



The Assam Elementary and Secondary School Teachers' (Regulation of Posting and Transfer), Act, 2020

Act 3 of 2020

Keywords:

Category or Cadre, PTR, Mutual Transfer

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THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

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NOTIFICATION

The 22nd May, 2020

No. LGL.48/2020/3.— The following Act of the Assam Legislative Assembly which received the assent of the Governor on 15th May, 2020 is hereby published for general information.

ASSAM ACT NO. III OF 2020

(Received the assent of the Governor on 15th May, 2020)

THE ASSAM ELEMENTARY AND SECONDARY SCHOOL TEACHERS'
(REGULATION OF POSTING AND TRANSFER), ACT, 2020

AN ACT

to provide for the responsibility of the State Government to manage posting and transfer of teachers of Elementary and Secondary Schools according to the requirement of teachers in a School in order to maintain proper Pupil Teacher Ratio.

Preamble

Whereas it is expedient to provide for the responsibility of the State Government to manage posting and transfer of Teachers of Elementary and Secondary Schools according to the requirement of Teachers in a School in order to maintain proper Pupil Teacher Ratio (PTR) norms prescribed in the Right of Children to Free and Compulsory Education Act, 2009 and rules framed and norms laid down thereunder, for ensuring optimum utilization of manpower for effective academic support to the students and for prevention of adverse effect on academic activities in Schools.

Central
Act No. 35
of 2009

It is hereby enacted in the Seventy-first Year of the Republic of India as follows :-

Short title,
extent and
commencement

1. (1) This Act may be called the Assam Elementary and Secondary School Teachers' (Regulation of Posting and Transfer) Act, 2020.
- (2) It extends to the whole of Assam.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Definitions

2. In this Act, unless the context otherwise requires,-
 - (a) "Appointing Authority" means the Appointing Authority of a teacher according to the provisions of the relevant Service Rules for the time being in force;
 - (b) "Category or Cadre" means different Category of Teachers working in the State, like Principal, Vice-principal, Head Master, Assistant Head Master, Assistant Teachers, Intermediate Teachers, Graduate Teachers, Post Graduate Teachers, Fixed pay Teachers, Contractual Teachers, Additional Teachers, Craft Teachers, Music Teachers, Tutors etc;
 - (c) "Competent Authority" means the State Level Committee or the District Level Committee as mentioned in sub-sections (1), (2) and (5) of section 5 ;
 - (d) "District Level Committee" means the Committee as mentioned in sub-section (5) of section 5 ;
 - (e) "Elementary School" means the school imparting education to any class from class I to VIII ;

- (f) "Government" means the Government of Assam;
- (g) "High PTR" means a school where number of Teachers are more than the requirement as per PTR norms;
- (h) "Low PTR" means a school where number of Teachers are less than the requirement as per PTR norms;
- (i) "Mutual Transfer" means inter change of two Teachers having same status and same subject between two schools;
- (j) "PTR" means Pupil Teacher Ratio which denotes the requirement of one Teacher against certain number of students;
- (k) "PTR norms" means the norms as laid down under section 4 of this Act for the purpose of posting and transfer of Teachers in a school;
- (l) "prescribed" means prescribed by rules made under this Act;
- (m) "School" means all provincialised and Government schools of both Elementary and Secondary level ;
- (n) "Secondary School" means the school imparting education to upto class X or up to class XII;
- (o) "State Level Committee" means the respective committees as mentioned in sub-sections (1) or (2), as the case may be, of section 5 ;
- (p) "Teacher" means all Teachers or Tutors of both Elementary and Secondary Schools drawing salary or fixed pay or honorarium from the Government exchequer or from Samagra Siksha Abhiyan, Assam excluding Heads of schools.

