

GAHC010131682018



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

Case No. : WP(C)/4047/2018

SRI GOPAL SARKAR
S/O- SRI PRAHLAD SARKAR, VILL- GURIHATI, PO AND PS KHOIRABARI,
DIST- UDALGURI, ASSAM, PIN-784522

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY THE COMM. AND SECY., EDUCATION DEPTT. (ELEMENTARY),
GOVT. OF ASSAM, DISPUR, GHY-6

2:THE DIRECTOR OF ELEMENTARY EDUCATION
GOVT. OF ASSAM
KAHILIPARA
GHY-19

3:THE DIRECTOR OF EDUCATION
BTC
KOKRAJHAR
ASSAM
PIN-783370

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER
UDALGURI
ASSAM
PIN-784509

5:THE BLOCK ELEMENTARY EDUCATION OFFICER
KHOIRABARI
UDALGURI
ASSAM
PIN-784509

6:THE DY. INSPECTOR OF SCHOOLS
BHERGAON

UDALGURI
ASSAM
PIN- 78450

Advocate for the Petitioner : MR. R C DAS

Advocate for the Respondent : SC, ELEM. EDU

**BEFORE
HON'BLE MR. JUSTICE KARDAK ETE**

O R D E R

25.06.2024.

Heard Ms. D. Bongshiary, learned counsel appearing on behalf of Mr. S.C. Das, learned counsel for the petitioner. None appears for the respondents.

The challenge made in this Writ Petition is to the impugned transfer order vide Memo No.DE/BTC/Apptt-200/2011/3A, dated 17.05.2018, issued by the Director of Education, BTC, Kokrajhar, whereby the petitioner has been transferred from Purani Tangla L.P. School to Kacharidag L.P. School on the ground that the said transfer order amounts to demotion in his service.

The petitioner was initially appointed as Assistant Teacher at the Haliram Saharia Nava Kumar Kar L.P. School in Udalguri District under the BTAD, Assam on 16.05.2013. Thereafter vide order dated 24.10.2014, he was transferred to Purani Tangla L.P. School as Head Teacher. Then again to Kacharidag L.P. School as an Assistant Teacher. Vide order dated 19.12.2017, the Kacharidag L.P. School was amalgamated with Kacharidag M.E. School under the scheme of Siksha Khetra.

According to the petitioner, in view of the amalgamation of the petitioner's

Kacharidag L.P. School with Kacharidag M.E. School, the petitioner was elevated as M.E. School Teacher. Thereafter, while serving at Kacharidag M.E. School, the petitioner was transferred to Kacharidag L.P. School vide the impugned transfer order dated 17.05.2018, by showing that the transfer is from Purani Tangla L.P. School, where the petitioner was serving before amalgamation to Kacharidag M.E. School.

It is the contention of the petitioner that since the petitioner was elevated to serve in the M.E. School in the Kacharidag M.E. School, under the scheme of Siksha Khetra by the Government, the impugned transfer order amounts to demotion, as it is shown that that the petitioner was re-transferred from Purani Tangla L.P. School to Kacharidag L.P. School. It is further contended that Purani Tangla L.P. School is the school where the petitioner had served before the amalgamation of the said school to Kacharidag M.E. School subsequent elevation to serve in the M.E. School. Therefore, it is submitted that the impugned transfer order clearly reflects demotion in his service.

On consideration of the submission of learned counsel for the petitioner as well as perusal of the materials available on record, it is seen that the petitioner was appointed as Assistant Teacher at the Haliram Saharia Nava Kumar Kar L.P. School in Udalguri District and thereafter, he was transferred from one school to another school as Assistant Teacher.

On the amalgamation of the Kacharidag L.P. School with the Kacharidag M.E. School under the scheme of Siksha Khetra, vide order dated 19.12.2017, the petitioner was allowed to serve in the M.E. School as a teacher. The substantive post under which the petitioner was appointed is Assistant Teacher in the L.P. School. He was transferred from one school to another school as Assistant Teacher and after amalgamation of the Kacharidag L.P. School with the

Kacharidag M.E. School under the scheme of Siksha Khetra, the petitioner was allowed to serve at the said M.E. School. In my considered view, allowing the petitioner to serve in the amalgamated M.E. School would not mean that he was promoted to a higher post. The fact remains that the petitioner's substantive post is Assistant Teacher of L.P. School whether he was allowed to serve in the M.E. School. It would not be considered as promotion from his substantive post, unless a specific order of promotion is made. It is also to be noted that a teacher, either an Assistant Teacher or higher in the rank, could be allowed to serve either in the L.P. School or in the M.E. School.

Having considered the above, this Court is of the view that the impugned transfer order dated 17.05.2018, is not amount to demotion, for which no interference is called for. Thus, there is no merit in the Writ Petition.

Accordingly, the Writ Petition stands dismissed being devoid of merit.

JUDGE

Comparing Assistant