

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

H.P-144/2000 order sheet Pg-1 to 2

disposed date- 27/9/02

INDEX

O.A/T.A No. 33/2000

R.A/C.P No. 111/2000

E.P/M.A No. 144/2000

1. Orders Sheet OA-33/2000 Pg. 1 to 2

2. Judgment/Order dtd. 4/10/2000 Pg. No. ~~separated to order disposed~~

3. Judgment & Order dtd. Received from H.C/Supreme Court

4. O.A. 33/2000 Pg. 1 to 30

5. E.P/M.P. 144/2000 Pg. 1 to 5

6. R.A/C.P. 111/2000 Pg. 1 to 8

7. W.S. NIL Pg. to

8. Rejoinder NIL Pg. to

9. Reply Pg. to

10. Any other Papers Pg. to

11. Memo of Appearance

12. Additional Affidavit

13. Written Arguments

14. Amendement Reply by Respondents

15. Amendement Reply filed by the Applicant

16. Counter Reply

SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 33/2000 OF 199

Applicant(s) Smt. Veena Tripathi

Respondent(s) Union of India & Ors.

Advocate for Applicant(s) Mr. M. Chanda

Mrs. N. D. Goswami

Advocate for Respondent(s) Mr. C. N. Chakraborty
C. G. S. C.

Notes of the Registry	Date	Order of the Tribunal
-----------------------	------	-----------------------

4.2.00

Present : Hon'ble Justice D.N. Baruah,
Vice-Chairman.

In this application the applicant is seeking certain directions to the respondents. The case of the applicant is that she is a Trained Graduate Teacher working in Kendriya Vidyalaya, Panbari. Her husband is also a Trained Graduate Teacher at present working in Kendriya Vidyalaya, B.R.P.L., Bongaigaon. According to the applicant there are certain vacancies at Bongaigaon. In spite of several representations the applicant has not been posted to the place where her husband is working. Hence the present application.

Contd...

Notes of the Registry	Date	Order of the Tribunal
14-02-2000 Copy of the order dated 4.2.2000 has been sent to the Despatch for issuance to the 4 advocates to the parties. MS 14/2/2000	4.2.0	<p>Heard Mr. N.D. Goswami, learned counsel appearing on behalf of the applicant and Dr. B.P. Todi, learned counsel for the Kendriya Vidyalaya Sangathan. Mr. Goswami draws my attention to the O.M. dated 12.6.1997 issued by the Govt. of India, Ministry of Personnel, Public Grievances & Pensions (Department of Personnel and Training). As per the said O.M. husband and wife should be posted in same place. Mrs. Goswami further submits that Kendriya Vidyalaya follows the Govt. of India's instructions. Dr. Todi does not dispute the same. He however, submits that he has no information regarding availability of post at Bongaigaon.</p> <p>On hearing the counsel for the parties I dispose of this application with direction to the respondents to transfer the applicant to Kendriya Vidyalaya, Bongaigaon. If no such vacancy is available at Bongaigaon, the applicant may be transferred to a place nearer to Bongaigaon including Kokrajhar. This must be done as early as possible at any rate within a period of one month from the date of receipt of this order. Till such decision is taken, at least one post should not be filled up by new appointee.</p> <p>The application is disposed of. No costs.</p> <p style="text-align: right;">Vice-Chairman</p>

Central Administrative Tribunal

28th Oct 2000

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Delhi Bench

GOURAVATI BENCH

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

Title of the Case : O.A. No. 33/2000

Smti Veena Tripathi : Applicant

-versus-

Union of India & Ors. : Respondents

I N D E X

Sl.No.	Annexure	Particulars	Page No.
1	-	Application	1-20
2	-	Verification	21
3	A	Representation dt. 21.9.98	22
4	B	Representation dt. 24.9.98	23
5	C	Application dt. 11.5.99	24
6	D	Copy of birth certificate dt. 31.8.99	25
7	E	Representation dt. 4.10.99	26
8	F	Hon'ble Tribunal's order dt. 11.11.99	27-28
9	G	O.M. dt. 12.6.97	29-30

Date

Filed by :

Advocate

Filed by Advocate
Smti Veena Tripathi
28th Oct 2000

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

Original Application No. _____/2000

BETWEEN

Smti. Veena Tripathi

W/o Shri Birendra Tiwari

Trained Graduate Teacher (Maths),

Kendriya Vidyalaya, Panbari

District - Dhubri,

Assam

...Applicant

-AND-

1. Union of India,

represented by the Secretary to the

Government of India,

Ministry of Human Resource Development,

Central Secretariat,

New Delhi.

