

GAHC010050902023



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

Case No. : WP(C)/1471/2023

CT/GD JAYANTA KUMAR RAY
FORCE NO. 065095085, S/O- LATE ASWINI KUAMR RAY, PRESENTLY
POSTED 175 BATTALION, CENTRAL RESERVE POLICE FORCE, AZARA,
RANI, KAMRUP, ASSAM, PIN- 781017.

VERSUS

THE UNION OF INDIA AND 5 ORS
REPRESENTED BY THE SECRETARY, MINISTRY OF HOME AFFAIRS, NEW
DELHI-110001.

2:THE DIRECTOR GENERAL
CENTRAL RESERVE POLICE FORCE
CENTRAL GOVT. OFFICE COMPLEX
NEW DELHI-110003.

3:THE INSPECTOR GENERAL OF POLICE
NORTH EASTERN SECTOR CENTRAL RESERVE POLICE FORCE
SHILLONG
MEGHALAYA
PIN- 793001.

4:THE INSPECTOR GENERAL (MEDICAL)
MEDICAL SUPERINTENDENT
COMPOSITE HOSPITAL
CENTRAL RESERVE POLICE FORCE
GUWAHATI
PIN- 781023.

5:THE DY. INSPECTOR GENERAL OF POLICE
CENTRAL RESERVE POLICE FORCE
GROUP CENTRE

DAYAPUR
SILCHAR
ASSAM
PIN- 788031.

6:THE COMMANDANT
175 BATTALION
CENTRAL RESERVE POLICE FORCE
AZARA
RANI
KAMRUP
ASSAM
PIN- 781017

Advocate for the Petitioner : MR. R MAZUMDAR

Advocate for the Respondent : DY.S.G.I.

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

27.02.2024

Heard Mr. R. Mazumdar, learned counsel for the petitioner. Also heard Mr. B. Chakravarty, learned CGC for the respondents.

2. This writ petition has been filed by the petitioner who is employed as a Constable (General Duty) under the CRPF. During his service, the petitioner suffered from serious medical ailments and had to undergo medical treatment. The petitioner has approached this Court putting to challenge the transfer order dated 22.02.2023 (Annexure-10, Page 80 of the writ petition) whereby the petitioner was transferred from 175-Battalion (BN) to 110-Battalion (BN). This Court while issuing Notice had issued an interim order dated 15.03.2023 suspending the transfer order. This interim order is subsisting till date.

3. Today when the matter is called up, it is submitted by the learned counsel

at the bar that because of his medical condition, there is an opinion rendered by the Medical Board of the Composite Hospital Group Centre, CRPF that the petitioner has not been found fit for service and has therefore been brought to Medical Category P-5.

4. The learned counsel for the petitioner submits that in view of this decision of the Medical Board finding him not fit for service, he will now be invalidated out of service by the process prescribed under the Rules. It is submitted that the entire process is likely to take in a month or so.

5. Per contra, Mr. B. Chakravarty, learned counsel appearing for the CRPF submits that in view of the finding by the Medical Board that he is being reduced to medical category P-5 and found not fit for service, no cause remains in the writ petition and the same has become infructuous as on date.

6. Mr. R. Mazumdar, learned counsel for the petitioner on the other hand submits that his challenge in the writ petition was to the transfer order dated 22.02.2023 and the writ petition will become infructuous only upon any order being passed by the competent authority invalidating the writ petitioner out of service pursuant to the Medical Board opinion. However, as on date, the order of invalidation has not yet been served on the writ petitioner. He therefore, submits that considering the petitioner's severe medical condition particulars of which are described in the writ petition and the hardship that he is facing. Consequently , he submits that the writ petition may be closed making the interim order absolute.

6. Upon hearing the learned counsel for the parties, it is seen that the interim order dated 15.03.2023 in respect of the transfer order is still subsisting. A communication dated 24.02.2024 is placed before the Court today by the

respondent. This communication is issued by the competent authority indicating that upon necessary screening of the writ petitioner who appeared before the Medical Board, he was categorized as Medical Category P5 (P) on 08.02.2024 with the remarks of the board that he is not found fit for service.

7. Under such circumstances as have been submitted at the bar that having not been found fit for service, petitioner is now required to be invalidated out of service under the CRPF Act and Rules. This process is likely to carry out shortly by the competent authorities as submitted by the learned counsel for the respondents.

8. Under such circumstances, once the writ petitioner is invalidated out of service, his prayer for setting aside the transfer order will become infructuous.

9. Accordingly, at this stage, taking into consideration the submissions advanced that the Bar that the petitioner has been categorized in the Low Medical Category P5 and which is not disputed by the writ petitioner and the steps necessary for invalidating the petitioner for out of service be carried out by the respondent authority as per the provisions of the Act, this writ petition stands closed. Till such order is passed invalidating the writ petitioner out of service, the interim order passed by this Court staying the transfer order dated 22.02.2023 shall continue to operate.

10. Once the invalidation order is issued, the interim order stands vacated without any further reference to this Court.

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

JUDGE

Comparing Assistant