

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.289 of 2023

In

Civil Writ Jurisdiction Case No.18129 of 2022

-
-
1. Madhu Kumari, wife of Jitendra Kumar Das, Resident of Ashram Road, Ward No.- 15, P.S.- Araria, District- Araria, at Present working as Block Teacher at Government Upgraded Middle School, Salaigadh, Block- Araria, District- Araria.
 2. Kumari Archana Verma @ Archana Kumari, Wife of Arvind Kumar, Resident of Village- Babhangawan, Ward No.- 9, P.S.- Bihariganj, District- Madhepura at Present working as Block Teacher at Government Upgraded Middle School Sisauna, Block- Araria, District- Araria.

... .. Petitioners/Appellant/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Education, Government of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Director, Primary Education, Government of Bihar, Patna.
4. The Collector-Cum- District Magistrate, District- Araria.
5. The District Education Officer, Araria, District- Araria.
6. The District Programme Officer (Establishment) District- Araria.
7. The Block Education Officer, Araria, Block and District- Araria.
8. The Block Teachers Employment Unit, Araria, through its Member Secretary-Cum- Block Panchayat Raj Officer, Araria, Block- Araria, District- Araria.
9. The Pramukh-Cum- Chairman of Block Teachers Employment Unit, Araria, Block Araria, District- Araria.
10. The Block Panchayat Raj Officer-Cum- Member Secretary of Block Teacher Employment Unit, Araria, Block- Araria, District- Araria.
11. The Head Mistress/ Incharge Head Mistress, Government Middle School- Cum- Upgraded Secondary School, Hariyabara, Block- Araria, District- Araria.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Durgesh Nandan, Advocate
Ms. Manisha Prakash, Advocate

For the Respondent/s : Mr. Apurva Kumar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY



ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 31-07-2023

1. The appeal is filed against the order of the learned Single Judge refusing to interfere with the transfer of the appellants. The learned Single Judge noticed that the only contention raised was that there was no reason stated in the transfer order, and that there is no such requirement. After noticing that the State Appellate Authority has examined the case on factual aspects, the writ petition stood dismissed.

2. We have also looked at the order of the State Appellate Authority, which is produced along with the writ petition as Annexure-1. The Rules, as extracted in the order of the State Appellate Authority, indicates that generally the posts of Head Master, Teacher and Instructor are not transferable, but that they can exercise an option twice after three years in service, within the schools situated under the recruitment unit. It is also indicated by sub-rule (iii) of Rule 15 that in case of financial irregularities, moral turpitude or other serious charges, the Member Secretary of the recruitment unit shall transfer Head Master/Teacher, for one time, on administrative grounds in the interest of the school and students.

3. The State Appellate Tribunal was of the



opinion that Rule 15 though generally, does not make the post of teacher transferable, permits it in special circumstances and also when option is given. Hence, it cannot be said that the appellants are working in a post which is not transferable.

4. Further, the appellants were employed as Block Teachers in Upgraded Middle School Haribara, Araria Block. On complaints received there were surprise inspections conducted, twice, on 02.04.2022 and on 03.04.2022. The school was found to be running in a very disorderly manner and the attendance of the students was alarmingly low. Though 1372 students were admitted in the school, on the day of inspection only 146 students were present. It is hence, for efficient running of the school, the teachers were transferred to bring in discipline and better functioning/academic atmosphere to the school.

5. The contingencies in which transfer can be interfered with under Article 226 of the Constitution are trite. The interference to transfer, which is an incidence of service, can be made only when the post is not transferable, there is allegation of malafides or it is against the Rules. We have seen the Rules which permit transfer on special contingencies, which are available in the present case. The appellants are employed in transferable jobs and the transfer was made in accordance with



the Rules. There is no sustainable claim of malafides and none have been impleaded in their personal capacity; which is absolutely necessary in the case of allegation of malafides. We find no reason to entertain the appeal.

6. The Letters Patent Appeal stands dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	03.08.2023
Transmission Date	

