

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP(C) No. 190 of 2025

Angman Paris Maring

... Petitioner

Vs.

State of Manipur & ors.

... Respondents

B E F O R E
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

O R D E R

07-03-2025

Heard Mr. B.P. Sahu, learned senior counsel assisted by Mr. Deepak Prasad Sahu, learned counsel appearing for the petitioner.

Issue notice, returnable within four weeks.

Mr. Th. Vashum, learned GA entered appearance and accepts notice on behalf of respondents No. 1 and 2, hence no formal notice is called for in respect of the said respondents.

Petitioner is to take steps for service of notice upon respondent No. 3 by way of dasti service.

Steps should be taken within one week and the petitioner is to file an affidavit showing proof of service of such notice.

It is the case of the petitioner that during a span of one year and eight months, he has been transferred five times and that such transfer is in complete violation of the transfer policy framed by the State Government wherein it is, inter alia, laid down that a Government servant should be posted for a minimum of one year and six months and a maximum of three years but in the present case, the petitioner has been subjected to frequent transfer, as many as five times, during a span of

one year and eight months. This is clearly supported by the documents at Annexure – A/13 (Colly.) and the averments made by the petitioner at para 9 of the writ petition. It is also the case of the petitioner that the said impugned transfer order has been issued in colourable exercise of the power and to accommodate the private respondent No. 3 to the post presently held by the petitioner, inasmuch as, the petitioner is a regular A.E. allowing to hold the post of E.E. on in-charge basis while the private respondent is not even a regular A.E. and he has been posted as in-charge E.E. by replacing the petitioner. The learned senior counsel, accordingly, prays for passing an interim order suspending the transfer order in respect of the petitioner and the private respondent.

This prayer is vehemently objected to by Mr. Th. Vashum, learned GA by relying on the judgment rendered by the Hon'ble Apex Court in the case of **"S.C. Saxena Vs. Union of India"** reported in **(2006) 9 SCC 583** wherein it has been held as under:-

"6. We have perused the record with the help of the learned counsel and heard the learned counsel very patiently. We find that no case for our interference whatsoever has been made out. In the first place, a government servant cannot disobey a transfer order by not reporting at the place of posting and then go to a court to ventilate his grievances. It is his duty to first report for work where he is transferred and make a representation as to what may be his personal problems. This tendency of not reporting at the place of posting and indulging in litigation needs to be curbed. Apart therefrom, if the appellant really had some genuine difficulty in reporting for work at Tezpur, he could have reported for duty at Amritsar where he was so posted. We too decline to believe the story of his remaining sick. Assuming there was some sickness, we are not satisfied that it prevented him from joining duty either at Tezpur or at Amritsar. The medical certificate issued by Dr. Ram Manohar Lohia Hospital proves this point. In the circumstances, we too are of the opinion that the appellant was guilty of the misconduct of unauthorisedly remaining absent from duty."

Relying on the said judgment, the learned GA submitted that the petitioner has neither reported or joined the new place of posting nor

has he submitted a representation against the transfer order but he has straightaway approach the court by filing the present writ petition assailing the transfer order, which is in complete violation of the ratio laid down by the Hon'ble Apex Court in the above quoted judgment. The learned GA submitted that on this count alone, the petitioner is not at all entitled to any interim relief. Opposing the prayer for interim order, the learned GA further submitted that a Government employee has no vested right to choose or remain posted at the place of his choice nor can he insist that he must be posted at one place or the other. In support of his contention, the learned GA, relied on the judgment rendered by the Hon'ble Apex Court in the case of **"Rajendra Singh & ors Vs. State of Uttar Pradesh & ors."** reported in **(2009) 15 SCC 178** wherein it has been held as under:-

"8. A government servant has no vested right to remain posted at a place of his choice nor can he insist that he must be posted at one place or the other. He is liable to be transferred in the administrative exigencies from one place to the other. Transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contrary. No Government can function if the government servant insists that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires (see State of U.P. V. Gobardhan Lal, SCC p. 406, para 7)."

I have heard at length the rival submission advanced by the learned counsel appearing for the parties in the present case. On perusal of the impugned transfer order, it is nowhere indicated that the petitioner should report to his new place of posting and there is no document releasing the petitioner from his present place of posting to join his new place of posting. In such a situation, this court cannot find any fault on the part of the petitioner for not joining his new place of posting. It is also the case of the petitioner that during a short span of one year and eight months, he had been subjected to as many as five transfer and posting

and according to the petitioner, it is a frequent transfer to harass him and that he has suffered a lot due to such unreasonable act of the Government. The further case of the petitioner is that in order to accommodate the private respondent No. 3, who is not even a regular A.E., and to enable the private respondent No. 3 to hold the higher post of E.E. on in-charge basis, the authorities have issued the impugned transfer order in colourable exercise of power.

The judgment rendered by the Hon'ble Apex Court in the case of **S.C. Saxena (supra)** had been rendered not in connection with a transfer and posting order but in the matter where the Government officer challenged the result of the Departmental Enquiry. On perusal of the said judgment, this court is of the considered view that the facts and circumstances of the said case and the facts and circumstances of the present case are totally different and the said judgment is clearly distinguishable on facts and accordingly, this court is not inclined to accept the submission advanced by the learned GA.

So far as the case law cited by the learned GA in the case of *Rajendra Singh & ors. (supra)*, this court is of the considered view that the ratio laid down therein is not applicable in the present case, inasmuch as, the petitioner never claim that he want to remain in his place of posting, but it is a case of the authorities violating their own transfer policy and victimising the petitioner. In such view of the matter, this court is of the considered view that the ratio laid down by the Hon'ble Apex Court in the case of *Rajendra Singh (supra)* is not applicable.

Taking into consideration the submission advanced by the learned counsel appearing for the parties and on perusal of the record, this court is of the considered view that the petitioner has been able to

make out a prima facie case for passing an interim order. Accordingly, it is hereby directed that the impugned transfer order dated 03-03-2025 issued by the Joint Secretary (PHE), Government of Manipur, shall remain suspended in so far as the petitioner and the private respondent No. 3 is concerned until further order.

As prayed for, list this case again on 21-04-2025. It is made clear that as the stay order has been passed in the absence of the private respondent No. 3, liberty is given to the respondent No. 3 to approach this court for modification or vacation of the interim order, if so advised.

JUDGE

Devananda

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MC(WP(C)) 186 of 2025

(Ref:- WP(C) No. 190 of 2025)

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In view of the order passed today in the main writ petition,
the present application stands closed.

JUDGE

Devananda