

GAHC040014482024



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

Case No. : WP(C)/487/2024

Kijen Rangsong
Junior Engineer (C), posted at Laju Sub Division, C/o Office of the Executive Engineer, Khonsa Division, PWD, Arunachal Pradesh Son of Late Shri Komok Rangsong, resident of Laju Village, Po and PS Laju, Tirap District, Arunachal Pradesh.

VERSUS

The State of AP and 2 Ors
represented by the Commissioner, PWD, Govt of Arunachal Pradesh, Itanagar.

2:The Superintending Engineer

Age: 0

Occupation :

Coordination

PWD

Govt of Arunachal Pradesh

Itanagar.

3:Gyati Anda

Age: 0

Occupation :

Superintending Engineer

Kijon Rangsong

PWD

Arunachal Pradesh

Itanagar

Advocate for the Petitioner : C W Mantaw, 2 J Singpho,M Gogoi

Advocate for the Respondent : GA (AP),

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 11.11.2024

Heard Mr. C. W. Mantaw, learned counsel for the petitioner through VC. Also heard Mr. N. Ratan, learned Additional Advocate General for the State respondents.

2. This writ petition under Article 226/227 of the Constitution of India is directed against the impugned order dated 09.10.2024, issued by the Superintending Engineer, Coordination, PWD, A.P., Itanagar vide No. SE(Coordination)/E-II/6/2024-25/563, whereby the petitioner has been transferred from his present place of posting at the Office of Executive Engineer, Khonsa Division, PWD, AP to the Office of the Executive Engineer, Ziro Highway, PWD, AP.

3. In pursuant to the order dated 04.11.2024, the State respondents have received the instructions from the concerned department, which is placed before this Court.

4. Mr. Mantaw, learned counsel for the petitioner, submitted that the order of transfer itself is illegal and there is no mention about any public interest or administrative exigency in the order passed by the concerned department. More so, representation filed by the petitioner on 25.10.2024 is still pending for consideration, which is absolutely against the settled law governing the transfer

and posting of a government employee. As the order has been passed without any mention of public interest or administrative exigency, it can be reasonably construed and believed that it is an act of arbitrariness and *mala fide* on the part of the issuing authority. He further submitted that it is the domain and authority of the appointing authority to transfer an employee from a particular place for the purpose of public interest and administrative exigency, but the appointing authority cannot exercise the power of transfer and posting in an arbitrary manner at their own whims and caprice.

5. It is further submitted by Mr. Mantaw that after receiving the impugned transfer order on 21.10.2024 at the office of the Executive Engineer, PWD, Khonsa, the petitioner submitted the representation dated 25.10.2024 before the Office of the Superintending Engineer, Coordination, PWD, Arunachal Pradesh, Itanagar for cancellation of the impugned transfer order on the medical ground as he is a patient of acute abdominal pain for which he is required to periodically visit his attending doctor for his treatment. However, the authority has not disposed of his representation till date. Accordingly, Mr. Mantaw submitted that the transfer order passed by the authority concerned is illegal and arbitrary and the same has been passed with *mala fide* intention without any mention of public interest and administrative exigency. He, therefore, submitted that State Authority may be directed to dispose of his representation dated 25.10.2024 wherein he prayed for cancellation of order of transfer on the medical ground.

6. Mr. Ratan, learned Additional Advocate General, submitted in this regard that from the instruction received from the Department concerned, it is seen

that the present petitioner was appointed as Junior Engineer (Civil) in the year 2012 vide No. SE(Coord.)/E-II/8/2012-13/959, dated 14.08.2012, and since then, he has been posted at Khonsa Division. He has already completed his 12 years of service in the said Division since his date of posting. More so, the Department has to pass the transfer order as the Ziro Highway Division is running acute shortage of Junior Engineer and the said Ziro Highway Sub-Division is looking after the two packages of Trans Arunachal Highway (TAH) from Potin to Pamruk, 90 KM length and for that reason also, the order has to be passed by the Department concerned to look after the two prestigious packages of Trans Arunachal Highway from Potin to Pamruk via Ziro. But, suppressing the fact that he was posted at his present place of posting for last 12 years, the present petition has been filed by the petitioner challenging the order of transfer, which was issued only considering the public interest and administrative exigencies. Accordingly, Mr. Ratan submitted that if the transfer order is stayed or if any order is being passed for disposal of his representation, it will send a wrong message to the public as the petitioner filed his representation only to get some undue advantage wherein he was discharging his duty for last 12 years.

7. Mr. Mantaw, learned counsel for the petitioner, submitted in this regard that he made his representation only on the ground of his illness and the direction may be given to the Department concerned to dispose of his representation within a short time.

8. After hearing the submissions made by the learned counsels for both sides and also on perusal of the case record, it is seen that in the impugned order of transfer dated 09.10.2024 there is no mention about the public interest or

administrative exigency. But, after hearing the submission made by the learned Additional Advocate General, it is seen that the petitioner has been posted at his present place of posting at Khonsa for last more than 12 years. However, the fact that the representation of the present petitioner, dated 25.10.2024, is still pending consideration before the authority concerned, I hereby dispose the present writ petition at the motion stage itself directing the respondent authorities, more particularly, the respondent No. 2- The Superintending Engineer, Coordination, PWD, Arunachal Pradesh, Itanagar to dispose of the representation dated 25.10.2024, submitted by the present petitioner, within a period of 1 (one) month from today by passing an speaking order. And, till the disposal of the representation, the impugned order of transfer dated 09.10.2024, issued by the Superintending Engineer, Coordination, PWD, A.P., Itanagar vide No. SE(Coordination)/E-II/6/2024-25/563, shall not be given effect by the respondent authorities.

9. In terms of above, this writ petition stands disposed of.

JUDGE

Comparing Assistant