

GAHC010196322024



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

Case No. : WP(C)/4902/2024

DR DILIP PAUL
SON OF SRI SUDHANGSHU PAUL,
R/O- DHOLAI BAZAR, DISTRICT- CACHAR,
ASSAM.

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
HEALTH AND FAMILY WELFARE DEPARTMENT,
DISPUR, GUWAHATI-6.

2:THE JOINT SECRETARY TO THE GOVT. OF ASSAM
HEALTH AND FW(A) DEPT.
DISPUR GUWAHATI-6.

3:THE DIRECTOR OF HEALTH SERVICES
ASSAM
HENGRABARI GUWAHATI-36.

4:THE JOINT DIRECTOR OF HEALTH SERVICES
CACHAR
SILCHAR
PO AND DIST.- CACHAR
ASSAM PIN- 788001

Advocate for the Petitioner : MR. S P CHOUDHURY, MR K BISWAKARMA,MS B DEVI

Advocate for the Respondent : SC, HEALTH,

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 23/09/2024

Heard Mr. S.P. Choudhury, learned counsel for the writ petitioner.

Assailing the transfer order dated 07/09/2024, by means of which the petitioner has been transferred and posted as District Leprosy Officer, Majuli, on being promoted to the said post, this writ petition has been filed on the twin grounds that the transfer order is punitive in nature and it is a clear case of *mala fide* exercise of power on the part of the authorities so as to punish the petitioner on account of the fact that due to the critical illness suffered by his father, he could not comply with the earlier transfer order dated 13/03/2024 for which, a show cause notice was issued to the petitioner.

Mr. D. Bora, learned Standing Counsel, Health Department, Assam, on the other hand, submits that although a show case notice was issued to the petitioner to explain his previous conduct, yet, the present order of transfer has been issued in lieu of the earlier order dated 13/03/2024, since the petitioner did not comply with the earlier order of transfer. Mr. Bora has, however, not addressed this Court on the point as to why, this should not be treated as a punitive transfer since, although a show cause notice was issued to the petitioner, yet the same has not been brought to its logical end. Instead, the petitioner has been transferred to another station.

This Court has also noticed that the petitioner has forgone his promotion connected with the earlier transfer order dated 13/03/2024 on the ground of ailment of his father. Therefore, the difficulties, if any, faced by the petitioner due to ailment of his father cannot be brushed aside casually and the same required proper consideration by the authorities, which has apparently not been done in this case. As such, perusal of the departmental record would be necessary in this case.

On the request of Mr. D. Bora, learned Standing Counsel, Health Department, Assam, let this matter be listed again on 01/10/2024 for motion for producing the records before this Court.

Till the next date fixed, *status quo* as regards the posting of the petitioner be maintained.

JUDGE

sukhamay

Comparing Assistant