

GAHC010122912024



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

Case No. : WP(C)/3176/2024

MANGALA PRASAD NAYAK
UIN NO. 13150646,
S/O SH. JHADESWAR NAYAK,
R/VILL.- BORKHAT,
P.O. AND P.S.- SONAPUR,
DIST.- KAMRUP, ASSAM,
PIN- 782402.

VERSUS

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

2:THE DIRECTOR GENERAL
SASHASTRA SEEMA BAL
EAST BLOCK-V
R.K. PURAM
NEW DELHI- 110066.

3:THE INSPECTOR GENERAL (PERS)
SASHASTRA SEEMA BAL
FORCE HQR
EAS BLOCK-V

RK PURAM
NEW DELHI- 110066.

4:THE COMMANDANT (PERS-II)

FHQ
SSB
EAST BLOCK-V
R.K. PURAM

NEW DELHI- 110066.

5:THE INSPECTOR GENERAL
FRONTIER HEAD QUARTERS
SSB
GUWAHATI

P.O. AND P.S.- SONAPUR

DISTRICT- KAMRUP(METRO)

ASSAM
PIN- 782402.

6:THE ASSISTANT COMMANDANT
FRONTIER HEAD QUARTER
SSB
GUWAHATI
P.O. AND P.S.- SONAPUR

DISTRICT- KAMRUP(METRO)

ASSAM
PIN- 782405

Advocate for the Petitioner : MR. L N DIHINGIA

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

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 26-06-2024

Heard Mr. L.N. Dihingia, learned counsel for the petitioner as well as Mr. B. Chakraborty, learned CGC appearing for the respondents.

2. In brief, the case of the petitioner is that his younger brother is

suffering from Locomotor disability with 50% permanent disability in relation to his both upper and lower limbs. The petitioner being the care giver, his specially abled brother is residing with him. The petitioner also claims to be suffering from low vision disability of his left eye which occurred in an accident suffered by the petitioner while he was on official duty.

3. The petitioner further claims that his wife is also having certain medical condition, and she is suffering from GBS/ Hypokalemia and Sicca symptoms and therefore, she has extremely low weight and cannot walk properly. Accordingly, the learned counsel for the petitioner has submitted that as the petitioner is himself a specially abled person and he has to give care to his wife as well as to his younger brother who is specially abled. The petitioner is required exempted from annual routine rotational transfer.

4. The petitioner who is presently serving as Constable (GD) in the Sashastra Seema Bal (SSB in short) has been served with a transfer order dated 10.04.2024, thereby transferring him from his present location to 41st Battalion Ranidanga which is followed by a relieving order dated 13.06.2024. The petitioner has submitted a representation dated 15.04.2024 through proper channel vide official Diary no.2610. However, the said representation has not been addressed by the respondent authorities.

5. The learned counsel for the petitioner submitted that the impugned transfer order is in violation of the guidelines contained in the office memorandum dated 08.10.2018, issued by the Director (Res), Ministry of

Personnel, Public Grievances and Pensions, Department of Personnel and Training, Govt. of India as well as in violation of the transfer guidelines for the Sashastra Seema Bal Personnel dated 04.03.2024, issued by the Inspector General (Pers).

6. The learned CGC has submitted that pursuant to order dated 21.06.2024 he has been provided with written instructions by the Deputy Judge, Attorney General, Frontier HQ SSB, Guwahati whereby it is being informed that the new place of posting of the petitioner at 41st Battalion SSB, Ranidanga is having well established infrastructure with residential family accommodation. It is projected that it has very good infrastructure in terms of accommodation, connectivity and medical facilities.

7. It is further informed that the said Battalion is situated in the same campus with Frontier HQ SSB, Siliguri and within the campus there are two unit hospitals with doctors and medical staffs and that for any medical assistance, there is a well equipped 100 bedded Composite Hospital with specialist medical attendants exclusively for the personnel of CAPFs and their family members is located at nearby BSF Composite Hospital, Kadamtala. It is further informed that the petitioner is presently not staying at Govt. quarter at his present place of posting i.e. Frontier HQ SSB Guwahati at Sonapur despite availability of quarters. It is also informed that the new place of posting is closer to the hometown of the petitioner and it is also informed that the petitioner has remained posted at the present place of posting for more than four years whereas the normal tenure for posting is only three years.

8. In view of the projection that near the place of posting where the petitioner has been transferred, there are two Unit Hospitals as well as a 100 bedded Composite Hospital, the Court is of the considered opinion that the medical facilities available near the transferred location of the petitioner is sufficient to take care of the medical requirements of the petitioner, his wife and his younger brother. Moreover, as the normal tenure of posting was only 3 years, and the petitioner has remained in the present place of posting for more than 4 years, the Court is of the considered opinion that the transferred place of posting of the petitioner has the requisite medical facilities for the well being of the petitioner and the members of his family.

9. Accordingly, the Court is not inclined to interfere with the transfer order of the petitioner vide no. VI/18/SSB/Pers-II/ ATC/ 2024/5149-5268 dated 10.04.2024, where the name of the petitioner appears at Sl. No.20485 as well as in respect of the impugned relieving order vide File no. 09/2/2024/Estt/Tfr-Out/16538-61 dated 13.06.2024.

10. As the Court finds that the petitioner has time to report till 02.07.2024, the Court is inclined to direct the Director General, Sashastra Seema Bal (respondent no.2) and the Inspector General (Pers), Sashastra Seema Bal (respondent no.3) to grant time till 15.07.2024 to the petitioner to report at the transferred place of posting, in view of the projection made by the learned counsel for the petitioner that the petitioner, his wife as well his younger brother are all specially abled.

11. The petitioner is permitted to send a scanned copy of this order

to the said two authorities.

12. This writ petition stands disposed of with aforesaid observations.

JUDGE

Comparing Assistant