2. Kendriya Vidyalaya Sangathan

represented by the Commissioner,

Kendriya Vidyalaya Sangathan

18, Institutional Area,

Saheed Jeet Singh Marg,

New Delhi.

3. The Assistant Commissioner,

Kendriya Vidyalaya Sangathan,

Guwahati Regional Office,

Maligaon Charali,

Guwahati.

..... Respondents

Veena Tripathi

4. Principal,

Kendriya Vidyalaya

Panbari, Dist Dibrugarh
Assam

A.A.

5. Shri Rameshwar Sharma,

Teacher

Kendriya Vidyalaya,

B.R.P.L., Bongaigaon No.

.... Respondents

DETAILS OF THE APPLICATION

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

This application is made praying for a direction to the respondents for posting of the applicant to the Kendriya Vidyalaya, B.R.P.L., where her husband is posted at present, in terms of spouse scheme and also in terms of Office Memorandum dated 12.6.97 issued by the Government of India for posting of the husband and wife invariably in the same station, and also against the impugned letter dated 26.11.99 issued by the Asstt. Commissioner (Officiating) and also for setting aside the posting order of Respondent No.4.

2. Jurisdiction of the Tribunal.

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

Contd....

Veenatipathi

3. Limitation

The applicant also declares that the application is within the limitation period as has been prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case:

4.1 That the applicant was initially appointed as Trained Graduate Teacher (TGT for short) for Mathematics and was posted at Kendriya Vidyalaya, Panbari in the District of Dhubri where she joined on 23.9.1997 and has been serving there since then.

4.2 That the applicant's husband is also a trained graduate teacher (PCM) in the Kendriya Vidyalaya and is posted at B.R.P.L. Kendriya Vidyalaya, Bongaigaon in the district of Bongaigaon where he has been working for the last five years.

4.3 That on coming to know that a vacancy for Trained Graduate Teacher for Mathematics exists in the Kendriya Vidyalaya, B.R.P.L. Bongaigaon where the applicant's husband is posted, the applicant submitted an application to the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Guwahati Regional Office at Maligaon on 21.9.1998 praying for her transfer to Kendriya Vidyalaya, B.R.P.L., Bongaigaon. In the said representation the applicant briefly narrated the difficulties what she is facing at Panbari away from her husband and Panbari being a lonely place it is not the right place for a lady teacher to stay alone.

Contd...

A copy of the application submitted by the applicant on 21.9.98 is annexed herewith as Annexure-A.

4.4 That it may be stated here that the post of Trained Graduate Teacher for Mathematics in Kendriya Vidyalaya, B.R.P.L., Bongaigaon fell vacant due to the transfer of the previous incumbent to the post to Dehra Doon on 8.9.96 and the post is lying vacant since then.

4.5 That the applicant's husband also submitted an application on 24.9.98 to the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Guwahati Regional Office, Maligaon, through the Principal of the Vidyalaya, praying for transfer of his wife, the applicant, to Kendriya Vidyalaya, B.R.P.L., Bongaigaon in the vacant post. The application of the applicant's husband was duly forwarded by the Principal of the Vidyalaya for sympathetic consideration. In the forwarding Memo the Principal also indicated that a vacancy does exist in his Vidyalaya for T.G.T. Maths and requested the Asstt. Commissioner concerned for sympathetic consideration of the case of the applicant.

A copy of the application submitted by the applicant's husband on 24.9.98 along with the forwarding note of the Principal is annexed as Annexure-B.

4.6 That, in his application the applicant's husband narrated the difficulties faced by the applicant due to

Contd.....

Veeena Tripathi

her ailment and being away to a remote place where there is practically no medical facilities. Besides, she is staying all alone in that remote place.