Norms for
posting of
Teachers

3. (1) All Teachers of Elementary Schools shall be posted by the Appointing Authority strictly in accordance with the provisions contained in the Right of Children to Free and Compulsory Education Act, 2009 read with the Rules framed thereunder and norms fixed by the Government from time to time in compliance with the provisions of the said Act.
- (2) The Teachers of Secondary Schools shall be posted by the Appointing Authority in accordance with the relevant Service Rules in force and norms fixed by the Government from time to time in compliance with the provisions of the said Rules.
- (3) The place of posting of Teachers under sub-sections (1) and (2) above shall be in accordance with the PTR norms as laid down under section 4 of this Act.

Central Act
No. 35 of
2009

Principle for
maintaining
PTR norms

4. (a) For Elementary Schools, PTR has to be calculated in accordance with the provisions contained in sections 19 and 25 read with the Schedule of the Right of Children to Free and Compulsory Education Act, 2009 and rule 21 of the Assam Right of Children to Free and Compulsory Education Rules, 2011. While calculating the number of available Teachers in a school, all the Teachers or Tutors working in the school irrespective of category including Teachers provided by the Samagra Siksha Abhiyan and contractual Teachers, fixed pay Teachers and any other category of Teachers appointed by the Government, but excluding any irregular or illegal Teachers, are to be taken into consideration;

Central
Act No.35
of 2009

- (b) For Secondary Schools, there shall be one Teacher or Tutor against 40 pupils. In case of Secondary Schools, all the subjects available in the school has to be taken into consideration and one Teacher can be assigned against minimum 10 pupils for that particular subject. In case of Higher Secondary School, the Post Graduate Teachers have to attend the classes from IX to XII. While calculating the requirement of Teachers subject-wise for class IX to XII, the availability of Post Graduate Teachers in the school has to be taken into consideration. In addition, while calculating numbers of available Teachers in a school, all the Teachers or Tutors working in the school irrespective of category including Teachers provided by the Samagra Siksha Abhiyan, Assam and contractual Teachers, fixed pay Teachers and any other category of Teachers appointed by the Government of Assam, but excluding any irregular or illegal Teacher, are to be taken into consideration. Overall PTR of a Secondary School shall be 40:1, which means one Teacher against forty pupils.

Competent
Authority for
recommending
transfer of
Teacher as per
PTR norms

5. (1) The State Level Committee as mentioned below shall be the Competent Authority for recommending inter district transfer of Teachers of Elementary Schools in accordance with this Act:-
(a) Mission Director , Samagra Siksha Abhiyan , Assam;
(b) Director, Elementary Education, Assam.
- (2) The State Level Committee as mentioned below shall be the Competent Authority for recommending inter district transfer of Teachers of Secondary Schools in accordance with this Act :-
(a) Mission Director , Samagra Siksha Abhiyan , Assam;
(b) Director, Secondary Education, Assam.
- (3) The State Level Committee mentioned in sub-sections (1) and (2) of this section, may also recommend to revoke any order of transfer issued in contravention of the PTR norms as mentioned in section 4.

- (4) The Senior most Secretary of the Elementary or Secondary Education Department, as the case may be, shall accord approval for issue of the inter district transfer order of Teachers by the respective Appointing Authority on the basis of recommendation of the State Level Committee, on being satisfied that the recommendation is made in accordance with the provisions of section 4 of this Act:

Provided that the Senior most Secretary of the respective Department as aforesaid, while approving recommendation of any transfer shall ensure that no Teacher is transferred from a low PTR School to a High PTR School except under section 9 of this Act .

- (5) The District level Committee as mentioned below shall be the Competent Authority for recommending inter school transfer of Teachers within the district :-

- (a) Additional Deputy Commissioner (Education) of the District- - - - Chairman ;
 (b) District Elementary Education Officer or Inspector of Schools , as the case may be, - Member Secretary ;
 (c) All Deputy Inspector of Schools of the district - ---
 - Members; and
 (d) The concerned Block Education Officers - Member.

