

WP(C) 5793/2016

BEFORE

HON'BLE MR. JUSTICE MICHAEL ZOTHANKHUMA

Heard Mr. I. Choudhury, learned counsel for the petitioners. Also heard Mr. PN Goswami learned standing counsel, appearing for the Excise Department.

All the writ petitions are being disposed off by this common order.

The petitioners, herein, have made challenge to the impugned order dated 16.09.2016 (Annexure-F) issued by respondent No.2, Commissioner of Excise, Assam whereby the transfer orders of the petitioners made in the month of August, 2016 have been cancelled.

The petitioners counsel submits that as the petitioners have been transferred vide orders issued in August, 2016, after completing their normal tenure of service in their place of posting, the issuance of the cancellation order dated 16.09.2016, which has not been made in public interest or in the exigencies of service, should be set-aside.

Mr. PN Goswami learned counsel for the Excise Department, on the other hand, submits that the transfer orders issued in the month of August 2016, by the outgoing Commissioner of Excise, who had already been transferred prior to the dates of the transfer orders, was arbitrary and was not done in public interest.

On hearing learned counsels for both the parties and on perusing the materials on record, I find that subsequent to the impugned order dated 16.09.2016, the State respondents have maintained the earlier position of some of the Assistant Inspectors of Excise in the matter of posting by issuing an order subsequent to the impugned order dated 16.09.2016. For example, vide order dated 30.08.2016, one Subash Baishya has been retained at Guwahati Sadar Zone-D.

The above example implies that the said respondents have an open mind in the matter of transfer and in view of the fact that the petitioners have completed their normal tenure of service, this Court is of the opinion that the matter of transfer is best left to the discretion of the said respondents. As such, the petitioners are given liberty to make representations to the State respondents, especially, respondent No.2, Commissioner of Excise with regard to their grievance. The said representations should be submitted by the petitioners, if any, within a period of 2 weeks from today.

The representations of the petitioners shall thereafter be considered by the respondent No.2 within a further period of 2 weeks.

Till a decision is made by the respondent No.2 on the representations submitted by the petitioners, the position of the petitioners as on date shall be maintained.

The petitioners are also given liberty to approach this Court again if they are aggrieved by the decision of respondent No.2 on the representations submitted by them.

The petitions are accordingly disposed off.