

THE HIGH COURT OF TRIPURA
AGARTALA

WP(C). No. 07 of 2009

Sri Jayanta Debbarma,
S/o- Lt. Nagendra Debbarma,
Vill- Bhati Fathickcharra, P.O. Kamalghat,
P.S. Lefunga, District- West Tripura.

.....Petitioner

- VERSUS -

1. The State of Tripura,
(represented by Secretary-cum-Commissioner,
Department of Education, Government of Tripura),
Secretariat Building, Agartala, West Tripura.
2. The Director of School Education, Tripura
Education Directorate, Agartala, West Tripura.
3. The Joint Director of School Education,
Government of Tripura.
4. The Headmaster,
Gamchakobra High School (Primary Section),
P.O. Kamalghat, P.S. Lefunga, District- West Tripura.
5. The Superintendent of Police,
Vigilance, Tripura, Agartala.

.....Respondents.

B E F O R E
THE HON'BLE MR. JUSTICE U. B. SAHA

For the petitioner	: Mr. R. Dutta, Advocate.
For the respondents	: Ms. A.S. Lodh, Addl. G.A.
Date of hearing & delivery of judgment and order	: 07.09.2015
Whether fit for reporting	: NO.

Judgment and Order (Oral)

Heard Mr. R. Dutta, learned counsel appearing for
the petitioner as well as Ms. A.S. Lodh, learned Addl. G.A.,
appearing for the respondents.

[2] The case of the petitioner is that he has received an offer of appointment from the Director of School Education, Tripura, (Annexure-D to the writ petition) and accordingly he joined as Kok Borok Teacher at Gamchakobra High School (Primary Section) under I.S. Mohanpur on 09.01.1993 and worked there up to 24.03.1995. Thereafter, a show cause notice dated 23.08.1994 was issued to the petitioner directing him to submit the relevant documents and the letter of appointment and the petitioner was not allowed to continue his service.

[3] The petitioner in his reply to show cause notice dated 23.08.1994 stated, inter alia, that he joined to the post of Kok Borok Teacher at Gamchakobra High School (Primary Section) on 09.01.1993 in strict compliance of the offer of appointment issued in favour of him by the respondent No.2 and since then he had been discharging his duties without any interruption. He further stated that he had submitted joining report together with all required documents, besides submission of his upto date monthly working reports by the School Authority concerned. In the said reply, he has also asked for his monthly salaries.

[4] On 24.03.1995, the respondent No.2 issued a memo against the petitioner stating inter alia that the petitioner had produced copy of offer of appointment to the

post of Kok Borok Teacher with place of posting mentioned in the offer itself but in the office copy of the offer of appointment kept in the office does not contain the place of posting. Rather the space provided for the purpose in the office copy of the offer appears to have been cut across. So the petitioner has unauthorizedly joined the post of Kok Borok Teacher at Gamchakobra High School, Sadar on 09.01.1993, though no order of appointment has been issued in favour of the petitioner by the authority. Further the respondent No. 2 admitted that only offer was issued in favour of the petitioner without mentioning any posting. Thus, the memorandum dated 24.03.1995 (Annexure-H) is unfair and illegal.

[5] It is also contended that one Harish Chandra Reang of Dhumacherra High School (Primary Section) was appointed like the petitioner and show cause notice was also issued to the said Harish Chandra Reang asking him not to perform his duties.

[6] Thereafter, he has filed one writ petition being Civil Rule No. 331 of 1996 before the Gauhati High Court, Agartal Bench, seeking direction upon the respondent No. 2 to allow him to discharge his duties as Kok Borok Teacher and also to quash the memo dated 24.03.1995. The State respondents contested the said case and finally it was held by the Gauhati High Court, Agartal Bench that the petitioner

failed to establish his specific claim for the post of Kok Borok Teacher and as such, no mandamus was issued. However, as the vigilance proceeding was going on, the Court directed the State Respondents that in case it is found that the petitioner was in fact selected in accordance with the rules and regulations for the post of teacher in Kok Borok language, necessary follow up action shall be taken up by the State respondents.

[7] Being aggrieved by the said decision of the learned Single Judge, Gauhati High Court, Agartal Bench, the petitioner preferred an appeal before the Division Bench of Hon'ble High Court, being W.A. No. 16 of 2001 and in the said writ appeal the Hon'ble Division Bench of Gauhati High Court, noted that

“ We do not find any infirmity in the direction so given by the learned Single Judge except the fact that no time limit for taking up action by the State respondents has been fixed and the result is, as correctly submitted by Mr. Bhowmik, learned counsel for the appellant, that the appellant does not know as to what fate has in store for him”.

