

WP(C) 2931/2010
BEFORE
HON'BLE MR. JUSTICE B.K. SHARMA

This writ petition has been filed against two orders both dated 03.03.2010 and 08.03.2010 effect of which is that the petitioner stands transferred from Guwahati to Dibrugarh. He has also been released from Guwahati by order dated 14.05.2010. According to the petitioner, he has been so transferred to accommodate the respondent No. 3 who has been transferred from Dibrugarh.

In the counter affidavit filed by the respondent No. 1, the stand of the petitioner has been denied. In the affidavit it has been denied that the respondent No. 3 has been transferred on his personal request. The ground assigned is his long 15 years of service at Dibrugarh. Moreover, there are 9 (nine) officers who are at Guwahati for about 10 years without any transfer. It has been stated that considering the long length of service of the respondent No. 3 at Dibrugarh, which is 15 years, he has been chosen for transfer, same cannot be said to be on his request. It has also been stated that the petitioner is released by order dated 14.05.2010 and his joining report was not accepted when he tried to join after long leave.

Transfer being an incident of service. The respondent No. 3 having been completed 15 years of service at Dibrugarh, if he is transferred from Dibrugarh and the petitioner who has also completed long years of service in Guwahati has been transferred to Dibrugarh, same cannot be said to be founded on malafide exercise of power. Moreover, having regard to the limited scope of interference in the matter of transfer which is an incident of service, the writ court will not sit on appeal over the decision of the authorities. If he is aggrieved by the impugned order of transfer, it will be open for him to approach the departmental authority by making appropriate representation.

The writ petition is disposed of.