

( 1 ) Upon hearing Mr. T. Siram, learned counsel for the petitioner and also Ms. G. Deka, learned Govt. Advocate for the State respondents as well as on perusal of the available materials on record, I am of the view that this matter can be disposed of at this stage considering the simple nature of the case and, accordingly, this writ petition is hereby disposed of with the following short order.

( 2 ) The petitioner questioned the validity of the impugned transfer order dated 8. 5. 2001 by contending inter alia, that her husband is working /serving at NERIST, Nirjuli whose service is not transferable and her husband is suffering from pharyngitis disorder and he has been under medical treatment at Tezpur Mental Hospital, Assam as well as Guwahati and, as such, a prolonged treatment is required for his full recovery and her presence at this stage is also extremely required with him for speedy recovery. Raising these points, the petitioner approached the director of Social Welfare, Women and Child development Department, Govt of Arunachal Pradesh for cancellation of the transfer order only in the month of September, 2001 though, the impugned transfer order was issued in the month of May, 2001. It is also the main contention made by the learned counsel appearing for the petitioner for issuing a writ of certiorari for quashing the impugned transfer order of 8. 5. 2001. In my considered view, the petitioner has no enforceable legal right in the instant case as transfer is an incident of service and, apart from that, the petitioner had been working as Gram Shevika (Sr.) in the Department of Social Welfare, Women and Child Development, Kimin, Doimukh ICDS Project for the last about 4 (four) years and, as such, her transfer is due in terms of the related Govt. Office memorandum and transfer Policy. In the instant case, there is no question of arbitrariness or, malafide or contrary to the professed norms of principles governing transfer and posting of a government employee. Family hardship shall not be a ground for entertaining a petition for quashing a transfer order. In this regard law has been laid down by the Apex Court in a case between State of Madhya Pradesh and another, Appellants V. S. S. Kourav and others, Respondents, reported in AIR 1995 SC 1056 wherein, the Apex Court held that wife committed suicide leaving three children and transferring husband would suffer extreme hardship, even in that case the court cannot go into the question of relative hardship and, apart from that, expediency of transfer cannot be subjected to judicial review and holder of a transferable post cannot insist for being posted at any particular place for his or her convenience (See. Chief General Manager (Telecom), N. E. Telecom Circle and another, Appellants V. Rajendra Ch. Bhattacharjee and others, Respondents (AIR 1995 SC 813 ). In Mrs. Shilpi Bose and others, Appellants V. State of Bihar and others, Respondents, reported in AIR 1995 SC 532, the Apex Court held that Courts should not interfere with transfer orders unless made in violation of any statutory rule. Even if a transfer order is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the order instead, affected party should approach the higher authorities/competent authority and, if the Courts interfere with such transfer orders, there will be complete chaos even though, the husband and wife claim for same place of posting. In the instant case, the husband is working/serving in NERIST, Nirjuli not a Govt dept. and, the petitioner is a Govt. Employee and as such her transfer and posting is to be made by the competent authority, and it is also too late for her claim for affording the same place of posting with her husband. The principle of same place of posting of husband and wife is to be followed as far as practicable but, no right is conferred to an employee (See. AIR 1992 SC 51 ). In the instant case also, it is under the wisdom and domain of the competent authority i. e. , the respondents herein, in the matter pertaining to transfer and posting of the petitioner, in other words, the competent authority may review, cancel or modify or, may not cancel i. e. upto them but not with the court. Courts only interfere with the transfer order when there is

s malafide or, arbitrariness or violation of any statutory rules. In the instant case, there is nothing. The impugned transfer order was passed in the month of May, 2001 and now the petitioner approached this court with this petition in the month of October, 2001. It is astound to see the fact that how an employee could ignore an impugned transfer order which was passed on 8. 5. 2001 i. e. a long time ago.

( 3 ) In view of the above position, the petitioner Smti Monju Seal is directed to join to her new place of posting at Huri, Kurung kumey District Arunachal Pradesh (ICDS project) within a period of 2 (two) weeks from the dated of receipt of this order failing which, the authorities concerned are at liberty to take disciplinary action against her, if so advised.

( 4 ) In the result, petition is devoid of merit and, accordingly, it is dismissed.

( 5 ) Despite the dismissal of this writ petition, i am constrained to make the following order and observation.

( 6 ) Dismissal of this petition shall not stand on the way of the authorities concerned to reconsider the case of the petitioner. No order as to costs.