

(2014) 12 TP CK 0017

In the Tripura High Court

Case No : Writ Petition (Civil) No. 480 of 2014

Byomkesh Choudhury VsThe State of Tripura

Date of Decision : 01-12-2014

Acts Referred:

Citation : (2014) 12 TP CK 0017

Hon'ble Judges : Utpalendu Bikas Saha, J

Bench : Single Bench

Advocate : B.N. Majumder, Advocate for the Appellant; T.D. Majumder, G.A, Advocate for the Respondent

Judgement

Utpalendu Bikas Saha, J.—The instant writ petition is filed by the petitioner, Sri Byomkesh Choudhury for calling his monthly attendance register for the month of July, 2014 and August, 2014 as well as for direction to release his salary which has been withheld by the State respondents.

2. Heard Mr. B.N. Majumder, learned counsel appearing for the petitioner as well as Mr. T.D. Majumder, learned Government Advocate appearing for the respondents. As agreed to, by the learned counsel of the parties and considering the nature of prayer in the writ petition, the instant writ petition is taken up for final disposal at the motion stage itself.

3. Facts, needed to be discussed are as follows:-

That, while the petitioner was discharging his duties as Assistant Teacher at Bapuji Vidya Mandir High School (Primary Section) he was transferred vide memo dated 31.05.2014 to Chakbasta Haripur Junior Basic School under Inspector of Schools, Bishalgarh with his existing pay and scale of pay plus other admissible allowances per month until further order. He has also been released from the establishment of Bapuji Vidya Mandir High School w.e.f. afternoon of 13.06.2014. Even after the release order, the petitioner was discharging his duties in the Bapuji Vidya Mandir High School and the authority did not pay the salary for the period he discharged his duties after his release. As the authority did not pay the salary and other allowances to him, he made a representation on

09.07.2014 to the respondent No. 2. The said representation has not yet been disposed of. Hence, the writ petition.

4. Mr. Nandi Majumder, learned counsel appearing for the petitioner while urging for the relief sought for would contend that the petitioner though in the writ petition did not challenge the transfer order but ask for the salary of the period he discharged his duties even after release order. According to Mr. Nandi Majumder, the petitioner was allowed to discharge his duties in the Bapuji Vidya Mandir High School even after his release order. Thus, he is entitled to the salary for the said period.

5. Mr. Datta Majumder, learned Government Advocate while refuting the submission of Mr. Nandi Majumder submits that once a person is released consequent to his transfer order then he has no business to discharge his duties in the school from which he has been released. He further submits that there is also no administrative order for either modifying or recalling his transfer order.

6. Transfer is an incident of service and every employee is supposed to obey the transfer order issued in the interest of public. In the instant case, as the petitioner has not challenged the order of transfer, it is not necessary for this court to express any opinion regarding the said aspect. It is not clear to this Court that how after the release order, the petitioner was allowed to discharge his duties in the school from which he has already been transferred and released. However, as the petitioner allegedly discharged his duties in the school even after release order from which he has been transferred and also made a representation to the respondent No. 2 and the said representation has not yet been disposed of, it would meet justice if the petitioner is directed to make a fresh representation to the respondent No. 2 within a period of 10 days stating all his grievances and the respondent No. 2 shall dispose of the same by a reasoned order within 15 days from the date of receipt of the said representation.

7. With the above order, the instant writ petition is disposed of. No order as to costs.