

GAHC010118472016



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

Case No. : WP(C)/5659/2016

TRILOK RANJAN SARMA
S/O. SHRI NISHITHA RANJAN SARMA, R/O. NEAR UNITED HOSPITAL,
CIRCUIT HOUSE ROAD, RAJNAGAR, NALBARI, PIN. 781341. PRESENTLY
WORKING AS CLUSTER RESOURCE CENTRE CO-ORDINATOR, JANIA CRC
UNDER BARPETA DISTRICT MISSION CO-ORDINATOR, AXOM SARBA
SIKSHA ABHIYAN MISSION

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE COMMISSIONER and SECRETARY, ELEMENTARY EDUCATION
DEPTT., DISPUR, GUWAHATI, ASSAM, PIN. 781006.

2:THE MISSION DIRECTOR
AXOM SARBA SIKSHA ABHIYAN MISSION
KAHILIPARA
GUWAHATI
ASSAM
PIN. 781019.

3:SMTI. ARUNA RAJORIA
THE MISSION DIRECTOR
AXOM SARBA SIKSHA ABHIYAN MISSION
KAHILIPARA
GUWAHATI
ASSAM
PIN. 781019.

4:THE DIST. MISSION COORDINATOR-CUM-DIST. ELEMENTARY
EDUCATION OFFICER
BARPETA
AXOM SARBA SIKSHA ABHIYAN MISSION
BARPETA
ASSAM

PIN. 781301.

5:SHRI M.C. DEKA
INSPECTOR OF SCHOOLS
KAMRUPRURAL
NEAR SARAIGHAT HIGH SCHOOL
LACHITPUR
AMINGAON
KAMRUPR
ASSAM
PIN. 781031. EX-DIST. MISSION CO-ORDINATOR-CUM-DIST. ELEMENTARY
EDUCATION OFFICER
BARPETA

6:THE BLOCK MISSION CO-ORDINATOR-CUM-BLOCK ELEMENTARY
EDUCATION OFFICER
MANDIA EDUCATION BLOCK
AXOM SARBA SIKSHA ABHIYAN MISSION
MANDIA
BARPETA
ASSAM

Advocate for the Petitioner : MS.C HAZARIKA

Advocate for the Respondent : MS.A KAPINJALR-5

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

20-07-2023

Heard Mr. M. Khataniar, learned counsel for the petitioner and Mr. P.K. Borah, learned Standing counsel, Department of School Education (Elementary), Assam for the respondent No. 1. Also heard Mr. B. Gogoi, learned Standing counsel, Assam Sarba Siksha Abhiyan Mission for the respondent Nos. 2, 4 & 6.

2. The petitioner was serving as an Assistant Teacher at 1483 Dighir Pather Lower Primary School in the district of Barpeta under Sarba Siksha Abhiyan (SSA), Assam. Pursuant to his selection as the Cluster Resource Centre Co-ordinator (CRCC) in terms of the advertisement dated 17.10.2012, the Mission Director, Axom Sarba Siksha Abhiyan Mission vide order under Memo No. SSA/RTE/CRC/BRC/295/2010/6258-A dated 06.12.2013 appointed the petitioner as CRCC in the

district of Barpeta and posted him at Jania CRC within Mandia Education Block.

3. The District Mission Co-ordinator-cum-District Elementary Education Officer (DEEO) SSA, Barpeta by order dated 19.12.2015 transferred the petitioner from Jania CRC to Bhatnapaity NC, both within Mandia Education Block of Barpeta district.

4. The petitioner filed a representation before the Mission Director, SSA Assam on 30.12.2015 against his transfer order dated 19.12.2015. As his representation dated 30.12.2015 against his transfer order dated 19.12.2015 was pending before the Mission Director, SSA, Assam for long without any result, the petitioner preferred a writ petition being WP(C) No. 2112/2016 challenging his said transfer order dated 19.12.2015 issued by the District Mission Co-ordinator-cum- DEEO, SSA, Barpeta, noted above.

5. After hearing the learned counsels for the parties, the Court by order dated 30.03.2016 disposed of said WP(C) No. 2112/2016 with the following observation:

“After hearing the learned counsels for the parties, this writ petition is disposed of with a direction that the Mission Director, SSA, Assam respondent No.2 shall dispose of the representation of the petitioner dated 30.12.2015 on or before 31.05.2016 with a reason order by giving him an opportunity of hearing. The respondent No. 2 shall intimate the outcome of the said representation to the petitioner.

