

GAHC040015022023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : WP(C)/524/2023

Bali Potom
S/o Lava Potom, R/o Itanagar, C Sector, PO/PS Itanagar, Ganaga, Papum Pare
District, Arunachal Pradesh.

VERSUS

The State of AP and 5 Others
represented by the Secretary (Education), Govt. of Arunachal Pradesh, Itanagar.

2:The State Project Director

Age: 0

Occupation :

3:The Dy. State Project Director

Age: 0

Occupation :

4:The Deputy Director of School Education

Age: 0

Occupation :

5:Lido Sora

Age: 0

Occupation :

6:Libi Bagra

Age: 0

Occupation

Advocate for the Petitioner : Romjir Rakshap

Advocate for the Respondent : Tagum Jamoh

-BEFORE-

HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

-O R D E R-

10.11.2023

Heard Mr. D Panging, learned counsel for the petitioner. Also heard Mr. T Jamoh, learned standing counsel Education Department.

2. The present writ petition is filed assailing an order of transfer dated 27.10.2023 issued by the Deputy State Project Director, Samagra Shiksha/ ISSE, Arunachal Pradesh, Itanagar whereby the present petitioner, who is a contractual teacher and posted as Tours and Travel teacher at GHSS, Pakam, Aalo has been transferred to GHSS, Kamba, Aalo.
3. Pursual to order dated 08.11.2023, the learned standing counsel has produced the deed of agreement of engagement of the petitioner and the clause 3 of the same reads as follows:
“3. The second party should be ready to serve anywhere in the State. In case of refusal of posting place, using pressure tactics from amu quarter for change of posting place or anything related to place of posting, this contractual agreement shall be terminated and the appointment order is issued shall be withdrawn without any further notice.”
4. Therefore, the argument of the learned counsel for the petitioner that his appointment is school based and he cannot be transferred is not sustainable inasmuch as the aforesaid clause 3 clearly provides that the petitioner may require to serve in any school of the State. Accordingly, such contention of the petitioner is rejected.

5. Now coming to the argument that the transfer order was issued not in public interest but on the application of the private respondent, the learned standing counsel has produced a copy of application of the private respondent, which shows that the private respondent has filed an application for transferring her from GHSS, Kamba to Govt. Secondary School, New Market or GSS Pakam, Alo, West Siang as she has been serving as Tours and Travel (TT) teacher at GHSS, Kamba, for last six years and she is having gynaecological problem and having a minor child and she has to travel 24 k.m. to attend the school. The employer has considered such application and accordingly issued the aforesaid order.
6. In the considered opinion of this court, the employer is within its jurisdiction to consider difficulty of any employee and this court cannot judicially review such decision of the employer, in the given fact of the present case, inasmuch as the petitioner is not having a vested right to continue in the same school as urged.
7. In that view of the matter, this present writ petition deserves to be dismissed being devoid of merit and accordingly, same stands dismissed.
8. The interim order passed earlier stands vacated.

JUDGE

Comparing Assistant