4.7 That in May 1999 the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Guwahati Regional Office, issued a general circular vide No. F.1-1/99-KVS(Estt-III) indicating the number of vacancies that existed in different Kendriya Vidyalaya in the region for various categories of teachers. In response to the said circular the applicant submitted an application in the prescribed form on 11.5.99, praying for her transfer to any of the three Kendriya Vidyalaya viz. K.V., BRPL, Bongaigaon, K.V., New Bongaigaon and K.V. Kokrajhar so that the applicant can be with her husband or nearabout him.

A copy of the said application dtd. 11.5.99 is annexed herewith as Annexure-C.

4.8 That on 27th August, 1999, the applicant gave birth to a male child in the B.R.P.L. Hospital, Bongaigaon. As the applicant was staying at Panbari where she is posted now all alone, she had to come to Bongaigaon to her husband and had to stay with him during the pre and post natal period.

A copy of the birth certificate dtd. 31.8.99 is annexed herewith as Annexure-D.

4.9 That thereafter on 27th September, 1999 the Asstt. Registrar, Kendriya Vidyalaya Sangathan, Guwahati Regional Office published a priority list of teachers who are likely to be transferred from one Kendriya

Contd..

Veena Tripathi

Vidyalaya to another, vide letter No. F/C-3/99/KVS (GR)/1766-206 dtated 27.9.99

4.10 That when the applicant found that in the said priority list the name of the applicant is not there, she submitted yet another representation to the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Guwahati Region on 4.10.1999, praying for consideration of her case for transfer to K.V., B.R.P.L. Bongaigaon where there is a vacancy for the post of Trained Graduate Teacher for Mathematics, and where her husband is posted.

A copy of the representation dated 4.10.99 submitted by the applicant is annexed herewith as Annexure-E.

4.11 That it is stated that since a vacancy for Trained Graduate Teacher for Mathematics exists in the Kendriya Vidyalaya, B.R.P.L. Bongaigaon where the applicant's husband is posted and the applicant fulfills the conditions laid down for transfer of teacher from one Kendriya Vidyalaya to another, there is no reason why the case of the applicant should not be considered for her transfer, particularly when there is no other candidate named for this post.

4.12 That it may be stated that the applicant's old and ailing mother-in-law who is staying with her husband at Bongaigaon needs constant care and attention and it is necessary that the applicant should be with her husband to take care of her monther-in.law.

Contd...

Veena Tripathi

4.13 That it is stated that the applicant's son who is only five months old needs to be looked after by somebody when the applicant is away to her school and there being no other person at her place of posting, it has become well-nigh impossible for the applicant to attend here school and at the same time take care of her baby. Had the applicant been with her husband at Bongaigaon, at least alternatively they can look after the baby during the absence of the applicant from the house when she would go to the school to perform her duties.

4.14 That as per the established policy of the Central Government which is also equally applicable to the Kendriya Vidyalaya Sangathan, where the spouses belong to the same Central Service, the authority may post the spouses to the same station. Since the applicant belong to the same cadre service as her husband, she is entitled to be transferred to the station where her husband is posted, particularly when there is a vacancy existing in that station.

4.15 That as has been stated already the post of Trained Graduate Teacher is lying vacant in Kendriya Vidyalaya, BRPL, Bongaigaon since 8.9.98 and since nobody was appointed against the said vacant post and the applicant finding no favourable response regarding her posting at Kendriya Vidyalaya, BRPL, Bongaigaon she has approached the Hon'ble Tribunal through Original Application No. 357/1999 (Smt. Veena Tripathy Vs. Union of India & Ors) inter alia praying for her posting at Kendriya Vidyalaya, BRPL, Bongaigaon under the spouse scheme. The said matter came up

Contd....

