



Serial No.03
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C). No. 128 of 2020

Date of Order: 10.09.2020

Shri. Shalim Sarkar

Vs. State of Meghalaya & 4 Ors.

Coram:

Hon'ble Mr. Justice Ranjit More, Judge.

Appearance:

For the Petitioner/Appellant(s) : Mr. K.Ch. Gautam, Adv.

For the Respondent(s) : Mr. A. Kumar, AG with
Ms. R.Colney, GA for R 1-4.
Mr. H.Abraham, Adv. for R 5.

1. Heard Mr. K.Ch. Gautam, learned counsel for the petitioner, learned AG for the respondents No. 1-4 and Mr. H.Abraham, learned counsel for the respondent No. 5.

2. The petitioner and respondent No. 5 are Assistant Agriculture Inspector. Petitioner was working in Nongkrem Circle under the District Agriculture Officer, Shillong. By order dated 16-03-2020 he was transferred to the office of Sub-Divisional Agriculture Officer, Dadenggre and by the very same order, private respondent No. 5 was transferred from Dadenggre to Shillong. It is the grievance of the petitioner that within a period of three months i.e., by order dated 27-05-2020, he was again transferred from Dadenggre to Shillong and private respondent No. 5 was transferred from Shillong to Dadenggre. The petitioner challenged this transfer order by filing instant petition on the ground that same is not in public interest and contrary to the government policy.



3. On behalf of the respondents, affidavit in reply has been filed by the Director of Agriculture, Govt. of Meghalaya. It is pointed out in the affidavit that petitioner served in the capacity of Assistant Agriculture Inspector for the period of 8 years 7 months at Dadenggre i.e., between the period 26-03-2010 to 26-11-2018. This submission is however disputed by the learned counsel for the petitioner who submitted that the petitioner served at Dadenggre for a period of 5 years. The respondents in the affidavit also pointed out that petitioner was earlier transferred to Shillong on 26-11-2018 and by the order dated 16-03-2020 he was transferred to Dadenggre, thus, the petitioner has completed a tenure of 1 year 4 months at Shillong. In the submission of the respondents, the petitioner ought to be kept at Shillong for minimum period of 3 years in terms of government policy. However, he was wrongly transferred to Dadenggre within a period of 1 year 4 months by order dated 16-03-2020. The learned AG submitted that the earlier mistake committed by the respondents was corrected by impugned transfer order so as to allow the petitioner to complete his tenure of 3 years in Shillong.

4. Having gone through the petition along with the Annexures and having considered the rival submissions, I am not inclined to interfere in the writ petition. It is settled position of law that transfer is an incident of service and same can be interfered on the ground of mala fide or same is not in public interest. It is also settled position that allegations mala fide are required to be pleaded and proved. The petitioner has not alleged mala fide against the respondents. So far as public interest is concerned, the impugned transfer order is in fact correction of earlier mistake by the respondents. By impugned order, the petitioner is being retained at Shillong since he has not completed his minimum tenure of 3 years. The petitioner has no vested right to remain at Dadenggre since he has already completed 8 years or 5 years tenure as contended by the learned AG and learned counsel for the petitioner respectively. The petition has no merit.

5. At this stage, Mr. K.Ch. Gautam, learned counsel for the petitioner submitted that petitioner has not been paid salary for the last 2 months. Mr. K.Ch. Gautam also submits that in view of the interim order he has worked in the office at Dadenggre. Learned AG in response to the grievance of the



petitioner, makes a statement that if the petitioner has worked either at Dadenggre or Shillong for the last 2 months then his salary will be paid immediately, statement accepted.

6. Subject to above, petition is dismissed.

Judge

Meghalaya
10.09.2020
"Samantha PS"

