

Serial No. 10
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 330 of 2022

Date of Decision: 24.02.2023

ARMC-6000060A Dr. Firuj Handique Vs. Union of India & Ors.

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner(s) : Mr. B. Pathak, Adv. with
Mr. V. Kumar, Adv.

For the Respondent(s) : Dr. N. Mozika, DSG with
Ms. S. Rumthao, Adv.

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| i) | Whether approved for reporting in Law journals etc: | Yes/No |
| ii) | Whether approved for publication in press: | Yes/No |

JUDGMENT AND ORDER (ORAL)

1. The petitioner a specialist Doctor is before this Court being aggrieved with the transfer order dated 23.08.2022. The ground of challenge is that as per the transfer policy in force, the said transfer is required to considered and effected by a Committee, and that the same

has not been followed. In this regard, the petitioner has also submitted a representation, which is yet to be considered by the respondents.

2. Dr. N. Mozika, learned DSG assisted by Ms. S. Rumthao, learned counsel for the respondents has brought to the notice of this Court a similar matter which has been disposed of on 31.01.2023 in WA No. 2 of 2023, wherein the transfer policy is under scrutiny. He submits that the earlier policy for considering the transfer had been discontinued, and the new policy that has been put in place is still yet to be implemented, due to certain objections from the stakeholders.

3. Perused the said judgment as supplied by the learned Senior counsel, wherein at Para 12 and 13 which is relevant for the instant case, the Division Bench had observed as follows:

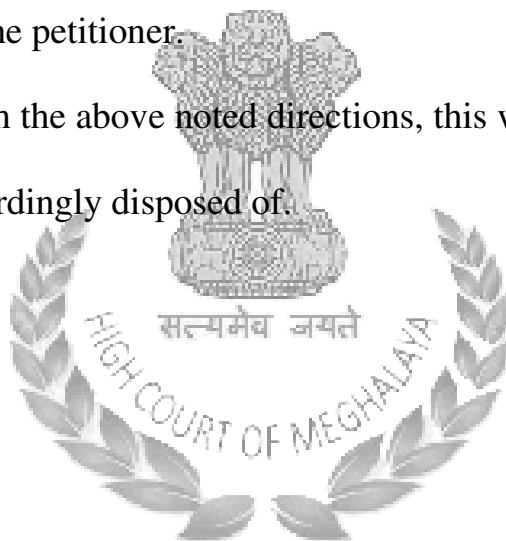
“12. Since the appellants make out a positive case that the erstwhile committee for considering transfers as in the present case has been disbanded or has been kept in abeyance, such position has to be accepted. There is no doubt that a new body or a new procedure will be put in place as expeditiously as possible for the benefit of all personnel in the CAPFs. However, merely because the erstwhile procedure has been kept in abeyance or a new procedure has not yet been evolved would not imply that the writ petitioner, who had initially applied in 2012 for transfer, has to be kept in limbo or he has to wait for the months and years before a policy is firmed up by the Union or the CAPFs or a methodology is put in place in regard to transfer of key personnel.

13. Accordingly, WA No. 2 of 2023 is disposed of by directing the Union Home Ministry, under the aegis of the Home Secretary to take a reasoned decision on the

application of the writ petitioner that had earlier found favour with the Union ministry and do the needful thereupon. In the event the writ petitioner's prayer for transfer is declined, adequate reasons should be indicated in support thereof. The exercise should be completed within a period of three months from date."

4. Accordingly, in line with the judgment rendered in WA No. 2 of 2023, this writ petition is disposed of to await a reasoned decision which would be provided by the Home Secretary, Ministry of Home Affairs. Till such decision is rendered, status quo shall prevail as to the posting of the petitioner.

5. With the above noted directions, this writ petition stands closed and is accordingly disposed of.



JUDGE

Meghalaya
24.02.2023
"V. Lyndem-PS"

