

GAHC010061432024



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

Case No. : WP(C)/1685/2024

DR. SIVA PRASAD BORA
S/O LT. KRISHNA KANTA BORA, R/O H.NO. 187, SWAGATAM PATH,
RAJGARH ROAD, GUWAHATI-781007

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF
ASSAM, HEALTH AND FAMILY WELFARE DEPARTMENT, DISPUR,
GUWAHATI-6

2:THE JOINT SECRETARY TO THE GOVERNMENT OF ASSAM
HEALTH AND FAMILY WELFARE DEPARTMENT
DISPUR
GUWAHATI-6

3:THE DIRECTOR OF HEALTH SERVICES
ASSAM
HENGRABARI
GUWAHATI-3

Advocate for the Petitioner : MR. I CHOWDHURY SR ADV

Advocate for the Respondent : SC, HEALTH

BEFORE
HONOURABLE MR. JUSTICE NELSON SAILO

ORDER

21.03.2024

Heard Mr. I. Choudhury, learned Senior Counsel assisted by Mr. S. Biswakarma, learned counsel for the petitioner. Also heard Mr. D.P. Borah,

learned Standing Counsel, Health Department.

Having regard to the projection made by the petitioner, the writ petition is taken up for disposal at this stage.

The grievance projected by the petitioner is against the transfer notification dated 16.03.2024 (Annexure-D) by which the petitioner, SDM & HO, Sonapur District Hospital, Kamrup (M) attached at Kamakhya State Dispensary has been transferred and posted at Kumarbandha BPHC, Golaght . The respondent authority has directed him to join the new place of posting within 7 (seven) days vide notification dated 16.03.2024.

It is the case of the petitioner that he is looking after his ailing mother who is about 85 (eighty five) years old and who is on life support. Therefore, if the transfer order is given effect to, there will be no one to look after his mother and which will be detrimental to her. Learned Senior Counsel for the petitioner also submits that the petitioner's mother in fact had submitted a representation before the Joint Secretary to the Government of Assam, Health and Family Welfare Department on 17.03.2024 but the same has not been considered and disposed of till date by the respondent authority and hence, the instant writ petition.

Mr. D.P. Borah, learned Standing Counsel, Health Department submits that as per the instructions received by him, the Joint Secretary has not received the representation said to have been submitted by the mother of the petitioner. He further submits that as per the standing guidelines of the State Government, the transferee has to first join the new place of posting and only thereafter he/she can submit representation. He further submits that if the petitioner does not join the new place of posting, the same will cause a precedent in respect of other transferees as well.

Upon considering the materials available on record and the submissions made by the learned counsel for the parties, this Court is of the considered view that the petitioner should be given an opportunity to submit a fresh representation and which should be considered by the respondent authority concerned within a time frame. The said view is taken considering the fact that as per the impugned transfer notification dated 16.03.2024, no prejudice will be caused to any other transferee since there is no replacement against the transfer of the petitioner and likewise no one is required to replace him in his old place of posting.

Accordingly, the writ petition is disposed of with a direction to the petitioner to submit a concise representation along with all the supporting documents as he may like to produce, within a period of 3 (three) days from today before the Commissioner & Secretary to the Government of Assam, Health and Family Welfare Department. The said authority upon receipt of the same shall consider and dispose of the representation by way of a speaking order within time frame of 2 (two) weeks from the date of receipt of the same. Until the representation of the petitioner to be finally disposed of by the said authority, *status quo* shall be maintained as on today.

JUDGE

Comparing Assistant