending Engineer (E), Arunachal Pradesh Electrical Circle No.-H, Department of Power, Pasighat, whereby, the petitioner is sought to be transferred from Yemsing village under Pangin Electrical Sub-Division to Tuting Electrical Sub-Division under Yingkiong Electrical Division.

3. The petitioner was appointed as Unskilled Casual Labourer in the Department of Power, Government of Arunachal Pradesh on 29.05.2007 and since then, he has been posted at different places like Pangin, Rumgong, Kebang etc within the District of Siang. At present he is serving at Yemsing, under Pangin Electrical Sub-Division.

4. While the petitioner was serving at Yemsing, vide order dated 16.09.2024, the Superintending Engineer (E), Arunachal Pradesh Electrical Circle No.-H, Department of Power, Pasighat, has posted the petitioner by attaching him to the Assistant Engineer (E), Tuting Electrical Sub-Division under Yingkiong Electrical Division.

5. Mr. N. Pada, learned counsel for the petitioner submits that a bare

perusal of the impugned order dated 16.09.2024 clearly indicates that the monthly wages of the petitioner will continue to be drawn from the Pangin Electrical Sub-Division, under Rumgong Electrical Division, which goes to show that the Casual Labourers are transferred within a District only. He submits that since the petitioner is a Casual Labourer, he cannot be posted to other Districts. Mr. Pada, learned counsel submits that as per the Transfer and Posting Guidelines, which is a professed norm, in the State of Arunachal Pradesh, vide circular dated 28.05.1998, a Group-D employee can be posted in his home District/Town or village. That apart, Mr. Pada submits that the petitioner is suffering from asthma for which the Doctor has advised him to avoid high altitude areas. Since Tuting is located at a very high-altitude, there is risk to his life because of his asthmatic condition. Therefore, he submits that the respondent authority particularly the respondent No. 2, namely, the Superintending Engineer (E), Arunachal Pradesh Electrical Circle No. - H, Department of Power, Pasighat, may be directed to consider the case of the petitioner and cancel the impugned order dated 16.09.2024 and the petitioner may be allowed to continue at Yemsing village under Pangin Electrical Sub-Division.

6. Mr. N. Pada, learned counsel submits that the petitioner has submitted a representation before the Superintending Engineer (E), Arunachal Pradesh Electrical Circle No.-H, Department of Power, Pasighat on 30.09.2024 with a prayer to cancel or recall his transfer by reconsidering the impugned transfer order dated 16.09.2024 and to retain him at his present place of posting at Yemsing village under Pangin Electrical Sub-Division. However same has not been considered as on date.

7. Mr. L. Perme, learned Standing counsel, Power Department, for the respondents, submits that since the inception of his appointment, the petitioner has been allowed to serve at Siang District without transfer to other Districts. Therefore, in the exigency of work, the petitioner is posted to Tuting Electrical Sub-Division. There is no ground for interference as the grounds set forth in the petition cannot be considered for interfering with the impugned transfer order which has been issued in the exigency of work. However, he would not have any objection if this Court direct the authorities to dispose of the representation of the petitioner, which has admittedly not been disposed of as on date.

8. Having considered the submissions of the learned counsels for the parties and after going through the materials placed on record, this Court finds no ground for interference with the impugned transfer order dated 16.09.2024, passed by the respondent authorities.

9. It is trite law that transfer and posting of government servant is an incidence of service. Unless there is any violation of statutory provisions, or transfer order is vitiated by *mala fides*, the Court would loathe to interfere with the transfer and posting order. While ordering the transfer, no doubt, the authority must keep in mind the guidelines issued by the Government. Similarly, if a Government Servant makes any representation, the authority must consider the same having regard to the exigencies of administration.

10. In the present case, although the petitioner has projected that the petitioner cannot be posted out from the District, which is supported by the impugned order to the effect that the monthly wages of the petitioner

will continue to be drawn from the Pangin Electrical Sub-Division, under Rumgong Electrical Division Electric Division and also stated to have ailment of asthma, this Court finds no cogent ground to interfere with the transfer order.

11. However, since the petitioner has submitted his representation against the impugned transfer order dated 16.09.2024, I deem it appropriate to direct the respondent No. 2 i.e., the Superintending Engineer (E), Arunachal Pradesh Electrical Circle No.-H, Department of Power, Pasighat, to consider and dispose of the representation submitted by the petitioner.

12. Accordingly, the respondent No. 2 is directed to consider and dispose of the representation of the petitioner dated 30.09.2024, and pass an appropriate order, within a period of 20 (twenty) days from the date of receipt of the certified copy of this order.

13. Till the disposal of the representation, *status-quo* in respect of the transfer and posting of the petitioner, as on today, shall be maintained.

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

JUDGE

Comparing Assistant