

GAHC010042662024



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

Case No. : WP(C)/1218/2024

ABHIRAM DAS
S/O ANANDA MOHAN DAS,
RESIDENT OF KAWATIKA, PO KAWATIKA, PS BIJNI, DIST CHIRANG,
ASSAM 783390

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM,
DEPARTMENT OF REVENUE AND DISASTER MANAGEMENT GUWAHATI
06

2:THE BODOLAND TERRITORIAL COUNCIL
REPRESENTED BY THE PRINCIPAL SECRETARY
BTC. KOKRAJHAR
ASSAM

3:THE DEPUTY SECRETARY
BODOLAND TERRITORIAL COUNCIL
KOKRAJHAR
ASSAM 783370

4:THE DIRECTOR OF LAND RECORDS AND SURVEY
BODOLAND TERRITORIAL COUNCIL
KOKRAJHAR
ASSAM 783370

5:THE DISTRICT COMMISSIONER

BONGAIGAON
ASSAM 783380

6:THE DISTRICT COMMISSIONER

BAKSA
MUSHALPUR
ASSAM 78137

Advocate for the Petitioner : MR. M U MAHMUD

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

04.03.2024

Heard Mr. M.U. Mahmud, learned counsel for the petitioner. Also heard Ms. R.B. Bora, learned Standing Counsel, BTC; Mr. T.C. Chutia, learned Addl. Sr. Government Advocate and Mr. J. Handique, learned Standing Counsel, Revenue.

This writ petition is filed by the petitioner putting to challenge the transfer of the writ petitioner to Bijni Revenue Circle in the District of Chirang to Barama Revenue by the impugned order dated 26.09.2022.

On the last date, when the matter was listed, the learned counsel representing the Revenue Department Mr. J. Handique and Ms. R.B. Bora, learned Standing Counsel, BTC has referred to the orders of the Court to say that the writ petition was dismissed and against that an appeal was preferred and the Division Bench dismissed the appeal on a concession made by the learned counsel representing the appellant (namely the writ petitioner herein) that he may be permitted to remain and serve in Bijni Revenue Circle for a further period of three months only.

The learned counsel for the petitioner submits that there are some changes

with regard to transfer policy in case of Government Employees who has disabled children or parents or spouse, if the said employee is a caregiver of such dependent disabled children or parents or spouse. This notification of the Government of India is dated 08.10.2018. It is submitted by the learned counsel for the petitioner that this notification was not placed before the Court in the earlier round of litigation and therefore the present writ petition has been filed.

Upon hearing the learned counsel for parties and upon careful perusal of the orders passed by the Court more particularly the order dated 18.11.2023 passed in W.A. No. 423/2023, at the submission of the learned counsel for the appellant, the writ appeal was dismissed permitting the appellant to remain and serve for a period of three months which is upto 29.02.2024.

In terms of the Division Bench order, after expiry of 29.02.2024, petitioner is required to go in his new place of posting. However, he has now challenged this transfer and posting order placing reliance of the OM dated 08.10.2018.

Upon careful consideration of the submissions made, it is seen that there is no averment made that this OM was not available with the petitioner at the time when the matter was heard in the earlier round of litigation.

The learned counsel for the petitioner fairly submits that this OM although issued as far back as 2018 was not available and therefore at this stage he would like to withdraw the writ petition with a liberty to file a review before the appropriate forum.

Upon such submission, the writ petition stands dismissed with liberty to file as prayed for.

JUDGE

Comparing Assistant