Veena Tripathi

for consideration on 11.11.99 and this Hon'ble Tribunal was pleased to dispose of the said Original Application with direction to the respondents to consider the representation of the applicant as ~~maxxist~~ early as possible at any rate within a period of one month from the date of receipt of that order. It is also categorically directed that while disposing the representation of the applicant the respondents should also follow the rules. The Hon'ble Tribunal also observed in the order dated 11.11.99 that the husband of the applicant was working as Teacher in Bongaigaon besides the applicant has got a 5 months old baby as such it has become very difficult for her to live in a remote place like Panbari. The relevant portion of the Order of the Hon'ble Tribunal passed in O.A. No. 357/99 dated 11.11.99 is quoted below :

" In this application the applicant is seeking certain directions. The applicant is a graduate trained teacher working at Kendriya Vidyalaya, Panbari. According to the applicant this place is situated in a remote locality of the Dhubri district of Assam. Her husband is also working as Teacher in Bongaigaon. Besides, the applicant has got a 2 months old baby. This has become very difficult for her to live in a remote place like Panbari. Situated thus the applicant submitted several representations praying for transfer her to Bongaigaon or to some other place where both the husband and wife can work. The representations have not yet been

Contd...

Veena Tripathi

disposed of. Hence the present application.

We have heard Mr. S.C. Dutta Roy, learned counsel for the applicant and Mr. B.C. Das, learned counsel for the Kendriya Vidyalaya Sangathan.

On hearing the counsel for the parties we feel that the respondents should dispose of the representations which were filed long back. Accordingly we dispose of this application with a direction to the respondents to consider the representations of the applicant and dispose of the same as early as possible at any rate within a period of 1 month from the date of receipt of this order. While disposing of the representation the respondents shall also follow the rules.

Application is disposed of. No order as to costs."

In view of the above order passed by the Hon'ble Tribunal and also relied on the spouse scheme which is still in force in the Kendriya Vidyalaya Sangathan, the applicant has acquired a valuable and legal right for considerations of her posting at Kendriya Vidyalaya BRPL, Bongaigaon. In this connection it is stated that the Govt. of India, department of Personnel and Training following the recommendations of the Fifth Central Pay Commission issued the O.M. No. 20034/2/97 Estt (P) dated 12.6.97 wherein it is stated that the scope of posting of husband and wife in the same station has

Contd....

Veena Tripathi

considered and widened and it is ordered that both husband and wife should invariably posted in the same station especially when the children are below ten years of age, if the post in appropriate level exists. The relevant portion of the O.M. dated 12.6.97 is quoted below :

"Sub : Posting of husband and wife at the same station.

The undersigned is directed to say that on the subject mentioned above, Government had issued detailed guidelines vide O.M. No.20034/7/86-Estt. (A) dated 3.4.86. The Fifth Central Pay Commission has now recommended that not only the existing instructions regarding the need to post husband and wife at the same station need to be reiterated, it has also recommended that the scope of these instructions should be widened to include the provision that where posts at the appropriate level exist in the organisation at the same station, the husband and wife may invariably be posted together in order to enable them to lead a normal family life and look after the welfare of the children, especially till the children are 10 years of age.

2. The Government, after considering the matter, has decided to accept this recommendation of the Fifth Central Pay Commission. Accordingly, it is reiterated that all Ministries/Departments should strictly adhere to the guidelines laid down in O.M. No. 28034/7/86-Estt (A) dated 3.4.86 while

Contd....

Veena Tripathi

deciding on the requests for posting of husband and wife at the same station and should ensure that such posting is invariably done, especially till their children are 10 years of age, if posts at the appropriate level exist in the organisation at the same station if no administrative problems are expected to result as a consequence.

3. It is further clarified that even in cases where only the wife is a government, the concession elaborated in para 2 of this O.M. would be admissible to the Government servant."

In view of the above mandatory provision, the present applicant ought to have been posted at Kendriya Vidyalaya, BRPL, Bongaigaon in the vacant post of Teacher.

Copy of the order of the Hon'ble Tribunal dated 11.11.99 passed in O.A. No. 357/99 and the O.M. dated 12.6.97 is enclosed as Annexures-F & G respectively.

4.16 Most surprisingly Shri D.K. Saini, Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Maligaon by his letter bearing No. F.10-3/99-KVS(GR)/8745 dated 23.12.99 communicated the decision dated 26.11.99 wherein it is stated that in the letter bearing No. 10-3/99 KVS(GR)/8000 (A) dated 26.11.99 that the transfer application of the applicant for posting at Kendriya Vidyalaya, BRPL, Bongaigaon (2) New Bongaigaon (3) Kokrajhar could not be considered

for transfer as her name did not appear in the priority list of intra-regional transfer, as because the applicant did not complete 3 years service at Kendriya Vidyalaya, Panbari since her initial posting as on 31.3.99 which is required under the transfer policy.

