

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 31/2000

R.A/C.P No.

E.P/M.A No.

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SECTION OFFICER (Judl.)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO.

31/2000 OF 199

Applicant(s)

Sri Pradip Kumar Saikia

Respondent(s)


Union of India & Ors.

Advocate for Applicant(s)

Mr. M. Chanda, Mrs. N.D. Goswami
and Mr. G.N. Chakraborty.

Advocate for Respondent(s)

KVS.

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form and within time.</p> <p>Fee of Rs. 50/- deposited vide IPO BD No. 99/57299</p> <p>Dated 27/1/2000</p> <p>27/1/2000</p> <p>1-2-2000</p> <p>Service of notices prepared and sent to D. Section for issuing of the same to the respondents through Regd. Post with A.D.</p> <p>By Vide D.No-328 to 12.333 Dtd-1-2-2000</p>	28.1.2000	<p>Present : Hon'ble Mr. Justice D.N. Baruah, Vice-Chairman.</p> <p>Application is admitted. Issue usual notice on the respondents by registered post. Returnable by 4 weeks. List on 28.2.2000.</p> <p>Mr. M. Chanda prays for suspension of the impugned order. It is submitted on behalf of counsel for KVS that there is no instruction.</p> <p>Issue notice to show cause as to why the interim prayer as prayed for shall not be granted. Notice is returnable by 4 weeks.</p> <p>Meanwhile the operation of Annexure -3 order dated 7.1.2000 shall remain suspended until further orders.</p> <p>List on 28.2.2000.</p> <p> Vice-Chairman</p>

mk
28
31/1/2000

Notes of the Registry

Date

Order of the Tribunal

✓

25-2-00

1) Service Reports are awaited.

2) Show Cause by not been filed.

30/2/00

9-3-2000

① Notice duly served on R.No. 2, other respondents are still awaited.

30/3/00

No. Written Statement has been filed.

30/4/2000

11-4-2000

Written Statement has been filed by the respondents No. 2, 3, 4, 5, 6.

30/4/00

8-6-2000

Rejoinder has not been filed.

30/6/00

Rejoinder has not been filed.

30/12/2000

28-2-00

There is a reference order to 10-3-00

370
h

10.3.2000

On the prayer made on behalf of Dr. B.P. Todi learned counsel for KVS two weeks time is allowed for filing of written statement.

Member(J)

Member(A)

lm

27.3.00

On the prayer of Dr. B.P. Todi, learned counsel for the Kendriya Vidyalaya Sangathan two weeks time is allowed for filing of written statement.

List on 11.4.2000 for written statement and further orders.

Member

rd

11.4.00

Written statement has been submitted. List for hearing on 9.6.00. In the meantime the applicant may submit rejoinder, if any, with copy to the other side.

Member

nkm

9.6.00

There is no order. Adj. order to 28.8.00.

370
h

28.8.00

There is no Bench order to 21.12.00.

370
h

21.12.00

For List on 10-4-01.

370
h

10.4. There is no divisional bench. Adj. order to 15.2.01.

10.4.2001

OA 31/2000.

Notes of the Registry	Date	Order of the Tribunal
1	15.2001.	Left it along with OA 9/2000 & 1992/2000. mlo A. G. S. 1.5
Common Judgment with OA 9/2000. NS 18/5/2001.	9.5.01 pg NS 18/5/01	Heard counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets. The application is allowed in terms of the order. No order as to costs. K. L. Chan Member Vice-Chairman
25.5.2001 Copy of the Judgment has been sent to the Office for Italy 145 due to the applicant as well as to the L/Ad. for the Reps. etc.		

Notes of the Registry	Date	Order of the Tribunal

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH. ^b

Date of Order : This the 9th Day of May, 2001.

The Hon'ble Mr Justice D.N.Chowdhury, Vice-Chairman

The Hon'ble Mr K.K.Sharma, Administrative Member.

Original Application No. 9 of 2000.

Smt Prabhawati Devi,
Wife of Shri K.K.Tiwari,
No. 115, Helicopter Unit,
Air Force, Tezpur

. . . Applicant

By Advocate Shri B.K.Sharma.

- Versus -

Union of India & Ors.

. . . Respondents.

Original Application No. 31 of 2000.

Shri Pradip Kumar Saikia
Village Bongalgaon,
P.O. Bongalgaon,
Via Dergaon,
Dist. Golaghat (Assam)
Pin & 785614

. . . Applicant

By Advocate Sri M.Chanda

- Versus -

Union of India & Ors.

. . . Respondents.

By Advocate Smt. P.Barua on behalf of
Dr. B.P.Todi, Standing counsel for KVS,
in both the cases.

O R D E R

CHOWDHURY J.(V.C)

Both the O.As are taken up together for consideration since it pertains to termination order of like nature.

2. ^{the} Both applicants were working as Trained Graduate Teacher on ad hoc basis in Kendriya Vidyalaya. Both the applicants were engaged in a number of litigations pertaining to their service conditions before the High Court. In O.A.9/2000 the applicant first approached the High Court

by way of Civil Rule No. 646/92 apprehending an order of termination. An interim order was passed in the said Civil Rule by the High Court on 22.8.96 whereby the Single Bench of the High Court ordered upon the respondents not to oust the applicant from the service. The interim order dated 22.8.96 was made absolute and the application was disposed of. It was stated by Mr B.K.Sharma, learned Sr.counsel for the applicant that against the aforementioned order the respondents preferred an appeal before the High Court in Writ Appeal No.581/96. At one point of time the respondents were favoured with an interim order passed by the High Court. The said Writ Appeal was finally dismissed on 31.3.2000 for non prosecution. Both the applicants earlier moved the High Court by way of Writ Petitions assailing the order of their termination. The applicant in O.A.9/2000 was a party in Civil Rule No.5207/94. The applicant in O.A.31/2000 was the petitioner in Civil Rule No.66/94. The High Court by its judgment and order dated 15.9.98 disposed of the Writ Petitions by one Common judgment and order directing the respondents to consider the case of the petitioners and allow them to appear in the interview that may be held for future appointments. The applicants also applied for the post advertised pursuant to the High Court order. But according to the respondents they were not found qualified since they did not score 45% marks in aggregate. By a cryptic order the services of the applicants were terminated by order dated 7.1.2000 as per a telephonic instruction of the Assistant Commissioner. Hence this application assailing the legitimacy of the action of the respondents.

2. The respondents filed its written statement and stated that they were terminated by the Principal as was

directed by the Assistant Commissioner to terminate their services. The respondents stated in the written statement that all teachers working on ad hoc/part time basis including the applicants were given reasonable opportunity to submit their applications as per guidelines approved by the Gauhati High Court against the advertisement. Though the applicants also submitted their applications pursuant to the advertisement but since they did not fulfil the conditions stipulated thereon they were not called for interview and accordingly the services were terminated. The respondents stated and asserted that althroughout they acted as per directions of the High Court as well as of the scheme that was approved by the High Court. Since the applicant did not fulfil the minimum requirements/eligible criteria their services were terminated.

4. Heard Mr B.K.Sharma, learned Sr.counsel for the applicant in O.A.9/2000 and Mr M.Chanda, learned counsel for the applicant in O.A.31/2000 at length.

