

GAHC040016602025



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

Case No. : WP(C)/473/2025

Taying Kuku
Son of Late Taying Kuma, resident of Model Village, PO and PS Naharlagun, Papum
Pare District, Arunachal Pradesh.

VERSUS

The State of AP and 4 Ors
represented by the Secretary, Department of Education, Govt of Arunachal Pradesh,
Civil Secretariat, Itanagar. 2:The Commissioner Education
Age: 0
Occupation :
Department of Education
Govt of Arunachal Pradesh
Civil Secretariat
Itanagar.

3:The Director of Secondary Education
Age: 0
Occupation :
Govt of Arunachal Pradesh
Itanagar.

4:The Director of Elementary Education
Age: 0
Occupation :
Govt of Arunachal Pradesh
Itanagar.

5:The Deputy Director of School Education
Age: 0
Occupation :
Itanagar Capital Region
Naharlagun

Arunachal Pradesh

Advocate for the Petitioner : Jumgam Jini, Taying Nega, Bamang Tatung, Gyamar Jeevan, Tao Tarin, Risso Aking, Migo Laye

Advocate for the Respondent : Taba Tagum, SC (Education)

**BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE**

ORDER

Date : 24-09-2025

Heard Mr. J. Jini, learned counsel for the petitioner. Also heard Mr. R. Koyu, learned counsel appearing on behalf of Mr. T. Tagum, learned Standing Counsel, Education Department for the respondents.

2. By filing this writ petition, the petitioner has put to challenge the order dated 20.07.2025, issued by the Commissioner (Education), Government of Arunachal Pradesh whereby, as many as 203 teachers (PGT/TGT/PRT/PET) have been transferred to different schools of the State including the petitioner, who has been transferred from GMS, Lekhi, ICR to GSS Tali, Kra Daadi District.

3. Briefly put, the case of the petitioner is that he has an extensive service history for having served for more than 10 (ten) years since his appointment in the year 2006 as TGT in the Department of Education, Government of Arunachal Pradesh. The petitioner claims that since his appointment in the year 2006, he was posted at Government Residential School, Nyopang in the District of Papum Pare, where he has served for continuous 10 years, which is considered to be "Hard Posting" place.

Thereafter, he was posted to UPS, Lekhi, Model Village at Naharlagun. Then, vide order dated 19.08.2024, he was posted to GUPS, Nyorch, Nahalagun on domestic ground. When the petitioner was serving only for 10 (ten) months, the impugned order dated 20.07.2025 has been issued transferring the petitioner from GMS, Lekhi, ICR to GSS Tali, Kra Daadi District.

4. Mr. J. Jini, learned counsel for the petitioner submits that although, the impugned transfer order dated 20.07.2025, is a common transfer order, the petitioner having served in a hard place of posting for 10 (ten) years, again transferring the petitioner to a hard place of posting is in violation of the Transfer and Posting Policy of 2025 as the transfer and posting policy provides that once a teacher serves in a hard place of posting, normally he should be posted in a soft place. Since, the place, namely, Tali in the District of Kra Daadi is a hard place of posting; the respondent authorities ought to have considered the petitioner to be posted in some other soft place of posting. He submits that son of the petitioner is studying in Class-X, whose Board Examination is nearing. Therefore, in such a critical academic year of his son, the respondent authorities are required to consider the well-being of the petitioner being an employer. That apart, the spouse of the petitioner is also working in the same Department and is posted at Narharlagun, Government Upper Primary School, Model Village and as such, the petitioner is entitled to a joint posting as per the policy of the State. Therefore, he submits that respondents are incumbent upon to consider the hardship as well as the right accrued from the policy of the State.

5. Mr. R. Koyu, learned counsel appearing on behalf of Mr. T. Tagum, learned Standing Counsel for the Education Department, submits that the impugned order is a common transfer and posting order, by which, as many as 203 teachers have been transferred at various schools to rationalise the system as well as for the well being of the students community. The petitioner having been served in and around Naharlagun for 8 (eight) years, he would not have any indefeasible right to continue in the same place of posting. However, he fairly submits that the respondent authorities may be directed to consider and dispose of the representation filed by the petitioner.

