GAHC010072582023

2026:GAU-AS:16176

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

Case No. : WP(C)/1925/2023

PUSPA DUTTA
S/O SRI UMESH DUTTA, VILL-NAGAKHELIA, P.O.-NAGAKHELIA, DIST-DHEMAJI, PIN-787057

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM PLANNING AND DEVELOPMENT DEPARTMENT, DISPUR, GUWAHATI-781006

2:THE DIRECTOR OF ECONOMICS AND STATISTICS
ASSAM
JAWAHARLALNAGAR
BELTOLA
GUWAHATI-28

3:THE SUB-DIVISIONAL STATISTICAL OFFICER
DHEMAJI
PIN-787057

4:DEEP MILI
JR. ASSISTANT
OFFICE OF THE DEPUTY DIRECTOR OF ECONOMICS AND STATISTICS
DIBRUGARH
PIN-78600

Advocate for the Petitioner : MR. U K NAIR, MS D MAHANTA,MR. A BORO

Advocate for the Respondent : GA, ASSAM,

BEFORE
HON'BLE MRS. JUSTICE SHAMIMA JAHAN
ORDER

04.11.2026

Heard Mr A Boro, learned counsel for the petitioner and Mr T Chutia, learned Senior Government Advocate Assam.

2. By this application filed under Article 226 of the Constitution of India, the petitioner has challenged the transfer order dated 18.03.2023, by which, the petitioner was transferred from the Office of the Sub-Divisional Statistical Officer, Dhemaji, to Sub-Divisional Statistical Officer, Majuli. The petitioner has also challenged the subsequent order dated 28.03.2023, by which it was directed that the respondent No. 4 should proceed to the office at Dhemaji first, and join in the said place of posting.

3. The learned counsel for the petitioner submits that on 14th of November, 2014, the petitioner and the respondent No. 4 were issued the transfer orders on their own request, by which the petitioner was transferred from the Office of the Deputy Director of Economics and Statistics, Dibrugarh, to the Office of the Sub-Divisional Statistical Officer, Dhemaji, and the respondent No. 3 was transferred from the Office of the Sub-Divisional Statistical Officer, Dhemaji, to the Office of the Deputy Director of Economics and Statistics, Dibrugarh. He further submits that in order to accommodate respondent No. 3 at Dhemaji, the said impugned order dated 18th of March, 2023 as well as 20th of March, 2023, were issued. The learned counsel further submitted that although

in the transfer order dated 18.03.2023, it was observed that the authority in the interest of prompt and smooth functioning of the official work of the Directorate, had issued the transfer order, but according to the learned counsel, the said transfer order was issued only to protect the interest of respondent No. 4.

4. The learned counsel further submits that this Court by order dated 03.04.2023, had suspended the operation of the transfer order dated 28.03.2023, and on the strength of the said interim order, he submits that the petitioner is still working at Dhemaji. He further submits that the petitioner has information that one more post of Junior Assistant is available in the office of the Sub-Divisional Statistical Officer, Dhemaji, amongst the two posts in one of which, the petitioner is working. He, as such, submits that there is no impediment for the Department to accommodate the petitioner in the office Sub-Divisional Statistical Officer, Dhemaji.

5. Mr T Chutia, learned Additional Senior Government Advocate submits that the transfer orders are incidence of service and unless there are malafide involved in the transfer order, the same should not be interfered with by this Court. He further submits that on the strength of the interim order, the petitioner had worked for more than 3 years at Dhemaji and that the administrative work of the Department is being harmed.

6. I have heard the learned counsel appearing for the parties and I have gone through the records.

7. It is a settled position of law that generally, the Court should not interfere with

administrative transfer orders of the Government servant or public employees. It is held by the Hon'ble Apex Court in a number of decisions that only in cases where the transfer is vitiated by malafide on the part of the authority making the order, and/or is made in violation of any statutory provision, Court should interfere.

8. In ***Union of India and others vs. S. L. Abbas***, reported in **1993 4 SCC 357**, the Hon'ble Apex Court had clearly observed that the scope of judicial review is only available when there is a clear violation of statutory provision or the transfer is persuaded by malafide. The relevant observation is quoted hereunder:

"*7. Who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by mala fides or is made in violation of any statutory provisions, the court cannot interfere with it. While ordering the transfer, there is no doubt, the authority must keep in mind the guidelines issued by the Government on the subject……..*"

9. In the instant case, the petitioner, apart from stating that the transfer order was passed only to serve the interest of respondent No. 4, no substantiating facts were stated, showing any malafide exercise of power. It is further seen in the instant case that the petitioner had worked as Junior Assistant in the office of the Sub-Divisional Statistical Officer, Dhemaji, since the year 2014, i.e., for the last 12 years. It is also held by the Apex Court that when an employee is transferred, he should approach to the new place of posting, and thereafter, on reasons, which are valid in nature, can make a

representation to the concerned authority, ventilating his grievance, as has been held in ***S. C. Saxena vs. Union of India and Others;*** reported in (2006) 9 **SCC** 583. The relevant observations are quoted hereinbelow:

> "*6. We have perused the record with the help of the learned counsel and e 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 f posting and indulging in litigation needs to be curbed."*

10. Since no malafide exercise in making the transfer order is noticed, neither any statutory provision is violated, this Court has no alternative, but to dismiss the present application.

11. However, it is apprised at the Bar that there is one more post vacant in the said office at Dhemaji. As such, the petitioner is directed to make a representation before the concerned authority for her accommodation in the said post and in the said place, as per law, which will be considered again as per law, by the said authority.

12. Interim order passed earlier, if any, stands vacated.

13. With the aforesaid observations and directions, this writ petition stands disposed

of.

JUDGE

Comparing Assistant