5. We have given our anxious consideration on the matter. Admittedly, these two applicants were working on ad hoc basis for 10 years. Their services have not yet been regularised. Earlier they approached the High Court and the High Court directed the respondents to consider their cases. The respondents did not consider their cases solely on the ground that they did not possess 45% marks in Degree examination, ^{according to the respondents} which was one of the essential qualifications for the post. According to the respondents the applicant in O.A.9/2000 only possessed 44% marks in B.A part III and the applicant in O.A.31/2000 did not possess the minimum 45% marks in the examination. According to Mr M.Chanda,

learned counsel for the applicant the applicant in O.A. 31/2000 possessed 45% marks in Geography subject. Be that as it may, since these applicants are working by virtue of the orders of the High Court as well as the orders of the Tribunal in the Kendriya Vidyalayas in our view their cases need to be considered sympathetically. The applicants^{though} may not possess 45% of marks in B.A. Part III since they were successfully rendering services to the institutions as Trained Graduate Teacher in the respective subjects. In our view it is a case in which their qualifications for that regard is required to be relaxed on the peculiar facts and circumstances of the case. Similarly in the spirit of the order of the High Court and also as per the legal policy it is a case in which we feel that the respondents should consider the case of these applicants against the regular posts as and when vacancy^{arises} for their regularisation in the respective subjects and for that purpose by relaxing their age as well as the bench marks prescribed. The impugned orders of termination are accordingly set aside and the respondents are directed to complete the aforesaid exercise at the earliest. It is made clear that in the event the applicant cannot be absorbed as Trained Graduate Teacher for any reason in that case the respondents shall consider the case of these two applicants for Primary Teacher (PRT) on the basis of their qualifications and the counsel for the applicants conceded for this direction.

The application is allowed to the extent indicated. There shall, however, be no order as to costs.

Sd/ VICE CHAIRMAN

Sd/ MEMBER (Adm)

केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal

27 JAN 2000

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Guwahati Bench

GUWAHATI BENCH

(An Application under Section 19 of the Administrative
Tribunals Act, 1985).

Title of the Case : O.A. No. 31 /2000

Sri Pradip Kumar Saikia : Applicant

-versus-

Union of India & Ors : Respondents

I N D E X

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4	2	Judgement and Order dt. 15.9.98	20-28
5	3	Impugned order dt. 7.1.2000	29
6	4	Hon'ble Tribunal's order dt. 11.1.2000.	30.

Date : 27.1.2000

Filed by :

[Signature]

Advocate

10
Filed by the applicant
to the Tribunal
Advo. Saikia
27.1.2000

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

(An Application under Section 19 of the Administrative
Tribunals Act, 1985).

Original Application No. 31/2000

BETWEEN

Sri Pradip Kumar Saikia

Son of Sri Khageswar Saikia

resident of village Bongalgaon

P.O. Bongalgaon

Via Dergaon

District-Golaghat

PIN-785614

..... Applicant

-AND-

1. Union of India

Through the Secretary to the
Government of India, Ministry
of Human Resource Development,
New Delhi.

2. Kendriya Vidyalaya Sangathan,

Through the Commissioner,
18 Institutional Area,
Saheed Jeet Singh Marg,
New Delhi.

3. The Deputy Commissioner (Admn.)

Kendriya Vidyalaya Sangathan,
18 Institutional Area
Saheed Jeet Singh Marg,
New Delhi.

Contd....

केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal

27 JAN 2000

1 bench

Pradip Kumar Saikia

4. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Guwahati Region,
Maligaon Charali
Guwahati-781012
5. The Deputy Commissioner(Pers)
Kendriya Vidyalaya Sangathan,
18 Institutional Area
Saheed Jeet Singh Marg,
New Delhi.
6. The Principal,
Kendriya Vidyalaya,
O.N.G.C., Jorhat
Assam

.... Respondents

DETAILS OF APPLICATION.

केन्द्रीय प्रशासनिक प्रधिकरण
Central Administrative Tribunal

27 JAN 2000

गुवाहाटी बेंच
Guwahati Bench

1. Particulars of orders against which this application is made.

This application is made against the order of termination of service issued by the Principal, O.N.G.C., Jorhat vide Office Memorandum issued under letter No. F.38/KVJ-ONGC/99-2000/506-508 dated 07.01.2000 and praying for a direction to the respondents to allow the applicant to continue in service as Trained Graduate Teacher(Social Studies), Kendriya Vidyalaya, O.N.G.C., Jorhat and also to consider the case of the applicant for regularisation of his service as Trained Graduate Teacher(Social Studies) with all consequential service benefits with effect from 26.7.1991.

Contd....

Pradip Kumar Saikia

2. Jursidiction of the Tribunal.

The applicant declares that the subject matter of this application is within the jurisdiction of this Hon'ble Tribunal.

3. Limitation

The applicant further declares that this application is filed within the limitation prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case

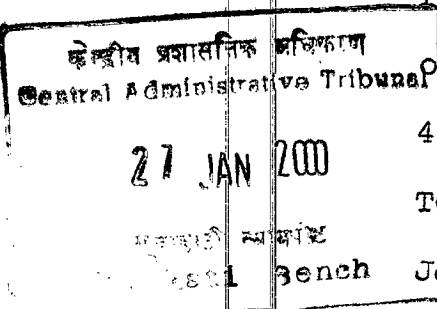
4.1 The applicant is a bonafide resident of Assam and presently serving as Trained Graduate Teacher (Social Studies) at Kendriya Vidyalaya, ONGC, Jorhat under the respondent No.6.

4.2 That your applicant is a second class Hons. Graduate in Geography securing more than 45% marks. He also holds B.Ed degree. The applicant possesses all requisite educational qualification for the post of Trained Graduate Teacher (for short TGT).

4.3 That your applicant was initially appointed as TGT (Social Studies) in the Kendriya Vidyalaya, ONGC, Jorhat on 26.7.1991 after appearing before the interview board. In the interview the applicant did well and accordingly he was selected for the post of TGT (Social Studies). The interview Board was constituted by the Principal, Chairman and other members of the Vidyalaya Management and other educationists. The said interview was held on 25.7.1991.

Contd...

Pradip Kumar Sankis



4.4. That in consideration of his educational qualification and on the basis of merits the applicant was appointed as Trained Graduate Teacher (Social Studies) in Kendriya Vidyalaya, ONGC, Jorhat on 26.7.1991.

Thereafter the applicant is continuously serving in the said school as TGT without any break since July, 1991 with satisfaction of all concerned. It is stated that in the appointment letter although it was stated that the appointment is on part time basis but in fact the applicant was working against a regular and substantive post for which advertisement has been issued by the Kendriya Vidyalaya Sangathan for filling up the same on regular basis. Although the appointment order is termed as part time but infact he is discharging his duty like other regular teacher of the said school.

4.5 That your applicant while serving in Kendriya Vidyalaya, ONGC, Jorhat approached the Hon'ble Gauhati High Court through Civil Rule No. 66/95 (Sri Pradip Kumar Saikia Vs. Union of India & Ors.) being highly aggrieved for non-issuance of call letter for the special interview for regularisation of services of adhoc/part time teachers in different Kendriya Vidyalayas under the Gauhati Region. The said interview was held on 28-29 December, 1994. The said Writ Petition came up before the Hon'ble Gauhati High Court for consideration on 6.2.1995 and the Hon'ble Court was pleased to issue rule and as an interim measure directing the respondents that the petitioner shall not be thrown out from service till further orders.

Contd.....