The Petitioner shall submit a copy of this petition along with annexures appended therein along with certified copy of this order to the respondent No. 2 (Mission Director, SSA, Assam) on or before 08.04.2016. Subject to submission of such certified copy along with copy of the writ petition as directed above, the parties to the proceeding shall maintain status-quo as on today till disposal of the representation by the respondent No.2.

With the above, this petition is disposed of.

The petitioner may approach the appropriate forum if he is aggrieved by the outcome of his said representation to be disposed of by the respondent No.2.”

6. Pursuant to said order of the Court dated 30.03.2016 passed in said WP(C) No. 2112/2016 and after hearing the petitioner, the District Mission Co-ordinator, SSA, Barpeta as well as the Executive Director, SSA, Assam and the SPO (TT & P) SSA, Assam, the Mission Director, SSA, Assam, respondent No.2, vide order No. SSA/Esstt./Court case/163/2016/5586 dated 16.08.2016 came to the finding that the order dated 19.12.2015 issued by the District Mission Co-ordinator-cum-DEEO SSA, Barpeta transferring him from Jania CRC to Bhatnapaity NC was in public interest and accordingly, directed him to join as CRCC at Bhatnapaity within Mandia Education Block by 07.09.2016.

7. Being aggrieved with the said finding of the Mission Director, SSA, Assam dated 16.08.2016, the

petitioner has preferred this writ petition on 15.09.2016 praying amongst others to set aside and quash the said order dated 16.08.2016 of the Mission Director, SSA, Assam as well as the order of his transfer dated 19.12.2015 issued by the District Mission Co-ordinator-cum-DEEO SSA, Barpeta transferring him from Jania CRC to Bhatnapaity NC of Mandia Education Block and to release his arrear salary for the months of January, 2016 and March, 2016 to June, 2016 as well as his current salary and further to allow him to continue his service as CRCC at Jania CRC within Mandia Education Block .

8. On 26.10.2016, the petitioner brought to the notice of the Court that though by order dated 19.12.2015, he was transferred from Jania CRC to Bhatnapaity NC by the District Mission Co-ordinator-cum-DEEO SSA, Bapeta but in the meanwhile, another person was posted at Bhatnapaity NC and as such, his transfer to Bhatnapaity NC became redundant.

9. Considering such submission of the petitioner, the Court on 26.10.2016 directed the authorities of the SSA to obtain necessary instruction and considering the said development, the Court passed an order to maintain status quo as on said date, i.e., 26.10.2016, pertaining to the place of posting of the petitioner.

10. On 07.11.2016, the Court issued notice to the respondents herein and extended the interim order passed earlier on 26.10.2016. However, from the order sheets of this case, it is seen that since 19.12.2016, the order of status quo passed earlier on 26.10.2016 was not extended.

11. It is already seen from the above that while disposing of said WP(C) No. 2112/2016 on 30.03.2016, the Court directed that the parties to the said proceeding i.e., the petitioner and the authorities in the SSA shall maintain status quo as on 30.03.2016 till disposal of the representation of the petitioner by the Mission Director, SSA, Assam and from the impugned order dated 16.08.2016 passed by the Mission Director, SSA, Assam, it is seen that the petitioner was directed to join at Bhatnapaity NC by 07.09.2016.

12. Moreover, it is seen from the order sheets of this case that besides the above, the order of status quo regarding the place of posting of the petitioner was also from the period from 26.10.2016 upto 19.12.2016 and beyond that the order of status quo regarding the place of posting of the petitioner was not extended by the Court.

13. From the affidavit filed by the respondent authorities, it is seen that the District Mission Co-ordinators of the Districts concerned were delegated with the power to transfer any such CRCC within their respective jurisdictional districts.

14. Though the Mission Director of SSA is the appointing authority with regard to CRCC i.e., the petitioner herein, but said power of transfer within the respective jurisdictional district being delegated to the District Mission Co-ordinator, therefore, the District Mission Co-ordinator-cum-DEEO SSA, Barpeta on 19.12.2015 transferred the petitioner from Jania CRC to Bhatnapaity NC of Mandia Education Block.

15. Moreover, by the impugned order dated 16.08.2016, the Mission Director, SSA, Assam found that said order of transfer of the petitioner dated 19.12.2015 issued by the District Mission Co-ordinator-cum-DEEO, SSA, Barpeta transferring him from Jania CRC to Bhatnapaity NC was in public interest and accordingly, directed him to join Bhatnapaity NC by 07.09.2016, but the petitioner did not join within the said time.

