

GAHC010040612025



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

Case No. : WP(C)/1084/2025

LOHIT KUMAR KALITA

S/O- LATE CHANDRA KANTA KALITA, RESIDENT OF HOUSE NO. 04, B AND
B COURT, SUNDARPUR, BYE LANE NO. 2, P.O. JAPORIGOG, DISPUR,
GUWAHATI, DIST KAMRUP (M), ASSAM, PIN - 781005.

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM,
DISPUR, GUWAHATI- 781006.

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
MEDICAL EDUCATION AND RESEARCH DEPARTMENT
DISPUR
GUWAHATI-781006.

3:THE JOINT SECRETARY TO THE GOVT. OF ASSAM
MEDICAL EDUCATION AND RESEARCH DEVELOPMENT DEPARTMENT
DISPUR
GUWAHATI-781006

Advocate for the Petitioner : MR. K N CHOUDHURY, MR. J PATOWARY,N GAUTAM

Advocate for the Respondent : GA, ASSAM, SC, HEALTH

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 27-02-2025

Heard Mr. K.N. Choudhury, learned Sr. counsel assisted by Mr. J. Patowary, learned counsel for the writ petitioner.

Perused the averments made in the writ petition.

By the impugned order dated 07-02-2025 (Annexure-7), the writ petitioner, who is presently serving as Assistant Professor in the department of Oncology in the GMCH, at Guwahati, has been transferred and posted as Assistant Professor in the department of Orthopaedics in the Jorhat Medical College & Hospital. The impugned transfer order has been assailed primarily on the ground that the initial appointment of the petitioner having been made in the department of Oncology, the rules would not permit his shifting to another department, i.e. Orthopaedics. According to Mr. Choudhury, learned Sr. counsel for the petitioner, the impugned transfer order amounts to violation of conditions of service of the writ petitioner. In addition to the above, learned counsel for the petitioner has further argued that the impugned order has been issued to over-reach the direction of this Court issued by the judgment and order dated 16-05-2024 passed in W.P.(C) No. 2858/2018, whereby a categorical direction had been issued to the authorities to constitute a review DPC and to consider the case of the petitioner for promotion to the rank of Associate Professor. On such ground, Mr. K.N. Choudhury, learned Sr. counsel for the petitioner has prayed for an interim order of protection of the interest of his client.

Mr. B. Gogoi, learned standing counsel, Health Department, Assam submits that at least 02 weeks time be granted to seek instruction.

Issue notice of motion returnable on 19-03-2025.

Since Mr. A. Chakraborty, learned Govt. Advocate, Assam has accepted notice on behalf of respondent No. 1 and Mr. B. Gogoi for respondent Nos. 2 and 3, service of notice is deemed to be complete in this case.

Extra copies of the writ petition, requisite in numbers, be furnished to the learned departmental counsel.

Heard on the prayer of interim relief.

Having regard to the overall facts and circumstances of the case, it is hereby provided that operation of the impugned order of transfer dated 07-02-2025, shall remain suspended till the returnable date.

JUDGE

GS

Comparing Assistant