Pradip Kumar Saikia

केन्द्रीय प्रशासनिक इकाई

Central Administrative Tribunal

27 JAN 2000

गौहाटी बेंच

Gauhati Bench

It is stated that although Kendriya Vidyalaya did not ask the petitioner to appear any interview even the order of the Hon'ble High Court but he is allowed to continue in service in terms of the aforesaid order of the Hon'ble High Court passed on 6.2.95 in CR No. 66 of 1995. The said Civil Rule was finally decided by the Hon'ble Court on 15.9.98 alongwith other similar writ petitions. The Hon'ble High Court after hearing the detailed argument of the counsel of the parties was pleased to direct the respondents to consider the case of the petitioner and to appear him to ~~any future in future~~ that may be held in future for regular appointment, if he is otherwise qualified. The relevant portion of the judgement and order dated 15.9.98 is quoted below :

"10. As averred in the affidavit-in-opposition this Special Advertisement was only one time action and this special scheme was taken as per direction of a Division Bench of this Court. From this averment it appears that the respondents can consider the case of the petitioners (ad hoc/part time teachers) who are otherwise qualified for regularisation under the said scheme, but could not complete the qualifying time of six months. Therefore, petitioners of this group can certainly be offered an opportunity in due course considering their continuation in service. In Dr. Meera Massey and others - vs- Dr. SR Mehrotra and others, (1998) 2 SCC 88, the Apex Court held that ad hocism in

केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal

27 JAN 2000

11 bench

Pradip Kumar Sankar

services, particularly in case of appointment of professors, readers and teachers of Universities should be deprecated. The Kendriya Vidyalaya Sangathan authority, as it is seen, normally follow the procedures regarding qualification/merit of the teachers while making appointment in adhoc appointments. In that case, the authority shall take due care so that qualified adhoc/parttime appointees, when appointed as a stop gap arrangement, be regularised in due course, after completion of six months.

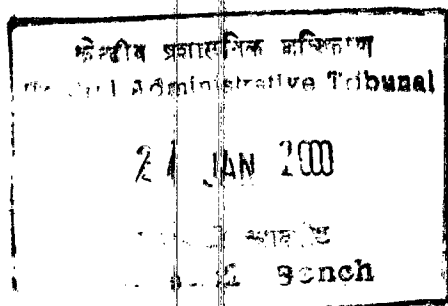
11. In view of the above discussion and also considering the facts and circumstances of the case, I direct the respondents to consider the case of the petitioners and allow them to appear in any interview that may be held for future appointment. Though the special advertisement in question was only a one time action as stated by the respondents, in my opinion, that cannot prevent the authority to consider the case of the petitioners in allowing them to appear in the interview, if they are otherwise qualified.

12. With the above direction and observation the writ petitions are disposed of. No order as to costs."

In view of the above order passed by the Hon'ble High Court, the present applicant was under the impression

Contd...

Prodip Kumar Saini



that he will be called for interview for consideration of his regularisation as because the special interview for regularisation of adhoc-part time teachers were held only during the year 1994 but thereafter KVS did not arrange any other interview for regularisation of the serving adhoc-part time teachers. But most surprisingly when the applicant is under the impression that his case would be considered for regularisation by holding special interview as was held in the year 1994 in view of the justement and order dated 15.9.98 but most surprisingly the respondent No.6 - the Principal of the KV, ONGC, Jorhat on 7.1.2000 issued the order of termination of service of the applicant as TGT without disclosing any reason vide impugned Office Memorandum bearing No. F 38/KVJ-ONGC/99-2000/506-508 dated 7.1.2000 wherein it is stated that the said order of termination is issued following the telephonic instructions received from the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Guwahati Region. The impugned order of termination has been passed in a most arbitrary and unfair manner and also without assigning any reason for termination of the service of the present applicant and the said order has been passed in total disregard to the Hon'ble High Court's Order dated 15.9.98 passed in CR No. 56 of 1995. As such the Office Memorandum terminating the services of the applicant is liable to be set aside and quashed.

Copy of the Hon'ble ~~Tribunal~~ High Court's order dated 6.2.95 and Judgement and order dated 15.9.98 and the impugned O.M. dated

7.1.200 referred to above are annexed as Annexures-1,2 and 3.

Pradip Kumar Saitik

केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal

27 JAN 2000

गुवाहाटी बेंच
Guwahati Bench

4.6 That your applicant states that he is serving in Kendriya Vidyalaya, ONGC, Jorhat for more than 9 years, as such his case ought to be have been considered for regularisation in view of his long service rendered as Part time/adhoc service. More particularly when he is qualified for the post of TGT (Social Studies) and the post which he is serving more than 9 years is a regular ~~post~~ and substantive post under the Sangathan. Therefore there is no difficulty on the part of the respondents to regularise his services in the cadre of TGT. But most surprisingly even after the Judgement and order dated 15.9.98 the respondents did not take any step for consideration of his service for regularisation instead they have resorted such illegal action of terminating the service of the applicant in total violation of the Hon'ble High Court's order dated 15.9.98. This action of the respondents is highly discriminatory and illegal specially when these respondents in the year 1994 arranged for special interview for regularisation of the adhoc/part time teachers of KVS and many of the teachers who were serving in the KVS on adhoc/part time basis. But the present applicant has been deprived from the benefit of such special screening for regularisation. This fact would also be evident from paragraph 10 of the Judgement and Order dated 15.9.98 as such the respondents are duty bound to allow the applicant to continue in service till the process of regularisation is completed in terms of the judgement and order dated 15.9.98 of the Hon'ble Gauhati High Court.

केन्द्रीय प्रशासनिक न्यायालय
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27 JAN 2000
गौहाटी न्यायालय
Gauhati Bench

Pradip Kumar Sarker

4.7 That it is stated that if applicant is not considered for regular appointment in terms of the Judgement and order dated 15.9.98 in that event his future would be doomed as because in the meantime the applicant has become overaged for any other Govt. job and he is over aged for about 6 years even for regular appointment as Teacher in Kendriya Vidyalaya. Therefore the Hon'ble Tribunal be pleased to direct the respondents to grant age relaxation to the applicant to the extent he has rendered service on adhoc/part time basis in Kendriya Vidyalaya so that he will be eligible for regular appointment.

It is further state that there is no earning members in his family except the applicant and he has has also no other alternative source of earning. Therefore this Hon'ble Tribunal be pleased to stay the operation of the impugned order of termination dated 7.1.2000 and further be pleased to direct the respondents to allow the applicant to continue in service till the process of regularisation is completed in terms of the Judgement and Order of the Hon'ble High Court dt. 15.9.98.

4.8 That your applicant further begs to state that in view of his long service on adhoc/part time basis in Kendriya Vidyalaya he is entitled to get weightage and priority in view of more than 9 years service and he deserves for sympathetic consideration for regularisation of his service in the cadre of TGT(Social Studies).

4.9 That your applicant begs to state that in the impugned order of termination dated 7.1.2000 the respon-

केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal

21 JAN 2000

न्यायाधीश
Judicial Bench

Pradip Kumar Sanyal

dents particularly the respondent No. 6 stated that he has received a telephonic instruction from the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Guwahati Region on 7.1.2000 to terminate the service of the applicant and also to relieve him in the forenoon of 7.1.2000. But surprisingly no reason has been disclosed for termination of his service. The applicant being a poor teacher approached the authorities for retention but finding no response in the compelling circumstances approaching this Hon'ble Tribunal for protection of his valuable rights and to save the life of the applicant and dependent family members by way of staying the operation of the impugned order of termination dated 7.1.2000.

It is also stated that no notice is also issued to the applicant before issuance of the impugned order of termination dt. 7.1.2000 as such the respondents have violated the principle of natural justice as because the present applicant have rendered more than 9 years service in his post in Kendriya Vidyalaya, ONGC, Jorhat.

