

GAHC010140952023



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

Case No. : WP(C)/3727/2023

SOMESWAR NATH
SON OF KALIRAM NATH,
RESIDENT OF WARD NO. 12,
K.B. ROAD, P.O. AND P.S.- NORTH LAKHIMPUR,
DISTRICT- LAKHIMPUR, ASSAM.

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
DEPARTMENT OF ELEMENTARY EDUCATION, DISPUR, GUWAHATI-
781006.

2:THE SECRETARY TO THE GOVERNMENT OF ASSAM
DEPARTMENT OF ELEMENTARY EDUCATION
DISPUR
GUWAHATI-06.

3:THE DIRECTOR
ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI- 781019

Advocate for the Petitioner : MR. R PHUKAN

Advocate for the Respondent : SC, ELEM. EDU

Linked Case : WP(C)/3455/2021

SOMESWAR NATH
SON OF KALIRAM NATH
R/O WARD NO. 12

K.B. ROAD
P.O. AND P.S. NORTH LAKHIMPUR
DIST. LAKHIMPUR
ASSAM

VERSUS

THE STATE OF ASSAM 3 ORS
REP. BY COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
DEPARTMENT OF ELEMENTARY EDUCATION
DISPUR
GUWAHATI-781006.

2:THE SECRETARY TO THE GOVT. OF ASSAM

DEPARTMENT OF ELEMENTARY EDUCATION
DISPUR
GUWAHATI-781006
3:THE DIRECTOR

ELEMENTARY EDUCATION
ASSAM KAHILIPARA
GUWAHATI-781019.

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER

LAKHIMPUR
P.O. AND P.S. NORTH LAKHIMPUR
LAKHIMPUR
ASSAM

Advocate for : MR. R PHUKAN

Advocate for : SC

ELEM. EDU appearing for THE STATE OF ASSAM 3 ORS

BEFORE
HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR

19.10.2023

O R D E R

Heard Mr. R. Phukan, learned counsel for the petitioner. Also heard Mr. N.J. Khataniar, learned Standing Counsel, School Education Department, Government of Assam.

2. Aggrieved with the order dated 16th July, 2021 by which the petitioner was transferred from the office of the District Elementary Education Officer, Lakhimpur to the office of the Deputy Inspector of Schools, Nalbari, the petitioner approached this Court by filing WP(C) No.3455/2021. By order dated 29.07.2021, this Court in WP(C) No.3455/2021, directed that the transfer order dated 16.07.2021 shall not be given effect to and the said interim order is continuing till date.

3. After the transfer order dated 16th July, 2021, the petitioner was suspended by an order dated 16.08.2021 pending Departmental Proceedings against him. By another order dated 27.09.2022, the petitioner was reinstated in service in the same grade and scale of pay with immediate effect with further direction that he will draw his salary from the office of the Deputy Inspector of Schools, Nalbari.

4. WP(C) No.3727/2023 is filed by the petitioner praying for a direction to the respondents to reconsider the transfer order dated 16th July, 2021 and to post him back to the office of the Deputy Inspector of Schools, Lakhimpur.

5. It is the case of the petitioner that after his reinstatement in the service by order dated 27.09.2022, the petitioner has joined the office of the Deputy Inspector of Schools, Nalbari. Thereafter, the petitioner made a representation dated 29.05.2023 addressed to the Director, Elementary Education, Assam/respondent No.3 for transferring the petitioner back to the office of the Deputy Inspector of Schools, Lakhimpur on the ground that both his eyes have been operated for cataract and he is

living about 500 kilometer away from his home and, therefore, he is unable to be with his family. The further case of the petitioner is that his wife is also a working lady and they have a small child of about 5 years old and, therefore, a consideration may be given to transfer him back to Lakhimpur. The said representation is yet to be considered.

6. After hearing learned counsel for the parties and on consideration of the materials available on record, both these writ petitions are disposed of directing the respondent No.3 to consider the representation dated 29.05.2023 made by the petitioner and, thereafter, pass appropriate order(s) in accordance with law within a period of two months from the date of receipt of a copy of this order.

7. With the above observations and directions, both these writ petitions are disposed of.

JUDGE

Comparing Assistant