[8] Finally, the writ appeal was disposed of, modifying the order of the learned Single Judge, with a direction that the State respondents shall take necessary steps in accordance with the directions given by the learned Single Judge in the judgment and order, dated 19.09.2000

and do the needful in accordance with the law within a period of 6 months.

[9] It is further contended that that Sri Harish Chandra Reang was ultimately allowed to join vide memorandum dated 25.07.2008 (Annexure-L to the writ petition). Thus, the petitioner is also entitled to the similar benefits. Hence, the writ petition.

[10] The respondents by way of filing counter affidavit stated that the writ petition is not maintainable as the petitioner has approached this Court after 14 years from the date of his dis-continuation in service vide memorandum dated 24.03.1995.

[11] It is further contended that it is partially true that the offer of appointment was issued in favour of the petitioner but no place of posting was mentioned in the offer of appointment. It is also stated that there was no scope to believe that the offer of appointment was managed illegally.

[12] In Para 18 of the counter-affidavit, it is stated that the case of the petitioner has been referred to the Vigilance Organization, Tripura, to enquire into the matter and thereafter, the Vigilance Organization made an enquiry for 22 numbers of cases in respect of Kok Borok Teacher including the petitioner.

[13] In the said report it was alleged that 22 numbers of Kok Borok Teacher in-question for tempering their place of posting in their appointment according to their choice and joining in their respective place of posting do not appear to be established.

[14] Mr. Dutta, learned counsel appearing for the petitioner submits that the petitioner is also entitled to get similar order passed by the Gauhati High Court, Agartala Bench, in W. A. No. 16 of 2001 arising out of Civil Rule No. 331 of 1996 and the petitioner should also be allowed to join in his service.

[15] Ms. A. S. Lodh, learned Addl. G.A. appearing for the State respondents submits that the instant writ petition should be dismissed only on the ground of delay and laches in filing the same. In support of her aforesaid contentions, she has relied upon a decision in ***Prasanna Hari Jamatia v. State of Tripura, (2015) 1 TLR 602***, wherein, the Division Bench of this Court after taking note of several decisions of the Apex Court dismissed the writ petition, which was filed after lapse of more than 15 years, with the observation that the petitioner should be given all his service benefits for the period he served the TSR in different capacity, during the period from 01.09.1985 to 16.03.1999 and the respondents were directed to give such benefits within 60 days from today.

[16] She further submits that it is the admitted position that some other persons who joined as Kok Borok Teacher and subsequently, joined by their own were initially issued show cause and also restrained from discharging their duties but subsequently, after consideration of the report of the Vigilance Inquiry, those persons were allowed to join in their respective post.

[17] This Court has given an anxious thought to the submission of the learned counsel appearing for the parties. There is no doubt that the instant writ petition is filed almost after 14 years from the date of direction to the petitioner not to work as a Kok Borok Teacher. But the petitioner in the instant petition particularly in Para 24, specifically stated that he waited for Vigilance report as allegedly pending against him, by which 13 years has already been elapsed, but the respondents No. 1, 2 and 5 did not submit any Vigilance report till the date of filing the writ petition by the petitioner for which he could not file the writ petition in time.

[18] As it appears from the counter of the State respondents that the appointment letter is not a forged one and even on inquiry, by the Vigilance Authority in its report specifically stated that 22 numbers of Kok Borok Teacher in-question for tempering the place of posting in their offer of appointment according to their choice and joining their respective place of posting do not appear to be established

meaning thereby that the petitioner did not forge the offer of appointment and when some other persons like the petitioner have already been allowed to join and discharged their duties, it is not clear why the present petitioner should be deprived.

[19] However, as the petitioner did not discharge his duties after dis-continuation vide memorandum dated 24.03.1995, it would not be proper for this Court to allow him the back salaries particularly when he filed his writ petition after 14 years.

[20] Respondents are directed to inquire the grievances of the petitioner and if it is found that the petitioner is also similarly situated like Harish Chandra Reang, then he should be allowed to join to his original place of posting and discharge his duties. The entire exercise shall be completed after examination of the matter within a period of 4 weeks from today and the appropriate order shall be passed as observed by this Court.

[21] With the above observations and directions this writ petition is disposed of.

JUDGE

A.Ghosh.