Therefore the applicant is entitled to a notice before issuance of termination of his service. It is evident from the impugned order of termination dt. 7.1.2000 that the same has been issued in a most arbitrary manner at the whims of the Assistant Commissioner, Guwahati Division. As such the same is liable to be set aside and quashed and the applicant be reinstated in service till the process of regularisation is completed in terms of the order of the Hon'ble High Court dated 15.9.98 passed in CR No. 66/95. In this connection it is also

केन्द्रीय प्रशासनिक अदालत
Central Administrative Tribunal

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गुवाहाटी बेंच
Guwahati Bench

Pradip Kumar Saiti

stated that the Hon'ble Supreme Court held that even a contract worker cannot be terminated from service without following the established procedure of law. As such the impugned order of termination dated 7.1.2000 is liable to be set aside and quashed.

4.10 That it is further stated that in a similar circumstances the Hon'ble High Court of Madhya Pradesh and Allahabad High Court passed order for regularisation of services of adhoc/part time teacher after granting age relaxation. Therefore it is a fit case for the Hon'ble Tribunal to interfere with and to pass necessary orders for protection of his valuable rights and protections.

The applicant urged to produced the Judgement and orders of the Madhya Pradesh High Court and Allahabad High Court referred above at the time of hearing.

4.11 That the Hon'ble Tribunal in the facts and circumstances be pleased to stay the operation of the impugned order of termination order dated 7.1.2000.

It is pertinent to mention here that in a similar facts and circumstances this Hon'ble Tribunal was pleased to stay the operation of the order of termination in O.A. No. 9/2000 (Smt. Prabhavati Devi Vs. U.O.I & Ors.) as such the present applicant is also praying for a similar order as that of O.A. No. 9/2000.

A copy of the Hon'ble Tribunal's order dt. 11.1.2000 is annexed as Annexure-4.

4.12 That your applicant belongs to other backward community as such he is also entitled privileges and

Pradip Kumar Saini

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
27 JAN 2000
मु. प्रती व्यवस्थापक
1st Bench

benefits granted by the Government of India in the relevant rule in the matter of employment.

4.13 That it is stated that the action of the respondent in not calling the applicant for interview for regular selection in spite of the Hon'ble High Court's order dated 15.9.98 passed in C.R. No. 66/95 is arbitrary and against all canons of justice.

4.14 That the action of the respondents being highly discriminatory, and is violative of Article 14 of the Constitution of India.

4.15 That the action of the respondents is illegal arbitrary and violative of principle of natural justice.

4.16 That the service being the only source of livelihood of the petitioner, the denial of opportunity to him for regularisation amounts to depriving him to save his life and therefore the action of the respondents is violative of Article 21 of the Constitution of India.

4.17 That the applicant has become overaged for any Government job and as such respondents be directed for relaxation of age in respect of the applicant to the extent he has rendered his service on adhoc/part time basis.

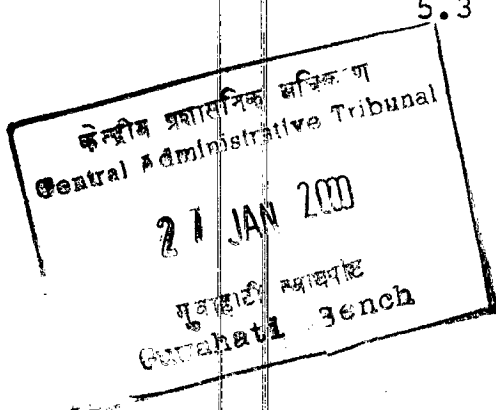
4.18 That the applicant wants justice which has been denied to him.

4.19 That this petition is made bonafide in the interest of justice.

Pradip Kumar Saini

5. Grounds for relief(s) with legal provisions

- 5.1 For that in view of long adhoc/part time contractual service rendered in Kendriya Vidyalaya, ONGC, Jorhat the applicant ought to have been granted the opportunity for consideration of regular appointment to the post of Trained Graduate Teacher(Social Studies).
- 5.2 For that in view of the order passed by the Hon'ble Gauhati High Court in Civil Rule No. 66/95 dated 15.9.98 the respondents ought to have called the applicant to appear before the interview for consideration of appointment on regular basis for the post of Trained Graduate Teacher.
- 5.3 For that the order of termination of service without assigning any reason and also without following the opportunity of natural justice is violative of Article 14 of the Constitution of India and as such the impugned order of termination dated 7.1.2000 is liable to be set aside and quashed.
- 5.4 For that the impugned order of termination has been issued without affording any opportunity to the applicant and the same is non-speaking order, as such the same is liable to be set aside and quashed.
- 5.5 For that in view of the more than 9 years of service in the Kendriya Vidyalaya, ONGC, Jorhat as TGT, the service of the applicant ought to have been considered for regularisation in



Pradip Kumar Saikia

in terms of the order of the Hon'ble Gauhati High Court dated 15.9.98 passed in C.R. No. 66/95.

5.6 For that the applicant fulfills all the requisite qualifications for consideration of appointment to the post of Trained Graduate Teacher on regular basis.

5.7 For that in view of the long dhdoc/casual service rendered in ~~different~~ Kendriya Vidyalaya the applicant ought to have been grant his service regularised in view of the settled position of law laid down by the various courts including Apex Court.

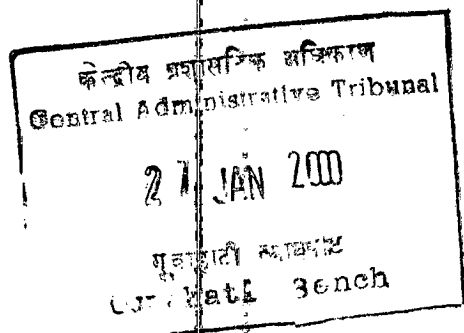
5.8 For that regular vacant post of TGT Teacher are available in different Kendriya Vidyalayas under the respondents as such the applicant ought to have been considered on priority basis for consideration of applintment to the post of TGT on regular basis.

5.9 For that the applicant is being over aged deserves age relaxation and has no other alternative scope for appointment in any other Government job.

6. Details of remedies exhausted :

That the applicant states that he has no other alternative and other efficacious remedy to him than to file this application.

7. Matters no previously filed or pending with any other Court.



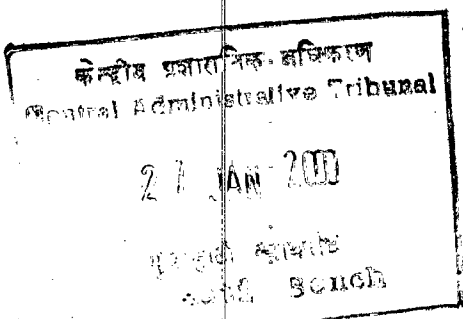
Prodip Kumar Saikia

The applicant further declares that he had filed a writ petition No. 66/95 before the Gauhati High Court and the same was disposed on 15.9.98, no such application, writ petition or suit is pending before any of them.

8. Relief sought for :

In view of the facts and circumstances stated above in paragraph 4 of this application, the applicant prays for the following reliefs :

- 8.1 The Hon'ble Tribunal be pleased to set aside and quashed the impugned Office Memorandum issued under letter No.F.38/KVJ-ONGC/99-2000/506-508, dated 07.01.2000 (Annexure - 3).
- 8.2 That the respondents be directed to the respondents to allow the applicant to continue in service as TGT Teacher in Kendriya Vidyalaya, ONGC, Jorhat till the process of regularisation is completed in terms of the Hon'ble High Court's Judgement and Order dated 15.9.98 passed in Civil Rule No. 66/95.
- 8.3 Hon'ble Tribunal be pleased to direct the respondents to complete the process of regularisation in respect of the applicant for the post of TGT (Social Studies) with immediate effect.
- 8.4 Costs of the application.
- 8.5 Any other relief or reliefs to which the applicant is entitled to, as the Hon'ble Tribunal may deem fit and proper.



