

GAHC020000162024



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

Case No. : WP(C)/2/2024

ER. ARON SEMA
EXECUTIVE ENGINEER (ELECTRICAL DIVISION)
CHUMUKEDIMA, NAGALAND

VERSUS

STATE OF NAGALAND AND 3 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF NAGALAND

2:THE COMMISSIONER AND SECRETARY/SECRETARY
DEPT. OF POWER
GOVT. OF NAGALAND
KOHIMA NAGALAND

3:THE ENGINEER-IN-CHIEF
DEPT. OF POWER
GOVT. OF NAGALAND
KOHIMA NAGALAND

4:ER. AHOTO AYE
EXECUTIVE ENGINEER
ELECTRICAL DIVISION
TUENSANG
NAGALAND.
C/O THE ENGINEER-IN-CHIEF
DEPT. OF POWER
GOVT. OF NAGALAND
KOHIMA NAGALAN

Advocate for the Petitioner : A. ZHIMOMI

Advocate for the Respondent : GOVT ADV NL

**BEFORE
HON'BLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 26-03-2024

Heard Mr. A. Zhimomi, learned counsel for the petitioner; Mr. Z. Zhimomi, learned Junior Government Advocate, Nagaland for the respondent nos. 1 - 3; and Ms. V. Zhimomi, learned counsel for the respondent no. 4.

2. The petitioner had approached this Court by the instant writ petition to enforce an Order of transfer issued vide Notification bearing no. PWR/ESTT-55/19/236 dated 16.10.2023 [Annexure-1], whereby, the petitioner had been transferred and posted as Executive Engineer, Electrical Division, Chumoukedima, Nagaland. Prior to the Order of transfer, the petitioner was serving as Executive Engineer [Technical], O/o the Engineer-in-Chief, Kohima. As that point of time, the respondent no. 4 was holding the post of Executive Engineer, Electrical Division, Chumoukedima.

3. The petitioner had approached this Court by the instant writ petition contenting that when after the Order of transfer the petitioner reported for duty on 16.10.2023, he was not handed over the charge at the new place of posting in terms of the Notification dated 16.10.2023.

4. When the writ petition was moved, this Court while issuing notice returnable in 4 [four] weeks, had observed, in the interim, that the respondent nos. 1 - 3 shall not alter, modify or revoke the Notification bearing no. bearing no. PWR/ESTT-55/19/236 dated 16.10.2023 in respect of the petitioner and the respondent no. 4 were concerned, till the returnable date.

5. Today, Mr. A. Zhimomi, learned counsel for the petitioner and Ms. V.

Zhimomi, learned counsel for the respondent no. 4 have submitted that during the pendency of the writ petition, handing over and taking over charge has stood completed, as the petitioner has taken over charge and the respondent no. 4 has handed over charge of the office of the Executive Engineer, Electrical Division, Chumoukedima on 07.03.2022.

6. Ms. V. Zhimomi has also placed the copy of the Certificate of Transfer of Charge dated 07.03.2024.

7. It is, thus, submitted by the learned counsel for the parties that there is no surviving cause of action in so far as the Order of transfer is concerned.

8. Mr. A. Zhimomi, learned counsel for the petitioner has, however, submitted that the petitioner had handed over the charge of the post of Executive Engineer [Technical], O/o the Engineer-in-Chief, Kohima immediately on 18.10.2023, pursuant to the Notification dated 16.10.2023, and it was only on 07.03.2024, he had taken over the charge from the respondent no. 4. He has, thus, submitted that the petitioner shall not be visited with any adverse consequences for the said period from 18.10.2023 to 07.03.2024 as during the said period, the petitioner could not take over charge of the post without any fault on his part.

9. Mr. Z. Zhimomi, learned State Counsel has submitted, on instruction, that no action has been taken till date against the petitioner but a Show Cause Notice dated 08.03.2024 has been issued to the respondent no. 4 for his alleged act of insubordination.

10. As the handing over and taking over charge of the post of Executive Engineer, Electrical Division, Chumoukedima has already been taken place on 07.03.2022, there is no surviving cause of action in the writ petition and as

such, the writ petition is accordingly closed.

11. As regards the submission made by Mr. A. Zhimomi, learned counsel for the petitioner, it is observed by taking note of the submission made by Mr. Z. Zhimomi, learned Junior Government Advocate, Nagaland that the State respondents shall take into consideration the events occurred during the period from 18.10.2023 to 07.03.2024 while treating the service period of the petitioner for the said period.

12. A copy of the Certificate of Transfer of Charge dated 07.03.2024 in terms of the Notification bearing no. PWR/ESTT-55/19/236 dated 16.10.2023 and a copy of the Show Cause Notice bearing no. PWR/CC-2/2024/527 dated 08.03.2024 placed by the learned counsel for the parties, are kept with the case records.

Sd/-

JUDGE

Comparing Assistant