The relevant portion of the letter dated 26.11.99 referred to above is quoted below :

" I am to refer to your endorsement dated 14.05.99 on the transfer application of Mrs. Veena Tripathi, TGT(PCM) of your Vidyalaya requesting for intra-regional transfer to Kendriya Vidyalaya (1) BRPL Bongaigaon (2) New Bongaigaon (3) Kokrajhar. In this connection I am to inform you that her case could not be considered for transfer as her name did not appear in the priority list of intra-regional transfer as she did not complete 03 years at Kendriya Vidyalaya, Panbari since her initial posting as on 31.03.99 which is required under the transfer policy. She may be informed accordingly."

From above, it is quite clear that the decision of the Assistant Commissioner is arbitrary, unfair as because the applicant in the instant case sought posting in the same station where her husband is working under spouse scheme of the Kendriya Vidyalaya Sangathan. Therefore question of completion of 3 years service does not arise. Hence it appears that the decision of rejection of her

Contd....

Veena Tripathi

application for posting in the same station in accordance with the scheme and the same is also contrary to the spouse scheme ~~and the same is also contrary~~ which is in force in the Kendriya Vidyalaya Sangathan. In this connection it is stated that the applicant in spite of her best efforts could not obtain a copy of the aforesaid scheme/transfer policy. Therefore Hon'ble Tribunal be pleased to direct the respondents to produce the same for perusal of the Hon'ble Tribunal.

It is further stated that the prayer of the applicant has not been considered by the Assistant Commissioner in exercise of colourable power on extraneous consideration in order to accommodate another teacher i.e. respondent No.5, who at the relevant time was working at Central School, Lumding. Therefore it appears that no priority is given in the case of the present applicant under the spouse scheme for her posting at Kendriya Vidyalaya, BRPL. But in order to accommodate respondent No.5 the authority have rejected the representation of the applicant even after categorical observation made by the Hon'ble Tribunal while disposing the Original Application No. 357/99 on 11.11.99 that respondents shall also follow the rules. Therefore respondents particularly Assistant Commissioner, Kendriya Vidyalaya, Maligaon did not follow the rule in force for posting of husband and wife invariably in the same station. As such respondent No.2 violated the order of the Hon'ble Tribunal dated 11.11.99 which is amount to contempt of court. The accommodation of respondent No.5 in Kendriya Vidyalaya Bongaigaon, BRPL makes it abundantly clear that the

respondents in a well planned manner rejected the claim of the applicant on extraneous consideration and in exercise of colourable power and the same is mala fide as such the transfer and posting order of respondent No.5 is liable to be set aside and quashed, and in the resultant vacancy the applicant should be accommodated.

It is stated that in spite of her best effore the applicant could not obtain the impugned order of transfer and posting of respondent No.5 at Kendriya Vidyalaya, BRPL, therefore Hon'ble Tribunal may be pleased to direct the respondents to produce the same before the Hon'ble Tribunal at the time of hearing of this application.

4.17 That your applicant further begs to state that when there is a spouse scheme for priority posting is available in the Kendriya Vidyalaya Sangathan and especially when the Government of India issued the Memorandum dated 12.6.1997 directing the authorities for posting of the husband and wife in a same station invariably, especially when children is below 10 years of age and when there is a post existⁿ at appropriate level. In the instant case there was a post exist at the appropriate level and the applicant made a request for her posting where her husband is working. But the respondents with a malafide intention did not consider the case of the applicant in spite of the order of the Tribunal passed in^Ø O.A. No. 357/99 dt. 11.11.1999.

In the said O.A. the Hon'ble Tribunal made a categorical direction to consider her case for posting at Kendriya Vidyalaya, BRPL in accordance with the rules. The applicant being highly aggrieved after receipt of the impugned order dated 26.11.99 through letter dated 23.12.99, finding no other alternative approaching this Hon'ble Tribunal for her posting at Kendriya Vidyalaya BRPL, Bongaigaon or alternatively in the existing vacant post available at Kendriya Vidyalaya, Kokrajhar, otherwise it will cause irreparable loss to the present applicant and to here five months baby. As such, Hon'ble Tribunal be pleased to direct the respondents to post the applicant either in Kendriya Vidyalaya, Bongaigaon or Kendriya Vidyalaya, Kokrajhar which is nearer to Bongaigaon, with immediate effect.