Prodip Kumar Saikia

9. Interim relief prayed for :

During the pendency of this application, the application prays for the following relief(s) :

1. That the Hon'ble Tribunal be pleased to ~~stay~~ the operation of the impugned Office Memorandum issued under letter No. F. 38/KVJ-ONGC/99-2000/506-508 dated 07.01.2000 (Annexure - 3) till disposal of this application.
2. That the respondents be directed to allow the applicant to continue in service in terms of prayer No. 1.

10.

This application has been filed through advocate.

11. Details of the I.P.O.

- | | | |
|------|---------------|---------------------|
| i. | I.P.O. No. | : 06.457279 |
| ii. | Date of Issue | : 27.1.2000 |
| iii. | Issued from | : G.P.O, Guwahati. |
| iv. | Payable at | : G.P.O., Guwahati. |

12. List of enclosures:

As stated in the Index.

.... Verification

Pradip Kumar Saitis

केन्द्रीय प्रशासनिक अदालत
Central Administrative Tribunal

27 JAN 2000

गुवाहाटी बेंच
Guwahati Bench

V E R I F I C A T I O N

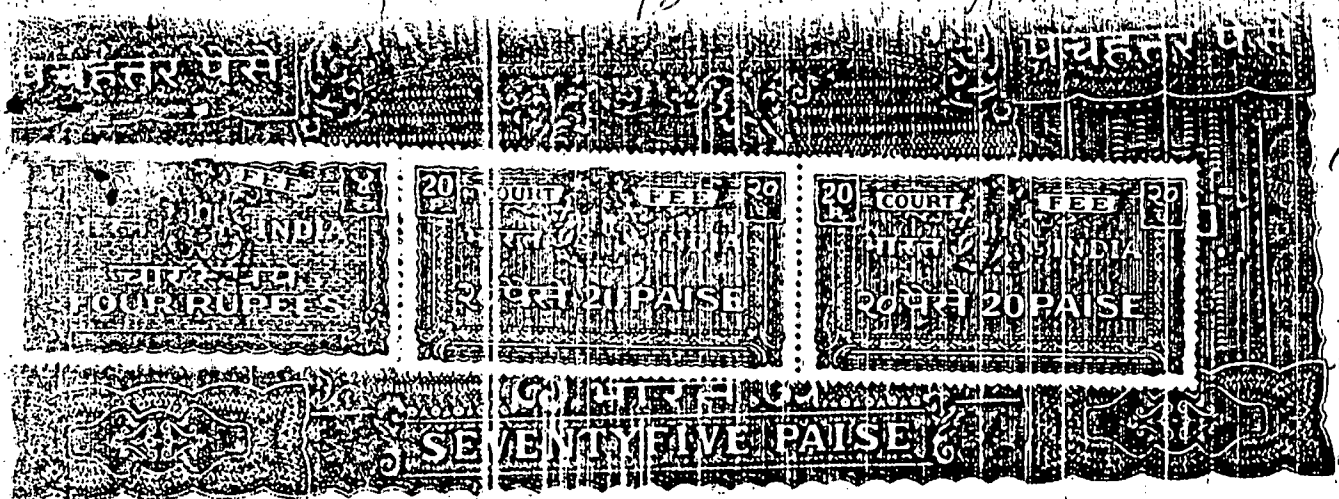
7

I, Pradip Kumar Saikia, son of Sri Khageswar Saimia, aged about 41 years, resident of village Bongalgaon, P.O. Bongalgaon, via Dergaon, District Golaghat, Assam, do hereby verify that the statements made in paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 27th day of January, 2000.

Pradip Kumar Saikia.

Signature



प्रतिनिधि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अधिकृत संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिनिधि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिनिधि देने की तारीख Date of making over the copy to the applicant.
18.2.95	18.2.95	18-2-95	18.2.95	18.2.95

IN THE GAUHATI HIGH COURT

(HIGH COURT OF ASSAM: NAGALAND: MEGHALAYA: MANIPUR: TRIPURA:
MIZORAM AND ARUNACHAL PRADESH)

CIVIL APPELLATE SIDS

Civil Rule No. 66/95.

Sri Pradip Kr. Saikia Potitioner.

Versus

Union of India and Ors. Respondents.

PRESENT

THE HON'BLE MR. JUSTICE J.N. SARMA

For the petitioner :: Mr. R.P. Sarmah,
Mr. S.C. Dutta Roy, Advs.

For the respondents ::

DATE

ORDER.

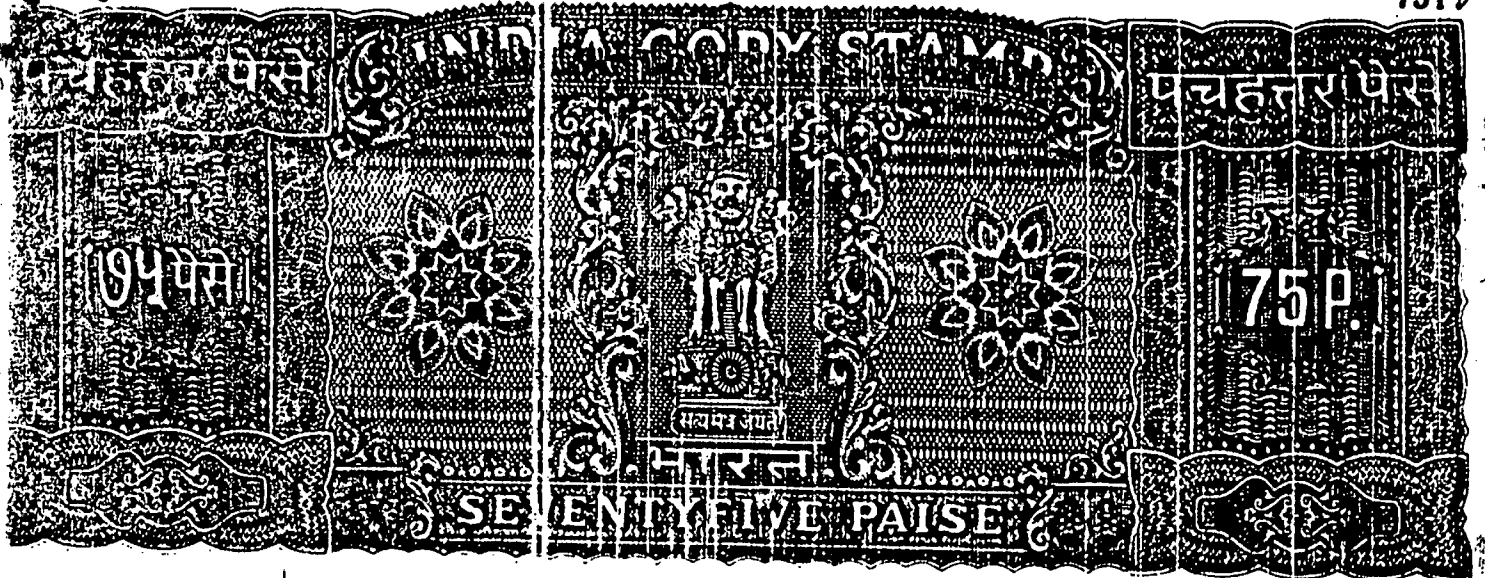
16.3.95.

Heard Mr. Sarma, learned counsel for the
petitioner.

Let the records be called for.

Let a rule issue calling upon the respondents
to show cause as to why a writ should not be issued as prayed
for; and/or why such further order(s) should not be passed as
to this court may seem fit and proper.