6. Considered the submissions advanced by the learned counsels for the parties and also perused the materials available on record.

7. Admittedly, the impugned order of transfer and posting of the teachers (PGT/TGT/PRT/PET) under the Director of Secondary Education and Director of Elementary Education had been effected as a part of rationalisation of transfer and posting process of Education Department, whereby, as many as 203 teachers including the petitioner, have been transferred and posted in various schools. Pursuant thereto, the petitioner was released on 03.09.2025.

8. On careful consideration of the transfer and posting of the teachers (PGT/TGT/PRT/PET), it is seen that the impugned order dated 20.07.2025 was issued to rationalise the transfer and posting process of the Education Department, which this Court finds no infirmity as the future and career of the students of different schools in different Districts of the State needs to

be considered and taken care of. Unless the transfer and posting of the teachers are rationalised, the well being of the students in various school of the State would suffer and the whole educational system will take a backseat.

9. The petitioner appears to have served for 10 (ten) years in a hard place of posting, however, at the same time, he has also been allowed to serve for 8 years in a soft place of posting, that to in and around the State Capital i.e. Naharlagun. Therefore, re-consideration of his transfer, on the ground that he having been allowed to serve in the hard place of posting, in my view, may not be justified.

10. Having regard to the critical academic year of his son, as fairly admitted by the learned counsel for the petitioner that his spouse is also a teacher, who is posted and serving at GUPS, Model Village at Naharlagun, in my view, same would obviously be taken care of by the spouse of the petitioner.

11. It is well settled principle of law that the transfer is an incident of service and who should be posted where and when is in the domain of the administrative authorities. Unless the order of transfer is shown to be clearly arbitrary or is vitiated by *mala fide* or is made in violation of any statutory provisions, the Court should not ordinarily interfere with it. A challenge to an order of transfer should normally be eschewed and should not be countenanced by the Courts, as though they are Appellate Authorities over such transfer orders, which could assess the niceties of the administrative needs and requirements of the situation concerned.

12. In the case of **Somesh Tiwari vs. The Union of India**, reported in **(2009) 2 SCC 592**, the Hon'ble Supreme Court has held that an order of transfer is an administrative order. Transfer, which is ordinarily an incident of service should not be interfered with, save in cases where, *inter alia*, *mala fide* on the part of the authority is proved.

13. In view of the settled position of law and the observation by the Hon'ble Supreme Court, it is clear that the transfer is a prerogative of the authorities concerned and should not normally be interfered with, except when the transfer order is shown to be vitiated by *mala fides* or in violation of any statutory provisions or having been passed by an authority, not competent to pass such an order. In the present case, the petitioner is not able to establish any violation of statutory provisions, or *mala fides* or discrimination in his transfer. The transfer order is a common transfer order, whereby, as many as 203 teacher (PGT/TGT/PRT/PET) have been transferred in the process of rationalisation of the transfer and posting of the Education Department, which is an administrative exigency and public interest. Thus, this Court finds no reason to interfere with the impugned transfer order dated 20.07.2025.

14. Having considered above, this Court is not inclined to interfere with the impugned transfer order dated 20.07.2025 and the consequential release order of the petitioner in view of the fact that the transfer and posting order has been issued to rationalise the transfer and posting of the teachers in the State of Arunachal Pradesh. However, since, the petitioner has filed a representation on 28.07.2025 before the Commissioner

(Education), Government of Arunachal Pradesh for retention at the present place of posting with detail grounds thereof and also considering that the out of 203 teachers, who have been transferred vide impugned order dated 20.07.2025, 45 (forty-five) teachers appears to have been considered by the Department upon submission of their representations, I deem it appropriate to dispose of this writ petition with a direction to the Commissioner (Education), Government of Arunachal Pradesh to consider and dispose of the representation dated 28.07.2025 submitted by the petitioner within a period of 15(fifteen) days from the date of receipt of certified copy of this Order. It is directed accordingly.

15. Writ petition stands disposed of.

JUDGE

Comparing Assistant