- (6) The Appointing Authority shall issue the inter school transfer order of Teachers within the District on the basis of recommendation of the District Level Committee, on being satisfied that the recommendation is made in accordance with the provisions of section 4 of this Act:

Provided that the concerned Appointing Authority as aforesaid, while issuing the transfer order, shall ensure that no Teacher is transferred from low PTR School to high PTR School except under section 9 of this Act .

Inter school transfer norms of Teachers within the district 6. The Government and the Competent Authority shall be guided by the following norms in respect of inter school transfer of Teachers within the district:-

- (a) The Teachers may be transferred from one Elementary School to another Elementary School within the district in accordance with the requirement of Teachers in the school as per norms as provided under sections 19 and 25 read with the Schedule of the Right of Children to Free and Compulsory Education Act, 2009 and rule 21 of the Assam Right of Children to free and compulsory Education Rules, 2011.
- (b) The Teachers may be transferred from one Secondary School to another Secondary school within the district in accordance with the requirement of Teachers in the school and also considering the subject-wise requirement.

The overall PTR of a Secondary School is 40:1 which means one Teacher against forty students and there must be minimum 10 students for a particular subject for providing a Teacher for that subject.

- (c) The Application for transfer by a Teacher has to be addressed to the District Level Committee and submitted through the concerned District Elementary Education Officer or the Inspector of Schools, as the case may be, in such Form as may be prescribed, who shall place the Application before the District Level Committee for consideration.
- (d) The transfer of Teacher from one school to another school within the district may be allowed by the Competent Authority strictly in accordance with the PTR norms. Teacher from a High PTR school may only be transferred to a school having Low PTR. Under no circumstance Teacher from a Low PTR school shall be transferred to a High PTR School except under section 9 of this Act.
- (e) The effect of all the transfers shall have to be done during the period of summer vacation in order to minimize academic loss.
- (f) The District Elementary Education Officer or the Inspector of schools and the District Level Committee shall take action for transfer and posting of Teachers in schools in accordance with the PTR norms and in compliance with the provisions of this Act, so that the transfer orders can be issued within the summer vacation, by the concerned Appointing Authority.
- (g) In the event of receipt of more than one application for transfer, the first preference shall be given to Differently Abled Teachers and for other Teachers it shall be decided on the inter-se-seniority of the Teachers:

Provided that Differently Abled female Teacher shall be preferred over a male Teacher within this category and weightage between two Differently Abled Teachers shall be given on the basis of the respective percentage of disability.

Inter district transfer norms of Teachers 7.

The Government and the Competent Authority shall be guided by the following norms in respect of inter district transfer of Teachers :-

- (a) A Teacher working in a district continuously for 10 (Ten) years or more can apply for transfer to his or her home district or to a nearest contiguous district.

- (b) A Differently Abled Teacher can apply after working two years in a district for transfer to his or her home district or to a nearest contiguous district.
- (c) The application for transfer by a Teacher has to be addressed to the State Level Committee and submitted through the District Elementary Education Officer or the Inspector of Schools, as the case may be, in such Form as may be prescribed, who shall place the Application before the State Level Committee.
- (d) On receipt of application, the State Level Committee shall examine the application and on being satisfied with the grounds or reasons stated in the application, shall identify vacant posts in Low PTR schools of the district to which the transfer is applied for by the Teacher, in consultation with the Appointing Authority of the district.
- (e) The effect of all the transfer has to be done during the period of summer vacation, in order to minimize academic loss.
- (f) The District Elementary Education Officers or the Inspector of Schools and the State Level Committee shall take action for transfer and posting of Teachers in schools in accordance with the PTR norms and in compliance with the provisions of this Act, so that the transfer orders can be issued within the summer vacation, by the concerned Appointing Authority.
- (g) In case of more than one application for transfer, the procedure as provided in section 6 (d) of this Act shall, mutatis-mutandis, apply.