Mr. K.N. Choudhary, learned C.G.S.C. accepts
notice ...



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की तिथि तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

notice on behalf of respondents.

Mr. Choudhury prays for 1 week time to file affidavit to show that at present in accordance with the rules 45% in aggregate is required. Till further orders from this court, the petitioner shall not be thrown out from services.

Sd/- J.N. Sarma,
Judge.

Date of application by the	26/10/28
Copy	
Date of Delivery of the copy	29/11/25

30

IN THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR,
TRIPURA, MIZORAM & ARUNACHAL PRADESH)

(1) CIVIL RULE No. 1141 of 1995

Miss Sikhamoni Bordoloi,
D/o late Bibod Kr Bordoloi,
Pub Bangal Pukhuri, Jorhat. ..Petitioner

-vs-

1. The Union of India
2. Kendriya Vidyalaya Sangathan,
New Delhi.
3. Asstt Commissioner, KVS
Guwahati Region, Guwahati-11.
4. Principal Kendriya Vidyalaya,
Air Force Station, Jorhat. ..Respondents

✓(2)

CIVIL RULE NO. 5207/94

Smt Pravawati Devi, ..Petitioner

-vs-

1. Union of India,
2. Kendriya Vidyalaya Santhan,
through the Commissioner, KVS,
New Delhi.
3. Asstt Commissioner, KVS,
Guwahati Region, Guwahati. .. Respondents

(3) CIVIL RULE No. 894/95

Sri Rajesh Kumar Mishra,
S/o Govind Prasad Mishra. .. Petitioner

-vs-

1. Kendriya vidyalaya Santhan,
through the Commissioner, KVS,
New Delhi.
2. The Asstt Commissioner, KVS,
Guwahati Region, Guwahati-12.
3. The Principal,
Kendriaya Vidyalaya, Tura,
Meghalaya.
4. The Selection Committee,
Kendriya Vidyalaya,
Maligaon.
5. The Union of India, through
the Secretary to the Govt of
India, Ministry of HRD, Central
Secretariate, New Delhi-1.

.. Respondents

2. The Kendriya Vidyalaya Sangathan,
Through the Commissioner, KVS,
New Delhi.
3. The Asstt. Commissioner, KVS,
Guwahati Region, Guwahati-12.
4. The Principal,
Kendriya Vidyalaya No.2.
Itanagar, A.P.

... Respondents.

(18) CIVIL RULE NO. 3027/95.

Smti. Sahana Sarkar,
D/o. Dr. RB Sarkar,
Jalpaiguri, W.Bengal.

... Petitioner.

Vs.

1. The Kendriya Vidyalaya Sangathan,
through the Commissioner, KVS,
New Delhi.
2. The Asstt. Commissioner, KVS,
Guwahati Regional Office,
Guwahati-12.
3. The Asstt. Commissioner, KVS,
Calcutta Regional Office,
Calcutta-54.
4. The Union of India.

... Respondents.

(19) CIVIL RULE NO. 5140/94.

Smti. Ajanta Baruah,
W/o. Sri Pritam Kr. Barthakur,
Tarajan, Jorhat.

... Petitioner.

Vs.

1. The Union of India.
2. The Asstt. Commissioner, KVS,
Guwahati Region, Guwahati.
3. The Commissioner, K.V.S.,
New Delhi-16.

... Respondents.

✓ (20) CIVIL RULE NO. 66/95.

Sri Pradip Kumar Saikia,
S/o. Sri Khageswar Saikia,
Borigaon, Jorhat.

... Petitioner.

Vs.

1. The Union of India.

Contd...

B E F O R E

THE HON'BLE JUSTICE SMT. M SHARMA

For the petitioners : Mr RP Sharma, Mr P Sharma,
Mr TN Srinivasan, Mr SC Dutta Roy,
Mr BC Pathak, Mr AK Roy,
Mr HK Baishya, Mr B Chakraborty,
Mr SC Biwas, Mr K Bhattacharyya,
Mr HN Sarma, Mr BD Goswami,
Mr BP Sahu, Mr NB Singh, Mr KK Gupta,
Advocates.

For the respondents: Mr KN Choudhury, Sr. Central Govt.
Standing Counsel.

Date of hearing : 20.1.98

Date of judgment : 15 th September, 1998

JUDGMENT AND ORDER

The above mentioned writ petitions have been preferred by the petitioners, who were appointed by the respondents - Kendriya Vidyalaya Sangathan on adhoc/part-time basis. Services of these petitioners were terminated as they were not found suitable for the post on the basis of an advertisement published on 16.11.94 (Office Order No. F.16-237/92-KVS(RP-II)). As all the above writ petitions are identical and similar on facts as well as on law, I propose to dispose of these Civil Rules by a common judgment. Petitioners claiming substantive appointment under Kendriya Vidyalaya Sangathan can be grouped into two groups, i.e. First group being petitioners who were not called for interview and Second group being those candidates who were called for interview but were not selected by the Selection Committee.

2. As transpires from the contentions of these writ petitions, the brief facts of the cases are that they were appointed on adhoc/part time basis, some of them for 179 days and some of them completed six months or more. Petitioners have requisite qualification for those post. They were appointed as per laid down Rules after due interview on adhoc/part time basis. Apprehending termination, some appointees filed writ petitions before this Court and this Court after hearing the counsel for the parties,

directed the respondents to call those petitioners for selection test/interview for the posts, for which they applied for, with a further direction to the Respondents to allow those petitioners to continue in their respective posts till regular selection and appointment is made. By the present writ petitions, petitioners have challenged the said selection process, which was subsequently undertaken by the respondents/Kendriya Vidyalaya Sangathan as per the order of this Court dated 13.7.93 passed in Writ Appeal No. 76/93. As stated above, these writ petitions can be categorised in two groups for proper consideration of the cases in hand.

3. Respondents/Kendriya Vidyalaya Sangathan authorities have filed a common affidavit-in-opposition in all the writ petitions as all those writ petitions involved same question of facts as well as law.

4. Mr KN Choudhury, Senior Central Govt. Standing Counsel has submitted that before proceeding to decide the petitions the Court is required to examine the back ground of the cases leading to filing of these writ petitions. Mr Choudhury has submitted that a batch of writ petitions were filed for regularisation of adhoc/part time teachers of Kendriya Vidyalaya Sangathan before this Court and this Court in Writ Appeal No.109/94 and others, decided the issue by judgment and order dated 13.9.94. While deciding the issues involved in those petitions/writ appeals Division Bench of this Court placed reliance, on the decision of the Division Bench of this Court in Kendriya Vidyalaya Sangathan -vs- Smt Latifa Khatun, (1994)GLR 137, wherein the Division

Bench directed the Kendriya Vidyalaya Sangathan to formulate a Scheme for regularisation of adhoc appointees among teaching and non-teaching staff subject to such reasonable conditions as may be incorporated in the scheme. The Division Bench further directed that on formulation of such a scheme it is open to the petitioners to apply for regularisation and the respondent was directed to consider the same in the light of the provisions of the scheme so formulated and pass appropriate orders.

5. Mr Choudhury has further submitted that a scheme was formulated and placed before the Writ Appellate Court and the Writ Appellate Court approved the scheme after hearing the counsel of different writ petitioners and the Standing Counsel for Union of India and also giving liberty to the aggrieved petitioners to approach this Court. It was further submitted that after approval of the Scheme, Kendriya Vidyalaya Sangathan published a special advertisement on 16.11.94 inviting applications from adhoc/part time teachers for regularisation of their services. Only those adhoc/part time teachers who satisfied the conditions as per the scheme were called for interview held on 28/29-12-94 and thereafter, their cases were considered. Those conditions were :-

- a) Candidates who possess the requisite educational qualifications and experience as per the Recruitment Rules of the KVS for the post;
- b) who have served at least 6 months on adhoc/part time basis in an academic session at the time of approaching this Court; and

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- c) The candidates who fulfilled the above conditions were called for interview by the Selection Committee and their cases were considered for regular appointment."