16. During the pendency of this writ petition, the petitioner placed before the Court that another CRCC, namely, Hasmat Ali was posted at Bhatnapaity NC and in that view of the matter, the petitioner claimed that his transfer from Jania CRC to Bhatnapaity NC became redundant. But by filing an affidavit on 20.02.2017, the respondent authorities in the SSA, Assam placed before the Court that the Mission Director, SSA, Assam by order dated 10.11.2016, revoked its earlier order dated 28.09.2016 and reverted back said Hasmat Ali as CRCC, Nalbari by placing him under the disposal of the District Mission Co-ordinator, SSA, Nalbari and accordingly, posted him at 31 No. Jagra-2 Cluster under Paschim Nalbari Education Block of Nalbari district. It is already noticed that the petitioner after the impugned order dated 16.08.2016 issued by the Mission Director, SSA, Assam did not join his service at Bhatnapaity NC by 07.09.2016.

17. Considering the entire aspect of the matter, the Court did not find any such illegality with the transfer order No.SSA/Bpt/TT/CRCC/415/2015/6246-50 dated 19.12.2015 issued by the District Mission Co-ordinator-cum-DEEO, SSA, Barpeta transferring the petitioner from Jania CRC to Bhatnapaity NC, both within the Mandia Education Block of Barpeta District.

18. For the reasons above, the Court also found that the impugned order No. SSA/Esstt/Court Case/163/2016/5585 dated 16.08.2016 passed by the Mission Director, SSA, Assam, issued in pursuance of the Order of the Court dated 30.03.2016 passed in WP(C) No. 2112/2016 (*Trilok Ranjan Sarma -Vs- state of Assam and 4 Others*) does not call for any interference. To that extent, the prayer of the petitioner regarding cancellation of his transfer from Jania CRC to Bhatnapaity NC stands rejected.

19. The impugned order dated 19.12.2015 issued by the District Mission Co-ordinator-cum- DEEO

SSA, Barpeta transferring the petitioner from Jania CRC to Bhatnapaity NC is more than seven years old. Pursuant to the order of status quo dated 30.03.2016 passed earlier in WP(C) No. 2112/2016, it is seen that the District Mission Co-ordinator-cum-DEEO SSA, Barpeta on 21.07.2016 passed an order keeping in abeyance of the order of transfer of the petitioner dated 19.12.2015 from Jania CRC to Bhatnapaity NC in public interest and the petitioner was allowed to draw his pending salary, if any, during the period from January, 2016 based on his working report either from Jania CRC or from Bhatnapaity NC, CRC.

20. Further, as per the order of the Court dated 30.03.2016 passed earlier in WP(C) No. 2112/2016 as well as in terms of the impugned order dated 16.08.2016 of the Mission Director, SSA, Assam, whereby the petitioner was asked to join at Bhatnapaity NC by 07.09.2016, the order of status quo with regard to the place of posting of the petitioner at Bhatnapaity NC initially remained in force from 30.03.2016 to 08.09.2016.

21. Thereafter, in terms of the order of the Court passed in the present proceeding, status quo with regard to the place of posting of the petitioner at Bhatnapaity NC was in force for the period from 26.10.2016 upto 19.12.2016.

22. As such, with regard to the place of posting of the petitioner at Bhatnapaity NC from Jania CRC, both within the Mandia Education Block of Barpeta District, it is seen that there was no order of status quo from 19.12.2015 to 29.03.2015, 07.09.2016 to 25.10.2016 and thereafter from 20.12.2016, in between Sri Hasmat Ali served as CRCC at said Bhatnapaity NC from 28.09.2016 to 10.11.2016 in terms of the order of the Mission Director, SSA, Assam.

23. After hearing the learned counsels for the parties and considering the entire aspect of the matter, regarding the payment of arrear salary of the petitioner for the months of January, 2016 and March, 2016 to June, 2016 shall be subject to working report submitted by the petitioner from Jania CRC for the months of January, 2016 and from March, 2016 to 06.09.2016 and thereafter, from Bhatnapaity NC for the period from 07.09.2016 except for the period from 26.10.2016 to 19.12.2016 where there was an order of status quo that was in force as passed by the Court in the present proceeding.

24. With the above observation and direction, this writ petition stands disposed of.

JUDGE

Comparing Assistant