Principle for
Mutual Transfer

8. Mutual transfer of Teachers without adversely effecting academic support to the students shall be done every year in a transparent manner through online process as may be prescribed:

Provided that mutual transfer shall be allowed only between the Teachers of same status and also only between the Teachers of same subject.

Power of Deputy
Commissioner

9. In case of exigency for maintenance of proper academic atmosphere in a school or for maintaining peace and tranquility or safety and security of a female Teacher, the Deputy Commissioner of a district, after observing such formalities as may be prescribed, if satisfied that transfer of a Teacher is essential for any one of the said grounds, may, refer to the Competent Authority for transfer of a teacher, even from a Low PTR school. The Competent Authority shall immediately consider such proposals of the Deputy Commissioner and recommend to the concerned Appointing Authority for issue of transfer order:

Provided that on transfer of such a Teacher from a Low PTR school, the Appointing Authority shall immediately post a Teacher in that school to maintain the PTR norms as per provisions of this Act, either by direct recruitment or through transfer from a High PTR school.

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| Grounds for seeking transfer | 10. | A Teacher may seek transfer only on the following grounds :-
(a) For change of residence due to marriage;
(b) For looking after elderly and ailing parents;
(c) For safety and security of female Teachers;
(d) For treatment of the Teacher and/or their dependents;
(e) For the reasons as mentioned in section 7 of this Act ;
(f) For any other specific and justifiable ground. |
| Transfer not to effect seniority | 11. | Transfer of a teacher made under this Act, shall not in any way effect his original seniority in the respective cadre of the service. |
| Offences and Penalties | 12. | (1) Violation of any of the provisions of this Act, shall be treated as commission of an offence punishable under this Act.
(2) Whoever violates any one or more of the provisions of this Act shall be punishable with rigorous imprisonment for a term which may extend to one year or a fine not exceeding fifty thousand rupees .
(3) Any person who abets for commission of any of the offences as aforesaid shall be liable for the same punishment as provided for the commission of the said offence under this Act.
(4) Offences under this Act shall be cognizable, bailable and Act No. 2 compoundable within the meaning of the Code of Criminal of 1974 Procedure, 1973. |
| Cognizance of offence | 13. | (1) No court shall take cognizance of any offence punishable under this Act except with the previous sanction in writing of the Government in the Education, Elementary or Secondary Department, as the case may be, under which the Teacher has been either appointed or working on the date of commission of the alleged offence under this Act.
(2) Offences under this Act shall be triable by a Magistrate not Act No. 2 lower in rank than that of a Judicial Magistrate of the 1st of 1974 class under the Code of Criminal Procedure, 1973. |
| Power to make rules | 14. | (1) The State Government may, by notification in the Official Gazette make rules for carrying out the provisions of this Act.
(2) Without prejudice to the generality of the foregoing provision such rules may provide for all or any of the following matters, namely :- |

- (a) Application Form for Transfer of Teachers under sections 6 (d) and 7 (c) ;
 (b) Procedure of online process for mutual transfer under section 8 ;
 (c) Formalities to be observed for referring transfer from Low PTR School, by the Deputy Commissioners under section 9 ;
 (d) Other Forms or Formats which are to be or may be prescribed under this Act ;
 (e) any other matter which are required to be or may be framed, not inconsistent with the provisions of this Act.
- Protection of action taken in good faith 15. No suit, prosecution or other legal proceedings shall lie against the Government or any Officer of the Government for anything, which is done or intended to be done in good faith under this Act or Rules made there under.
- Application of other laws not barred 16. The provisions of this Act shall be in addition to and not in derogation of the provisions of any law for the time being in force.
- Power to remove difficulties 17. If any difficulty arises in giving effect to the provisions of this Act, the Government may by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, in the academic interest of a particular school or district or of a teacher, as may appear to it to be necessary or expedient for removing the difficulty.

S. M. BUZAR BARUAH,

Commissioner & Secretary to the Government of Assam,
 Legislative Department, Dispur, Guwahati-6.