Mr Choudhury has pointed out that the Special Advertisement dated 16.11.94 was in respect of only those adhoc/part time teachers of Kendriya Vidyalaya Sangathan, who were working on the strength of the interim orders of this Court from time to time as it was a one time action.

6. As stated above, in the first group of writ petitions, the petitioners were not called for interview. Their common prayer is to withdraw/cancel/revoke/rescind the condition of six months teaching experience on adhoc/part time basis in an academic session and to call the petitioner to the interview. These category of petitioners' services were automatically terminated as they did not fulfil the eligibility criteria of having served for six months in an academic session as per the Advertisement dated 16.11.94. In that view of the matter, I am of the view that the condition put forth in the scheme has been approved by the Division Bench of this Court by order dated 13.11.94, and therefore, this Court cannot now go beyond the order of the Division Bench.

7. In the second group of writ petitions, the writ petitioners were qualified for interview held on 28/29.12.94 pursuant to the Special Advertisement dated

16.11.94 but could not be appointed, as the Selection Committee did not find them suitable for the posts. Services of those petitioners were terminated after finding them not suitable.

8. From the above discussion, it is seen that the Special Advertisement dated 16.11.94 was published in view of the Special Scheme, as per direction of the Division Bench of this Court and the scheme was recommended accordingly. As stated by Mr Choudhury issuance of Special Advertisement was a one time action as per direction of this Court. All the petitioners and similarly situated teachers applied in pursuance of that Special Advertisement in the respective posts they were holding at the relevant time. Accordingly qualified teachers/persons were called for interview and the Selection Committee considered their cases. In support of this contention the respondents/Kendriya Vidyalaya Sangathan produced the proceeding of Selection Committee. After going through it I find no infirmity in the proceedings and no interference by this Court is called for. Further by orders dated 5.1.95 passed in CR 68/95, dated 2.2.95 passed in CR 475/95 & 2.2.95 in CR 5040/95 (Annexure-III, IV, V of the affidavit-in-opposition) those Civil Rules were dismissed by this Court.

9. A group of the petitioners pray for direction from this Court to rescind/cancel the conditions of six months adhoc/part time service in an academic session for regularisation of adhoc appointments. The Division Bench of this Court approved the scheme wherein this condition was inserted for regularisation and accordingly in the Special Advertisement ~~xxxx~~ condition was given

as they fulfilled 'six months' criteria for regularisation. In that view of the matter, this eligibility/qualification was required to be fulfilled by the candidates as prescribed under the advertisement in response to which they had applied. Therefore, if the petitioners did not have that qualification as per the approved scheme, this Court cannot interfere and review the same.

10. As averred in the affidavit-in-opposition this Special Advertisement was only one time action and this special scheme was taken as per direction of a Division Bench of this Court. From this averment it appears that the respondents can consider the case of the petitioners (ad hoc/part time teachers) who are otherwise qualified for regularisation under the said scheme, but could not complete the qualifying time of six months. Therefore, petitioners of this group can certainly be offered an opportunity in due course considering their continuation in service. In *Dr Meera Massey and others -vs- Dr SR Mehrotra and others*, (1998) 3 SCC 88, the Apex Court held that ad hocism in services, particularly in case of appointment of professors, readers and teachers of Universities should be deprecated. The Kendriya Vidyalaya Sangathan authority, as it is seen, normally follow the procedures regarding qualification/merit of the teachers while making appointment in ad hoc appointments. In that case, the authority shall take due care so that qualified ad hoc/part time appointees, when appointed as a stop gap arrangement, be regularised in due course, after completion of six months.

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11. In view of the above discussion and also considering the facts and circumstances of the case, I direct the respondents to consider the case of the petitioners and allow them to appear in any interview that may be held for future appointment. Though the special advertisement in question was only a one time action as stated by the respondents, in my opinion, that cannot prevent the authority to consider the case of the petitioners in allowing them to appear in the interview, if they are otherwise qualified.

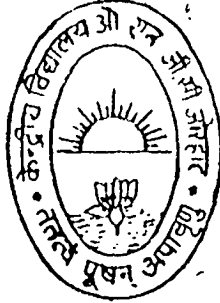
12. With the above direction and observation the writ petitions are disposed of. No order as to costs.

Sd/- M. Sharma
Judge

Authenticated True Copy
Shyamal Borkar
Superintendent, Copying
Gauhati High Court, Gauhati
9/11/28
9/11/98

केन्द्रीय विद्यालय

ओ० एन० जी० सा०, ना अली
जोरहाट-७८५००१ (असम)



KENDRIYA VIDYALAYA

ONGC, NA-ALI

Jorhat-785 001 (Assam)

Phone : 322061-

360017

Ref. No. F.38/KVJ-ONGC/99-2000/506-508

Date 07.01.2000

OFFICE MEMORANDUM

Shri P. K. Saikia, Part-time, teacher of K.V
ONGC, Jorhat is hereby informed that his services as
Part-time, teacher is hereby terminated and he is being
relieved in the forenoon of 07.01.2000. This Office
Memorandum is being issued as per telephonic instructions
received from the Assistant Commissioner, Kendriya Vidyalaya
Sangathan, Guwahati Region, today in the forenoon.

To

Shri P. K. Saikia,
Part-time, teacher
K.V, ONGC, Jorhat.

PRINCIPAL

Copy to:-

(1) The Asstt. Commissioner, KVS (GR) with ref. no. एन. जी. सी.
reference to his telephonic instructions, O. N. G. C.
on 07.01.2000 at 11.15 hrs.

(2) The Chairman, VMC, KV, ONGC, Jorhat for information.

(3) Office file.

Principal/Principal

Jorhat/Jorhat

785001

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Attest
S. S. S. S.
Adm.

In The Central Administrative Tribunal
GUWAHATI BENCH : GUWAHATI

ORDER SHEET
APPLICATION NO. 9/2000 OF 199


Applicant(s) *Smt. Anshuwati Devi*

Respondent(s) *Union of India and ors.*

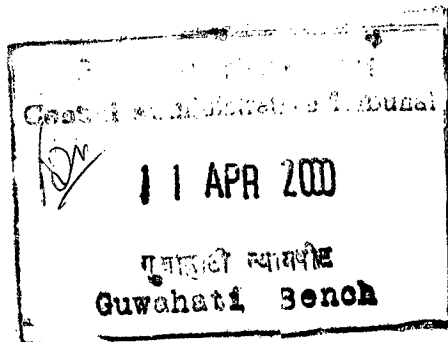
Advocate for Applicant(s) *Mr. B.K. Sharma, Mr. S. Sarma*
Mr. U.K. Goudarzi

Advocate for Respondent(s)

K.V.S.