4.18 That this application is made bona fide and for the cause of justice.

5. Grounds for relief(s) with legal provisions :

5.1 For that, the action or rather inaction of the respondents, particularly respondent No. 3, the Assistant Commissioner, Kendriya Vidyalaya Sangathan Guwahati Region, in not considering the case of the applicant for her transfer to Kendriya Vidyalaya, B.R.P.L. Bongaigaon where a vacancy was available at the relevant time for the post of Trained Graduate Teacher for Mathematics and where the husband of the applicant is posted.

5.2 For that the authorities of Kendriya Vidyalaya Sangathan notified the vacancy in the said Kendriya Vidyalaya, in response to which the applicant applied for her transfer, having fulfilled the criteria laid down for the purpose, and as such there is no reason why she should not be transferred to Bongaigaon.

5.3 For that as per the policy of the KVS for transfer of a teacher to the station where his/her spouse is posted, the applicant is entitled to be transferred to KVS either in BRPL, Bongaigaon or KV, Kokrajhar.

5.4 For that since there is vacancy for Trained Graduate Teacher, Mathematic in the K.V., B.R.P.L. as well as K.V., Kokrajhar and since the applicant had already applied for her transfer where her husband is posted, there is no reason why she should not be transferred there.

5.5 For that in any view of the matter the action of the respondents in not transferring the applicant to Kendriya Vidyalaya, B.R.P.L. Bongaigaon where her husband is posted, is arbitrary, malafide, discriminatory and violative of all canons of justice.

5.6 For that representation of the applicant has been rejected by the impugned order 26.11.99 in total violation of the Hon'ble Tribunal's direction passed in O.A. No. 357/99 dt. 11.11.99.

5.7 For that the respondents have violated the spouse scheme issued by the Government of India dt. 12.6.97

for posting of husband and wife in a same station.

5.8 For that the respondent No.5 has been accommodated in the Kendriya Vidyalaya, B.R.P.L. on extraneous consideration and in total disregard to the order of the Hon'ble Tribunal dt.11.11.99 passed in O.A. No. 357/99 and also disregard to the ~~order~~ Memorandum to the ~~order~~ Government of India dated 12.6.1997.

5.9 For that the Kendriya Vidyalaya Sangathan receives more than 50% of ~~granting~~ grants in aid from the Central Government as such the rules framed by the Government of India is binding upon the Kendriya Vidyalaya Sangathan as such the O.M. dated 12.6.97 is binding on the Kendriya Vidyalaya Sangathan.

5.10 For that the applicant is having five months old baby and the post at appropriate level exists at the relevant time at Kendriya Vidyalaya, B.R.P.L. and another post at appropriate level also exists at Kendriya Vidyalaya, Kokrajhar till filing of this application.

5.11 For that the posting order of respondent No. 5 at Kendriya Vidyalaya, BRPL is illegal, and arbitrary as such the same is liable to be set aside and quashed.

Contd...

6. Details of remedies exhausted.

The applicant declares that since she has already represented her case to the authorities and no action has been taken on her representation, no remedy lies elsewhere other than approaching this Hon'ble Tribunal for redressal of her genuine grievances.

7. Matter not previously filed before any other Court or pending before any other bench of the Tribunal.

The applicant further declares that he had filed an Application before the Hon'ble Tribunal which was registered as O.A. 357/99 and the same was disposed of by the Hon'ble Tribunal dt. 11.11.99 with direction to the respondents to consider the case of the applicant on her representations submitted to the authority. But in spite of the order/direction of the Hon'ble Tribunal dt. 11.11.99 the prayer of the applicant has been rejected by the Assistant Commission, Kendriya, Vidyalaya.

