

GAHC010086362022



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

Case No. : WP(C)/2970/2022

NAYANJYOTI DAS
S/O- ATUL CHANDRA DAS
SATGAON ROAD, OPPOSITE SONAI MIKIR PATH
P.S- SATGAON, P.O- UDAYAN VIHAR
GUWAHATI-
PIN-781171

VERSUS

ASSAM GRAMIN VIKASH BANK AND ANR.
HEAD OFFICE AT BHANGAGARH,
G.S ROAD, BHANGAGARH,
GUWAHATI-781005

2:THE REGIONAL MANAGER
ASSAM GRAMIN VIKASH BANK
KOKRAJHA

Advocate for the Petitioner : MR. B K BHATTACHARJEE

Advocate for the Respondent : SC, A G V B

**BEFORE
HONOURABLE MR. JUSTICE NELSON SAILO**

ORDER

14.03.2024

Heard Mr. R Sharma, learned counsel for the petitioner and Mr. S Dutta, learned Senior Counsel assisted by Mr. S Dutta for respondents. By filing this writ petition, the petitioner has challenged the Transfer Order dated 18.01.2022 by which he has been transferred from Darrangiri Branch to Bazarghat, Silchar. It is the case of the petitioner that he was transferred from Bengtol Branch in Kokrajahar to Darrangiri Branch vide Transfer Order dated 30.10.2021 and barely after six months, the impugned transfer Order dated 18.04.2022 has been issued. He, therefore, submits that the impugned transfer order should be set aside. The petitioner is working as Assistant Manager under the Assam Gramin Vikash Bank and it is also his case that the Bank has a transfer policy which provides that all officers are to be transferred every three years and only in case of administrative exigencies, one can be transferred before completion of three years. It is the further case of the petitioner that after being posted for two tenures in one region i.e. for six years, the officer concerned should be transferred to another region. However, the respondent authority, without adhering to the transfer policy, has transfer the petitioner within a span of about six months in the same region and therefore, the impugned action of the authority concerned should be interfered with. The learned counsel submits that although the transfer policy may not have a statutory force but nevertheless, since the same being a transfer policy, it should be adhered to by the respondent Bank.

[2.] Mr. S Dutta, learned Senior Counsel appearing for the respondents, on the other hand, submits that the petitioner nowhere in the writ petition has

alleged mala fide or the action taken by the respondent authority to be arbitrarily. He submits that the transfer policy is only a guideline and does not have statutory force. He submits that it is a settled position in law that unless there is mala fide in the issuance of a transfer order or in violation of a statutory law, transfer orders should not be interfered with by the Court. He submits that in the instant case, there is nothing on record to show that there has been mala fide intention on the part of the respondent Bank in transferring the petitioner. The petitioner has also not made any allegation in that regard. In such circumstance, the transfer which has been made being in the form of routine transfer and in administrative exigency, no interference of the transfer order is called for. He submits that in support of his submission, the learned Senior Counsel relied upon the following authorities:-

(1) Rajendra Singh & Ors. Vs. State of Uttar Pradesh, (2009) 15 SCC 178.

(2) State of U.P & Ors. Vs. Gobardhan Lal, (2004) 11 SCC 402.

(3) Pramath Ch. Sarma vs. State of Assam & Ors., 2007 (2) GLR 152.

[3.] I have heard the submissions made by the learned counsels for the rival parties and I have perused the materials available on record.

[4.] From the facts projected by the petitioner, it is seen that the petitioner was transferred from Bengtol Branch to Darrangiri Branch vide Order dated 30.10.2021. Thereafter, vide Order dated 18.04.2022, he was transferred from

Darrangiri Branch to Bazarghat, Silchar which is more or less after six months from the date of the first transfer. The petitioner, on account of certain medical condition of his wife, availed for leave from 29.04.2022 to 21.05.2022 and the same was granted to him. The petitioner also approached this Court against the impugned transfer order and this Court vide interim order dated 09.05.2022 stayed the impugned transfer order. It, therefore, appears that the petitioner has remained in Darrangiri Branch pursuant to his transfer on 30.10.2021, for about two and half years now. The law with regard to transfer and posting is well settled. Unless there is some mala fide on the part of the authority concerned issuing the transfer order or that the transfer order issued in violation of the statutory law in force, the Court is normally slow in interfering with the transfer order.

[5.] The learned Senior Counsel has relied upon the case of *Gobardhan Lal* (supra), wherein the Apex Court in the given facts of that case observed that even administrative guidelines for regulating transfers or containing transfer policies at best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequence of depriving or denying the competent authority to transfer a particular officer/servant to any place in public interest and as is found necessitated by exigencies of service as long as the official status is not affected adversely and there is no infraction of any career prospects such as seniority, scale of pay and secured emoluments. The said principal was also followed by a Division Bench of this Court in *Pramath Ch. Sarma* (supra), wherein affording an opportunity to the transferee concerned to approach higher authorities was also stressed. The admitted position in the present case is that the petitioner has not approached the higher authorities against his transfer order and therefore, this Court without embarking upon the

merits and demerits of the impugned transfer order considers in appropriate to relegate the petitioners to approach the competent authority with his grievance. Accordingly, it is hereby directed that the petitioner shall file a concise representation, giving all the details of his grievances against the impugned transfer order to the respondent No. 2, within a period of 15 days from today and the respondent No. 2 upon receipt of the same shall consider the representation submitted by the petitioner and also afford an opportunity of personal hearing to the petitioner and take a decision whether or not to recall the transfer order, within a period of one month. Till such decision is taken, the interim order passed earlier shall continue. It is also made clear that the interim order passed by this Court shall abide by in order to be passed by the respondent No. 2.

[6.] With the above observation and direction, the Writ Petition stands disposed of. No cost.

JUDGE

Comparing Assistant