
(2016) 05 GAU CK 0003
In the Gauhati High Court
Case No : WP (C) No. 2621 of 2016

Union of India

APPELLANT

Vs

Service No.C/361999, Hawalder Clerk, Nayan Kumar Sinha

RESPONDENT

Date of Decision : 02-05-2016

Acts Referred:

Citation : (2016) 4 GauLR 540

Hon'ble Judges : Mr. Ajit Singh, C.J. and Mr. Suman Shyam, J.

Bench : Division Bench

Advocate : Mr. S.C. Keyal and Astt. S.G.I, for the Appellant; None appeared, for the Respondent

Final Decision : Disposed Off

Judgement

Ajit Singh, C.J. :- Mr. S.C. Keyal, learned counsel for the petitioners.

By this petition filed under Article 227 of the Constitution, the petitioners have prayed for quashing of order dated 6.2.2014, whereby the Central Administrative Tribunal, Guwahati Bench has disposed of Respondent's O.A. No.040/000028/2014 with certain observations.

2. The respondent challenged his transfer order dated 30.10.2013 before the Tribunal on the ground that he had rendered more than 20 years of service in most difficult, hard and remote areas of Manipur and Nagaland and therefore, petitioners be directed to post him near his home town as he was facing some domestic problems, which needed to be attended by him.

3. The Tribunal, at the first hearing itself, without any show cause notice, apparently moved by averments made in the petition, finally disposed it of with an observation that if the respondent makes a representation for his posting near his home town, it was expected of the petitioners to post him in any vacant place of his home town or a nearby station at Silchar as far as possible in the Units of Assam Rifles.

4. It is argued on behalf of the petitioners that the Tribunal committed an illegality in issuing such a direction in the first hearing itself without giving any opportunity of hearing.

5. It is well settled principle of law that before issuing any direction against any person or authority, an opportunity of hearing must be given to that person or authority, as the case may be. But, what we find in the case at hand is that the Tribunal has only observed that if a representation is made by the respondent for posting him near his home town, an endeavour be made by the petitioners to post him there. Apparently, there is no direction against the petitioners to post the respondent at any vacant place of his home town or nearby station. The petitioners are, therefore, free to decide the representation of respondent regarding his posting in accordance with the guidelines or policy in vogue by a reasoned order.

6. With the above clarification, we find no good ground to entertain the petition. The petition is finally disposed of.