
(1995) 11 GAU CK 0008
In the Gauhati High Court
Case No : Civil Rule No. 916 of 1995

Sougaijam Brojendro Singh	Vs	APPELLANT
State of Manipur		RESPONDENT

Date of Decision : 16-11-1995

Acts Referred:

Citation : (1996) 1 GLJ 101 : (1996) 2 GLT 577

Hon'ble Judges : H.K.Sema, J

Bench : Single Bench

Advocate : T.Nandakumar Singh, Ng.Kumar Singh, L.Shyam Kishore Singh,
Advocates appearing for Parties

Judgement

1. Heard Mr. Ng. Kumar Singh, learned counsel for the petitioner as well as Mr. L. Shyamkishore Singh, learned Senior Govt. Advocate for the respondent No.1 to 3 and Mr. T. Nandakumar Singh, learned senior counsel for the respondent No.4.
2. This case illustrated a classic example as to how the person possessing power exercised the power arbitrarily and abused the process of power. The dispute involved in this writ petition is with regard to transfer of an officer.
3. By now it is well settled principle of law that transfer is an incident of service. Who should be transferred, where is the matter to be decided by the competent authority in the exigency of service. Transfer order made in public interest do not warrant interference by this Court, unless the same is passed with malafide or in arbitrary exercise of power or has been passed in violation of statutory Rules.
4. The several orders indicated below would show that the authority has exercised the power arbitrarily.
5. (a) Petitioner was an Agriculture Officer (Soil Conservation)/Irri Pilot a Project, Officer of the DSCO, Mantripukhri.

(b) By an order dated 18.9.95, he was transferred as HDO (HQ), Officer of the District Officer (Horticulture and Soil Conservation), Senapati vice Shri Y.

Dorendra Singh transferred.

(c) By another order dated 22.9.95 in partial modification of the earlier order dated 18.9.95 he was again transferred as HDO (HQ) i.e. Incharge of Coffee Nursery Farm, Noney, Tamenglong District vice Shri N. Harinarayan Singh, HDC(HQ). He was released by an order dated 28.9.95 so as to enable him to join new place of posting. From Annexure A/42 it appears that he has taken self charge on 28.9.95. By another order dated 10.10.95 the self assumption charge has been accepted by the Government in public interest. From Annexure A/6 it appears that the petitioner has drawn his salary from Tamenglong for the month of October.

(d) However, by an impugned order dated 13.10.95 the order dated 22.9.95 transferring the petitioner and respondent No.4 has been stayed in suspension of all the other orders purportedly made in public interest in respect of the respondent No.4 Shri Harinarayan Singh. The impugned order reads :

"No.23A/76/89Agri: The Governor of Manipur is pleased to stay the transfer and posting of Shri N. Harinarayan Singh, Horticulture Development Officer (HQs) Officer of the Dist Officer, Senapati (Horti and SC) issued vide Govt. order No.23A/76/89Agri dated 22nd September, 1995 with immediate effect in public interest.

Further this order supersedes any other orders relating to this officer." (emphasis supplied)

It will be noticed that by an order dated 22.9.95 the transfer of the petitioner and the respondent No.4 were effected. Obviously the impugned order dated 13.10.95 has been passed to accomodate the respondent No.4 and it cannot be said to have been passed in public interest. Such orders, if allowed to be remained would create more problems instead solving it and public interest will suffer. For example, petitioner has nowhere to go. At the same time both the petitioner and respondent No.4 cannot be at the same place holding the same post There is absolutely no logic to pass such an order.

6. From the above quoted orders, it would clearly show that from the period from 18.9.95 to 13.10.95 as many as 3 (three) transfer orders have been passed. This would clearly show that the order has not been passed after application of mind but with an unholy haste and therefore, it cannot be said that the appropriate authority has exercised the power vested in them in public interest. From the instances recited above it would clearly reflect that the mind of the authority has been influenced by extraneous consideration. Powers are being misused in me guise of public interest. Surprising enough, all the aforesaid order have been passed by the same officer and yet no reason has been assigned necessitating of passing of the impugned order. Once the transfer order is made in public interest, subsequent orders cancelling or superseding must be supported with sufficient reasons.

7. For the aforestated reasons the impugned order dated 13.10.95 is hereby quashed and set aside. Let a copy of this order be placed before the Chief Secretary, Government of Manipur. In view of the facts and circumstances of the case the Chief Secretary shall personally look into the matter and pass appropriate order as deem fit and proper.

With the aforesaid direction, this petition is allowed.