

GAHC010292982023



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

Case No. : WP(C)/7601/2023

ABDUR ROOF LASKAR
S/O- MOINUL HOQUE LASKAR,
VILL- BORJRAL, PO- BOALIPAR BAZAR,
DIST. AND P.S.- HAILAKANDI,
PIN- 788155.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE SECRETARY,
TO THE GOVERNMENT OF ASSAM,
DEPARTMENT OF SCHOOL EDUCATION,
DISPUR, GUWAHATI-06.

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

3:THE DEPUTY COMMISSIONER
HAILAKANDI
PIN -788151
DISTRICT- HAILAKANDI

ASSAM.

4:THE JOINT DIRECTOR OF HEALTH SERVICES AND CHAIRMAN OF
DISTRICT MEDICAL BOARD
HAILAKANDI.

5:THE DEPUTY INSPECTOR OF SCHOOLS
HAILAKANDI

DIST- HAILAKANDI.

6:THE DISTRICT ELEMENTARY EDUCATION OFFICER
HAILAKANDI
PIN- 788151
DISTRICT- HAILAKANDI

ASSAM

Advocate for the Petitioner : MR. A Y CHOUDHURY

Advocate for the Respondent : SC, ELEM. EDU

**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

03.01.2024.

1. Heard Mr. A. Y. Choudhury, learned counsel for the petitioner. Also heard Mr. N. J. Khataniar, learned Standing Counsel for the Elementary Education Department representing the respondent Nos. 1, 2, 6 and 7, Mr. D. P. Borah, learned Standing Counsel for the Health Department, representing the respondent No. 5 and Mr. P. Saikia, learned Government Advocate representing the respondent No. 4.
2. The present writ petition is taken up for final disposal at the motion stage itself as proposed and agreed to by the learned counsels for both the parties.
3. The grievance of the petitioner is that pursuant to an Office Memorandum dated 25.08.2022 which provides for consideration of transfer of a Government Servant from one place to another on the ground of ailment of parents, the petitioner was transferred from Uttar Damcherra VLP to 154 No. Bilaipur Govt. Junior Basic School vide order dated 21.10.2023. However, such order, according to the petitioner, shall not give any benefit as envisaged in the memorandum

dated 25.08.2022, rather the transferred place of posting is more inconvenient to the petitioner for the purpose of looking after his ailing parents.

4. It is the case of the petitioner that to look after his old ailing parents, he made a representation before the concerned authorities in terms of office memorandum dated 25.08.2022 seeking transfer to a nearby place of his residence at Hailakandi inasmuch as his place of posting at Uttar Damcherra VLP is around 70 KMs away from his residence which has created much inconvenience for him to look after his ailing parents.
5. Though the respondent authorities has positively considered his claim and issued transfer order dated 21.10.2023, transferring him to 154 No. Bilaipur Govt. Junior Basic School, however, the said School is also around 70 KMs away from his residence and it is situated in a hilly area. Therefore, the problem that he has been facing continued. According to him, as the order has been issued considering his claim, he has joined, however, he has filed a representation before the respondent authorities which is annexed with the writ petition as Annexure-5, praying for re-consideration of the transfer order dated 21.10.2023.
6. Mr. N. J. Khataniar, learned Standing Counsel for the Elementary Education Department submits that the Government has issued an office memorandum dated 25.08.2022 so as to enable the government servant to maintain balance between their work and to look after their ailing parents and accordingly, the transfer order has been issued. However, if the petitioner has still some grievances, the department being a model employer shall definitely consider such representation. Mr. Khataniar, learned counsel submits that a fresh representation may be directed to be filed before the Director of Elementary Education, Assam, so that the matter can be taken up for consideration.
7. Accordingly, Mr. A. Y. Choudhury, learned counsel submits that this writ

petition can be disposed of with a direction to the respondent authority i.e. Director of Elementary Education, Assam to consider such claim of the petitioner and decide the same in terms of the office memorandum dated 25.08.2022 taking note of all relevant facts.

8. Accordingly, in view of the aforesaid consensus, the present writ petition is disposed of with the following directions:-

I. The petitioner shall file a representation before the Director of Elementary Education, Assam highlighting his grievances within a period of 10 (ten) days from today.

II. On receipt of such representation, the Director of Elementary Education, Assam shall consider and dispose of the said representation within a period of one month thereafter taking note of relevant facts as well as the mandate of office memorandum dated 25.08.2022.

9. With the aforesaid observation, this present writ petition stands disposed of.

JUDGE

Comparing Assistant