

IN THE GAUHATI HIGH COURT

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

ITANAGAR PERMANENT BENCH

WP(C) No. 664(AP)2016

Shri Kengo Ori,
Primary Teacher (Assistant Teacher),
Government Primary School C-II Sector,
Itanagar, P/S-P/S-Itanagar, Papum Pare
District, Arunachal Pradesh
Ph. No. 9402052496

.....Petitioner

-VERSUS-

1. The State of Arunachal Pradesh represented by the Chief Secretary, Government of Arunachal Pradesh, Itanagar.
2. The Secretary, Department, Government of Arunachal Pradesh, Itanagar.
3. The Deputy, Elementary of Education, Government of Arunachal Pradesh, Itanagar.

.....Respondents

By Advocates:

For the petitioner:

Mr. T. T. Tara,

For the respondents:

Government Advocate,
Mr. T. Jamoh, Standing Counsel (Education Department)

:::BEFORE:::

HON'BLE MR. JUSTICE A M BUJOR BARUA

Date of hearing : **20.06.2018**

Date of Judgment : **20.06.2018**

JUDGMENT AND ORDER

Heard Mr. T. T. Tara, learned counsel for the petitioner. Also heard Mr. T. Jamoh, learned counsel for the Education Department as well as Ms. L. Hage, learned Junior Govt. Advocate.

2. The petitioner was initially appointed as an Assistant Teacher in the Government Primary School, C-II Sector, Itanagar, and the said appointment was done under the Sarbha Siksha Abhyan(SSA) Scheme as applicable. Thereafter, a decision was taken by the authorities in Education Department to regularize the services of the teachers who were appointed under the SSA scheme. Consequent of such decision, the services of the petitioner was regularized as per the order dated 09.03.2016.

3. But before the order of regularization could be given effect to, the service of the petitioner was placed with the Election Department for election duties. The rules pertaining to Election Department provides that during the tenure for which services are placed with the Election Department, the concerned incumbent cannot be transferred to some other place.

4. In the present case the petitioner upon being regularized in service was transferred and posted at Pangsa, Longding District. In the given circumstance, the petitioner requested the authorities in the Election Department for being released so that he can join at his place of posting. But it is stated that such request was refused. In the resultant situation, the petitioner was compelled to continue with the service in the Election Department.

5. In the given circumstance, a situation had arisen that the authorities continued to pay the petitioner his remuneration as applicable when he was in service under the SSA scheme. In this petition the petitioner claimed that as his

service was regularized in the meantime, therefore he was entitled to the regular scale of pay from the date of regularization i.e. 09.03.2016.

6. According to the Education Department, they on their own cannot take a decision that the petitioner is entitled to the regular scale of pay inasmuch as, he had not joined in his place of posting at Pangsa, Longding District. On the other hand, it is the case of the petitioner that he could not have joined at the place of posting at Pangsa, Longding District inasmuch as, at that relevant point of time, his service was under the State Election Department/Commission.

7. In the given circumstances this Court deems it proper that the Chief Secretary to the Government of Arunachal Pradesh can take a decision in the above matter as to whether the service of the petitioner was actually placed with State Election Department/Commission when he was posted at Pangsa, Longding District and if yes, whether he could have complied with the order and joined at Pangsa, Longding District and if not, a decision be taken as to whether the petitioner should be paid the regular scale of pay from the date of regularization of his service inasmuch as, he was prevented from joining at Pangsa, Longding District for doing election duty in the interest of public exigency.

8. The aforesaid exercise be undertaken by the Chief Secretary within a period of 1 month from the date of receipt of a certified copy of this order.

9. Let a copy of this order be provided to Ms. L. Hage, learned Junior Govt. Advocate.

10. In terms of the above, the writ petition stands disposed of.

JUDGE

Victoria