Notes of the Registry	Date	Order of the Tribunal
 Certified to be true Copy প্রমাণিত প্রতিলিপি <i>[Signature]</i> Deputy Registrar (G) Central Administrative Tribunal Guwahati Bench <i>25/11/2000</i>	11.1.2000	<p>Present: Hon'ble Mr. Justice D.N. Baruah, Vice-Chairman and Hon'ble Mr. G.L. Sanglyne Administrative Member</p> <p>Heard Mr. B.K. Sharma learned counsel for the applicant and Mr. Todi learned counsel for the respondents.</p> <p>Application is admitted. Issue notice on the respondents by registered post. Returnable by 4 weeks. List on 11.2.2000. for orders.</p> <p>Mr. B.K. Sharma prays for suspension of the impugned order. Dr. Todi has no instructions in this regard. Issue notice to show cause as to why interim prayer shall not be granted as prayed for. Meanwhile the operation of the Annexure 4 order shall remain suspended until further orders.</p>

Sd/-VICECHAIRMAN
Sd/MEMBER (A)



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:GUWAHATI BENCH::
AT GUWAHATI

ORIGINAL APPLICATION NO. 31/2000

Shri Pradip Kumar Saikia

.....Appellant

-Vs-

Union of India & Ors

..... Respondents

The Respondents No.2,3,4,5 and 6 above named
beg to file their written statement as follows :

1. That all the averments and submission made in
the Original Application(hereinafter referred to as
the application)are denied by the answering Respondents
save and except what has been specifically admitted
herein and what appears from the records of the case.

2. That with regard to statements made in paragraph
1 of the application the answering Respondents beg to
state that as per the judgement of the Hon'ble Court,
Guwahati dated 15th September,1998 passed against
CR No.1141 of 1995 and 39 other cases (including CR No.
66/95,at sl No.20), the Principal, Kendriya Vidyalaya,
ONGC who is the appointing authority of adhoc /part-time
teachers was directed to terminate the service of the
Appellant vide this office letter no.15-22/98-KVS(GR)/
8982-84, dated 5.1.2000 which was also communicated over ^{phone}

phone contd...2

on 7.1.2000 and accordingly part -time service of the appellant was terminated by the Principal, Kendriya Vidyalaya, ONGC with effect from 7.1.2000.

3. That with regard to statements made in paragraph 2,3, and 4.1 the answering Respondents have no comments as they are matter of records .

4. That with regard to statements made in paragraph 4.2 of the application the answering Respondents beg to state that the averments made by the Petitioner is not correct. After scrutiny it is found in his application that the Petitioner did not passess 45% marks in aggregate in graduation which is one of the essential/ requisite academic qualification for regularisation. Hence the Petitioners case was not considered for regularisation of service on the basis of special advertisement dated 16.1.94 issued by the KVS authority vide order dated 13-9-94, passed by the Hon'ble Gauhati High Court in W.A No.109/94.

5. That with regard to statements made in paragraph 4.3 of the application the answering Respondents beg to state that as per instructions contained in Article 39 and 41 of the Education Code for Kendriya Vidyalaya, the Principal of Kendriya Vidyalaya has been delegated powers to appoint teachers on part-time / adhoc basis purely for the limited period against the vacancies which are not filled up by the Regional Office/ Central selection committee due to non-availability of

selected teachers on All India basis. And as per these provisions the Petitioner was, appointed as TGT(S.St) on part time basis for the specified period. Moreover the Petitioner did not possess 45% marks in aggregate in the Degree Examination. The essential qualification for the post as per the recruitment rule are given below :

- (i) Second Class Bachelor's Degree(45% marks and above in aggregate including elective and Languages in the Degree Examination considered as equivalent) which with University Degree/ Diploma in Education/Teaching.

OR

- F Four year integrated degree course of RCE of NCERT(with at least two KV subjects as elective)

- (ii) Competence to teach through both Hindi and English medium .

6. That with regard to statements made in paragraph 4.4, the answering Respondents beg to state that the averments made by the Petitioner is denied by them. The Petitioner frequently remains unauthorised absent. He is not being paid salary for the full months. Initially he was appointed on part-time basis only, on 26.7.91 with lump sum salary i.e. 75% of the Rs.14/- 1400/- Thereafter the applicant was working under stay order dated 6.2.95 granted by the Hon'ble High Court in C.R. No.66/95.

-4-

7. That with regard to statements made in paragraph 4.5 and 4.6 the answering Respondents beg to state that the Petitioner had in fact approached the Hon'ble Gauhati High Court through CR No.66/95 and as per the interim order dated 6.9.95 in CR No.66/95 the Petitioner was allowed to continue in ~~the~~ service. But since the Petitioner did not possess the requisite academic qualification which is 45% marks in aggregate in Degree examination, his case was not considered for regularisation of his service on the ~~th~~ basis of special advertisement dated 16.1.94 issued by the KVS authority vide order dated 13.9.94, passed by the Hon'ble Gauhati High Court in W.A. No.109/94.

The said Civil Rule is CR No.66/95 was finally decided by the Hon'ble Court on 15-9-98 alongwith other similar ~~with petitions~~. The Hon'ble Court directed the respondents to consider the case of the Petitioner in future for regular appointment if he is otherwise qualified. But it is already stated that he is not otherwise qualified for the post since he did not possess 45% marks in aggregate in the Degree Examination. Therefore there was no question of regularisation of services in Kendriya Vidyalaya Sangathan of the Petitioner.

~~Moreover~~ in the judgement dated 15.9.98 there is no direction as such to continue the service of the Petitioner till the process of regularisation is completed. The Petitioner had submitted wrong information to the Court. Therefore, the action taken by the authority was just and under the law.

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8. That with regard to the statements made in paragraph 4.7 of the application the answering Respondents beg to state that the averments made by the Petitioner in the said para is denied by the respondents . The facts have already been stated in the above paras.

9. That with regard to statements made in paragraph 4.8 of the application the answering Respondents have no comments as the facts have already been stated above.

10. That with regard to statements made in paragraph 4.9 of the application the answering Respondents beg to state that in terms of the order of the Hon'ble High Court dated 15-9-98, passed in CR No.1141/95 and others including C.R. 66/95 , the Principal Kendriya Vidyalaya ONGC Jorhat who was the appointing authority of adhoc/part-time teacher was directed to terminate his services vide this office letter No.15-22/98.KVS(GR)/8982-84, dated 5.1.2000 which was further communicated over telephone on 7.1.2000 by the Assistant Commissioner, Guwahati Region Maligaon. Accordingly the part time service of the Petitioner was terminated by the Principal, Kendriya Vidyalaya ONGC with effect from 7.1.2000. The services of the Petitioner continued on part time basis as per court direction and this cannot be equated with the service of regular employ of KVS!

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11. That ^{with regard to} the statements made in paragraph 4.10 of the application the answering Respondents have no comments as the matter is not related in the case.

12. That with regard to statements made in paragraphs 4.11 of the application the answering Respondents have no comments as they are matters of facts and records.

13. That with regard to statements made in paragraphs 4.12 of the application the answering Respondents have no comments.

14. That with regard to statements made in paragraph 4.13 of the application the answering Respondents beg to state that the averments made by the Petitioner is being denied by the Respondents. The facts have already been stated above.

15. That with regard to statements made in paragraph 4.14 to 4.19 of the application, the answering Respondents beg to state that the averments made by the Petitioner is being denied ~~by~~ them . And the facts of the case has already been stated in the above paragraphs.

16. That under the facts and circumstances stated above it is respectfully submitted that the challenged in the application filed by the Petitioner is devoid of any merit and liable to be dismissed.

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-VERIFICATION-

I, Shri D.K. Saini, son of Sri C L Saini, aged about 51 years is presently working as Asstt Commissioner in the Regional office of the Kendriya Vidyalaya Sangathan Maligaon do hereby verify that the statements made in paragraphs 7 are true to the best of my knowledge and thos made in paragraphs 2, 4, 5, 6, 7, 10 are based on records and that I have not suppressed any material fact.

Date 10.4.2000

Place Guwahati

Gurukul Saini

SIGNATURE