

**HIGH COURT OF TRIPURA
AGARTALA
WP(C)No.269 of 2022**

Sri Ramesh Khayara,
son of Sri Ranjit Khayara,
resident of Mayachari, Marachhara,
P.O. & P.S. Kamalpur, Pin-799285,
District-Dhalai Tripura

.....Petitioner(s)

Versus

1. The State of Tripura,
represented by Secretary
Elementary Education Department,
Government of Tripura, Civil Secretariat,
P.O. & Pin-New Capital Complex,
Agartala-799010, District-West Tripura

2. The Director,
Elementary Education Department,
Shiksha Bhavan, Office Lane,
Agartala-799001, P.S. West Agartala,
District-West Tripura

3. The State Project Director,
Samagra Shiksha, Government of Tripura,
Shiksha Bhavan, Office Lane, Agartala-799001,
P.S. West Agartala, District-West Tripura

4. District Education Officer,
District Education Office,
Jawharnagar, Ambassa-799289,
P.S. Ambassa, District-Dhalai Tripura

5. Block Project Co-ordinator,
Block Project Office,
Office of the Education Inspectorate,
Kamalpur-799277, P.O. & P.S. Kamalpur,
District-Dhalai Tripura

6. Union of India,
represented by the Secretary,
Ministry of Human Resource Development,
Department of School Education & Literacy,
Shastri Bhavan, Dr. Rajendra Prasad Road,
New Delhi-110001

.....Respondent(s)

For Petitioner(s)	:	Mr. S. Saha, Adv.
For Respondent(s)	:	Mr. B. Majumder, DSGI. Mr. M. Debbarma, Addl. G.A.
Date of Hearing & Judgment & Order	:	27.04.2023

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment & Order(Oral)

Heard Mr. S. Saha, learned counsel appearing for the petitioner as well as Mr. M. Debbarma, learned Addl. G.A. appearing for the respondents No.1 to 5 and Mr. B. Majumder, learned DSGI appearing for the respondent No.6.

2. This petition has been filed under Article 226 of the Constitution of India directing the respondents and each of them to set aside and/or quash the order of transfer contained in Memo dated 04.03.2022 forthwith and in no time.

3. The petitioner has prayed for the following reliefs :

- "i. Admit the petition of the Petitioner.**
- ii. Issue Notice upon the Respondents.**
- iii. Call for records relevant to the subject matter.**
- iv. Issue Writ directing the Respondents and each of them to set aside and/or quash the Memo No.F.1(3)/EDN(D)/Estt./2021/4237 dated 04.03.2022 forthwith and in no time.**
- v. Issue Writ prohibiting the Respondents or each of them from giving effect to the said transfer order in any manner whatsoever.**
- vi. Issue Writ directing the Respondents and each of them to allow the Petitioner to continue his service as Primary Teacher in Kamalpur Govt. English Medium School."**

4. The fact in brief is that the petitioner initially engaged as a Contract Teacher for Primary (Sarva Shiksha Abhiyan) School under Education Inspectorate, Kamalpur for a period of one year w.e.f. 09.02.2007 vide memo dated 05.02.2007 and posted at Mayantuku T.E. Jr. B. School. Condition of engagement was specifically mentioned in the aforesaid memo. It is also to be mentioned here that petitioner was appointed by the Block Project Co-ordinator, Block Project Office (Education Inspectorate), Kamalpur, Dhalai Tripura i.e. the respondent No.5 herein.

5. Though the service of the petitioner was purely contractual and for a period of one year but time to time it was extended and till today, he is serving without any blemishes. Though the petitioner was initially engaged in Mayantuku T.E. Jr. B. School but subsequently, he was transferred to Kamalpur Government English Medium H.S. School. Be it mentioned here that during the service of the petitioner, name of the project was changed from "Sarva Shiksha Abhiyan" to "Samgra Shiksha Abhiyan."

6. All on a sudden petitioner received one memo dated 04.03.2022 issued by the respondent No.4 and from the said memo petitioner came to know that he was transferred to Salema XI Card J.B. School w.e.f. 08.03.2022 to until further order. In the said transfer order it was also mentioned that the petitioner has to join in his new place of posting on 08.03.2022 positively. Petitioner due to his illness unable to join in his place of posting on 08.03.2022.

7. The said transfer order was passed by the respondent No.4 violating the conditions of engagement of the petitioner. Since, the service of the petitioner is purely contract basis and therefore, without specific condition of transfer, his place of posting cannot be changed. Apart from that, engagement of the petitioner was issued by the Block Development Co-ordinator, Education Inspectorate, Kamalpur i.e. the respondent No.5 and therefore, the petitioner cannot be transferred beyond the Sub-Division of Kamalpur. After appointment of the petitioner as Primary Contract Teacher conditions of service was never modified by the respondents.

8. The place of new posting of the petitioner is near about 50 kms. from his house. Apart from that father of the petitioner is an old aged person and suffering from various age ailments. If the petitioner is joined in his new place of posting, then his family would be seriously dislocated. Moreover, there is no other male member in his family who can look after is old aged father.

9. The transfer order passed by the respondent No.4 is ex-facie, illegal, arbitrary and colorable exercise of power. The respondent no.4 has no authority to transfer the petitioner beyond the jurisdiction of respondent No.4 and therefore, the petitioner has prayed before this Court to set aside or quash the said transfer order. It is further necessary to direct the respondents by a writ of prohibition not to disturb the petitioner posting as Primary Teacher in the Kamalpur Government English Medium H.S. School.

10. Having considered the submissions as advanced by the learned counsel appearing for both the parties, without expressing any opinion on merits, the present writ petition stands disposed of directing the petitioner to represent his grievance before the concerned respondent in accordance with law along with all relevant documents and thereafter, the respondents may consider is case as per procedure, if the petitioner is entitled to.

In that view of the matter, the present petition stands dismissed.

Pending application/s, if any, shall also stands dismissed.

JUDGE



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