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

Case No. : WP(C)/5179/2026

MRINAL CH. KALITA
SON OF LATE FAGUNA RAM KALITA, RESIDENT OF PATHSALA TOWN, WARD NO. 3, SEUJI PATH, PIN-781325, DISTRICT-BAJALI, ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY SECRETARY TO THE GOVT. OF ASSAM, HANDLOOM AND TEXTILES AND SERICULTURE DEPARTMENT, DISPUR, GUWAHATI-06, KAMRUP METRO, ASSAM

2:THE DIRECTOR HANDLOOM AND TEXTILES
AMBARI GUWAHATI-01
KAMRUP.

3:THE ASSISTANT DIRECTOR HANDLOOM AND TEXTILE
NALBARI
ASSAM

4:SMTI JIBESWAR RAJBONGSHI
INSPECTOR WEAVERS EXTENSION SERVICE UNIT
BAITHALONGSHO
UNDER OFFICE OF ASSISTANT DIRECTOR
HANDIOOM AND TEXTILE
WEST KARBI ANGLONG
ASSA

Advocate for the Petitioner : MR D K NATH, MS B SHARMA,MS M DAS

Advocate for the Respondent : SC, HANDLOOM AND TEXTILE,

BEFORE
HONOURABLE MR. JUSTICE BUDI HABUNG

ORDER

Date : 23.09.2026

Heard Mr. D. K. Nath, learned counsel for the petitioner. Also heard Mr. R. Dhar, learned standing counsel, Handloom & Textiles, appearing on behalf of respondents No. 1, 2 & 3.

2. By this writ petition, the petitioner has challenged the order dated 08.09.2026 which was issued by Director, Handloom & Textiles, Assam, Guwahati, whereby he has been transferred and posted as Inspector(C), under the Office of the Assistant Director, Handloom & Textiles, Sonitpur, Tezpur, from WESU, Tihu, under the Office of the Assistant Director, Handloom & Textiles, Nalbari, against the vacant post in the interest of public service.

3. The case of the petitioner is that owing to his medical condition, he requires regular medical treatment and is being looked-after by his wife, as well as attending family residential house and premises located at Pathsala. It is further submitted that the petitioner is due to attain the age of superannuation within 2(two) years. In this regard, being aggrieved by transfer, the petitioner submitted a representation before the competent authority seeking cancellation of his transfer and/or by making alternate arrangement by way of transferring another person Shri Jibeswar Rajbongshi, Inspector, WESU, Baithalongso, under the Office of the Assistant Director, Handloom & Textiles, West Karbi Anglong, to the Office of the Assistant Director, Handloom & Textiles, Sonitpur, Tezpur, in his place.

4. Mr. Dhar, learned standing counsel, Handloom & Textiles, submits that the private respondent No. 4, namely, Shri Jibeswar Rajbongshi, Inspector, WESU, Baithalongso, has already joined at the Office of the Assistant Director, Handloom

& Textiles, Sonitpur, Tezpur, on 15.09.2026. The learned standing counsel further submits that the Government of Personnel Department has issued an Office Memorandum dated 25.11.2024, regarding timely handing over and taking over charge on transfer and posting, which is reproduced below:

"***GOVERNMENT OF ASSAM***

DEPARTMENT OF PERSONNEL (PERSONNEL:: A)
ASSAM SECRETARIAT (CIVIL) DISPUR

GUWAHATI: 781006

No.ECF.582926/3 ***Dated Dispur, the 25th November, 2024***

OFFICE MEMORANDUM

Subject: Timely handing over and taking over charge on transfer and posting

It is a well-established part of service law jurisprudence that transfer is an exigency of service. Under the terms and conditions of service, an official has no right to remain absent or refuse to join in the new place of posting, upon transfer.

It is reiterated that all transfers and postings must be given effect by an official under order of transfer without any delay, and such an official should hand over charge immediately. Any representation submitted by the concerned official against the transfer order will be entertained only after he/she has joined in the new place of posting. If the transferred official fails to join in the new place of posting timely, strict disciplinary action will be initiated against the official.

Further, it is observed that some officials under order of transfer, take the plea of not being released by the controlling reporting officer, as the grounds for not handing over charge. However, there is no provision in any Rule for issue of release order by any authority subordinate to the authority which has issued the order of transfer. Therefore, the practice of issue of release order, consequent to issue of a transfer order, is henceforth barred. No official needs to wait for a release order to hand over charge, once an order of transfer is issued. If an official does not hand over charge on his own promptly, the official shall stand released automatically.

Sd/-Monita Borgohain, IAS

Secretary to the Govt. of Assam

Personnel Department

Memo No.ECF.582926/3-A ***Dated Dispur, the 25th November, 2024"***

5. The above Office Memorandum, inter alia, provides that an official under order of transfer, is required to give effect to the transfer order without delay and that any representation against the transfer order, shall be entertained only after the concerned official has joined at the new place of posting.

6. Mr. Nath, learned counsel for the petitioner, submits that this writ petition may be disposed of with a direction to the competent authority to consider and dispose of the representation submitted by the petitioner in accordance with law.

7. Having regard to the submissions advanced by the learned counsels appearing for the parties and also considering the fact that the petitioner has submitted a representation against the transfer order dated 08.09.2026 and the same is stated to be still pending consideration before the competent authority, this writ petition is disposed of with a direction to the respondent No. 2 to consider and dispose of the petitioner's representation dated 14.09.2026, in accordance with law after due compliance by the petitioner with the requirements contained in the Office Memorandum dated 25.11.2024.

8. While considering the representation, the competent authority shall take into consideration, the grounds urged by the petitioner, including his medical condition and the other circumstances stated in representation, and shall pass a reasoned and speaking order within a period of 15(fifteen) days from the date on which the petitioner complies with the requirements of the aforesaid Office Memorandum dated 25.11.2024.

9. The writ petition stands disposed of at the motion stage itself in the terms above.

JUDGE

Comparing Assistant