

**IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM; NAGALAND; MIZORAM & ARUNACHAL PRADESH)**

WP(C) 15 (AP)/2015

Shri Tamang Taggu

S/o Late Tago Taggu, a permanent resident of Riga village;

P.O- Riga: P.S-Boleng; Dist.; Siang, Arunachal Pradesh and

Presently serving as Junior Teacher under Govt. Primary School,

Riga Mobuk; P.O.-Riga; P.S-Boleng; Dist.-Siang, Arunachal Pradesh.

..... Petitioner

-Vs-

1. The State of Arunachal Pradesh, represented through Secretary/Commissioner Education, Govt. of Arunachal Pradesh, Itanagar.
2. The Director of Elementary Education, Govt. of Arunachal Pradesh, Itanagar.
3. The Deputy Director of School Education, Govt. of Arunachal Pradesh, Pasighat.
4. Shri Takong Gao, (J/T), C/o Deputy Director of School Education, Govt. of Arunachal Pradesh, Pasighat.

..... Respondent

By Advocates:

Mr. T. Tapak,

C. Modi,

T. Taki,

D. Tali,

T. Tamut,

T. Siram

..... For the Petitioner

Mr. T. Jamoh, learned Standing Counsel (Education Department)

..... For the respondents

**BEFORE
HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI**

Date of hearing and Judgment : 12.03.2019

JUDGMENT & ORDER (ORAL)

Heard Shri T. Tapak, learned counsel for the petitioner. I have also heard Shri T. Jamon, learned Standing counsel Education Department.

2. The narration of this case depicts a sorry state of affairs of a Government servant. The petitioner who was serving as a Junior Teacher in the Government Primary School, Riga in the East Siang District was transferred vide an order dated 22.03.2013 to Government Middle School Seppa, in the East Kameng District vice the respondent no. 4. In the order dated 22.03.2013, under the remark column, the respondent 4 was to move first. It is the case of the petitioner that the said respondent No. 4 did not move first and as such, the petitioner continued to serve in the original place of posting namely, the Government Primary School Riga, East Siang District. In fact, the petitioner had instituted a writ petition being WP(C) No. 115 (AP)/2013 before this Court, challenging the transfer order and this Court vide the order dated 12.04.2013 had directed consideration of the representation filed by the petitioner on 05.04.2013.

3. It is the case of the petitioner that in compliance of the aforesaid direction of the Court and in consideration of the representation submitted by him, an order dated 22.06.2013 was passed by the Directorate whereby the earlier impugned order dated 22.03.2013 was cancelled. On such cancellation, the petitioner continued to remain in the original place of posting. However, within a span of about 20 (twenty) days another order was passed on 10.07.2013, by which the order dated 22.06.2013, was stated to be cancelled. As a consequence thereof, the original order of transfer dated 22.03.2013, revived. In this stage of confusion, the petitioner though was serving in the original place of posting was deprived of his salaries and accordingly was suffering immensely. Ultimately, in

the year 2015, the present writ petition has been instituted. The preliminary grievances of the petitioner in this writ petition is quashing of the original transfer order dated 22.03.2013 as well as for release of the monthly salaries and arrears which were pending.

4. Shri T. Tapak, learned counsel for the petitioner has submitted that for no fault of the petitioner he has been made to suffer. As per the original order of transfer dated 22.03.2013, the respondent No. 4 was to move first, in absence of such movement by the said respondent No. 4, it was not possible for the petitioner to move to the new place of posting. Under such condition, he continued to serve in the original place of posting and there is no dispute that he has been rendering service. As regards delay payment of the salaries, the learned counsel submits that such delay is for the administrative lapse and apart from the entitlement of release of monthly salaries and arrears, he is also entitled for direction for payment of interest on the arrears. By referring to the enquiry report annexed to the additional affidavit forwarded vide letter dated 02.11.2017, the learned counsel has submitted that the authorities have no difficulty in allowing the petitioner to continue in his original place of posting.

5. Shri T. Jamoh, learned Standing Counsel Education Department fairly submits that in view of the findings of the enquiry as forwarded vide the letter dated 02.11.2017, there is hardly anything left for adjudication by this Court as the Department was willing to accept the finding of the same. Referring to such enquiry report, the learned Standing Counsel has submitted that the Department has ready and willing to accept the recommendation of the same which is extracted herein below:-

"Recommendations:- This is a case regarding transfer and teacher from one school to another, the transfer posting of govt. employees are normal routine of service life something incumbent requested for transfer and posting to some other schools due to medical problems, children higher education ground or some other reasons sometimes transfer and posting of employees become exigency of the administration. I have examined and

checked all documents findings everything and found that Shri Tamang Taggu, Junior Teacher has been harassed by the officers and officials of the department due to political motivation and few vested interests of the people. Shri Tamang Taggu, Junior Teacher has been rendered 26 (Twenty Six) years and more services in the Education Department.

Therefore, we should close this endless story and let Shri Tamang Taggu, Junior Teacher be free from these problems since he is teacher should look more sympathetically the predicament of school Teacher.

It is utter surprised to know that Shri Tamang Taggu, Junior Teacher has been serving in the department since last 26 years and more and he is not getting his salary since last 3 (Three) years and the department is still chasing him to find guilty and issuing Notice, show cause notice etc. It will affect quality of education. One side we expect quality of education in the school and another side we are not considering grievances of the teachers. I agreed that Shri Tamang Taggu, Junior Teacher had committed mistakes. Let excuse him and bring him in streamline let him live his normal life. Therefore, it is my opinion that we should close this case on humanitarian ground and I earnestly request the higher authorities to release pending salary of Shri Tamang Taggu, J/T immediately and also he is allow to serve at his present place of posting cancelling earlier transfer order please."

6. Though this Court appreciates the stand taken by the Department to accept the recommendation, such stand of the Department should have come long time back as this case is pending since the year 2015 and the impugned transfer is of the year 2013.

7. After hearing the parties and the perusal of the materials on record more particularly the enquiry report dated 02.11.2017, submitted by the Deputy

Director of School Education, Itanagar, this Court directs that the recommendation in the enquiry report be implemented within a period of 6 (six) weeks from today.

8. It is made clear that while the petitioner would be retained at his original place of posting, the Department would be at liberty to issue fresh order of transfer in accordance with law as and when required in exigencies of service. The salaries which are pending for the last 4 years are to be released within this period of 6 (Six) weeks. While calculating the salaries, increment if any, in the meantime, has to be taken into consideration. As regards the prayer for payment of interest, the petitioner is given liberty to approach the proper forum, as this Court exercising writ jurisdiction may not be the proper forum for issuing such direction which would require adducing of evidence.

9. In view of the aforesaid directions, this writ petition is allowed with no order as to cost.

JUDGE

J.Bam