8. Reliefs sought for :

Under the facts and circumstances stated above, the applicant prays for the following reliefs :-

8.1 To direct the respondents particularly respondent No. 3, the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Guwahati Regional Office, to transfer the applicant to the Kendriya Vidyalaya, B.R.P.L., Bongaigaon where there is a vacancy for the post of Trained Graduate Teacher for Mathematics.

and where the applicant's husband is posted or alternatively at Kendriya Vidyalaya, Kokrajhar or to any other Vidyalaya near Bongaigaon.

8.2 That the Hon'ble Tribunal be pleased to set aside and quashed the impugned posting order of respondent No.5 posting the respondent No.5 at Kendriya Vidyalaya, BRPL, in terms of the order of the Hon'ble Tribunal dated 11.11.99 passed in O.A. No. 357/99.

8.3 That the Hon'ble be pleased to set aside and quashed the impugned order dated 26.11.99 issued by the Assistant Commissioner, Kendriya Vidyalaya, Guwahati.

8.4 Costs of the Application.

8.5 To any other relief or reliefs, which the applicant is entitled to as deemed fit and proper by the Hon'ble Tribunal.

9. Interim relief if any :
Under the facts and circumstance the applicant prays that the Hon'ble Tribunal may be pleased to pass an interim order restraining the respondents from filling up the post of Trained Graduate Teacher for Mathematics in the Kendriya Vidyalaya, Kokrajhar, by any other teacher from any other Kendriya Vidyalaya in the Region.

10.
This application has been filed through advocate.

11. Particulars of I.P.O.

i. I.P.O. No. : 06 457880
ii. Date of Issue : 28.1.28
iii. Issued from : G.P.O., Guwahati.
iv. Payable at : G.P.O., Guwahati.

12. List of enclosures :

As stated in the Index.

VERIFICATION

I, Smt. Veena Tripathi, wife of Shri Birendra Twarei, aged about 30 years, presentaly staying at Panbari in the district of Dhubri, and applicant in the instant application, do hereby verify that the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to my legal advice which I believe to be true and I have not suppressed any material fact.

And I sign this verification on this the 30th day of January, 2000.

Veena Tripathi
Signature

F - 21/K.V. Panbari/98-99/089 22

14/11/98

Date
21-09-98

26

To,
The Assistant Commissioner,
Guwahati Region,
Guwahati
Through: Principal-in-charge (K.V.Panbari)

Respected Sir,

I would like to bring certain points to your kind notice

- 1) That I am working as TGT (Maths) at K.V. Panbari.
- 2) That my husband is posted as TGT (Maths) at K.V. B.R.P.L.
- 3) That I suffered from a miscarriage on 01/01/98 and am undergoing treatment from a gynaecologist at (B.R.P.L. Township) Dhaligaon and such facilities are not available at Panbari.
- 4) That the above incident has drained me physically and mentally.
- 5) As my husband stays with my old mother-in-law I have to go frequently to Dhaligaon to look after her. These trips are a big strain on me as the journey takes about four hours.
- 6) Panbari is very lonely and being a B.S.F. camp not a right place for a lady to stay alone.

Under the above-mentioned circumstances, I would be highly obliged if I could be posted at K.V. B.R.P.L. Dhaligaon. At present vacancies of TGT (P C M) exist at K.V. B.R.P.L.

Hoping for a favourable response from your side.

Thanking you

Yours faithfully

WT

Veena Tripathi

Forwarded to the A.C (GIR)
for sympathetic consideration
and necessary action

P.Singh
21/9/98
Kamrup Rayatalaya, Panbari

21/9/98

To

The Assistant Commissioner,
Guwahati Region,
Guwahati
Through : Principal K.V. B.R.P.L. ✓

Respected Sir,

With due respect and humble submission, I would like to lay a few points for your kind consideration.

- 1) That my wife Shrimati Veena Tripathi is working in K.V. Panbari in the capacity of TGT (Maths) since 23/09/97.
- 2) That I am working in the capacity of TGT (Maths) at K.V. B.R.P.L. and stay there with my old and ailing mother.
- 3) That my wife has to make frequent trips from K.V. Panbari to Dhaligaon to assist my old mother.
- 4) Due to the unsafe roads and the strain of frequent trips, my wife suffered a miscarriage on 01/01/98 and has since been undergoing treatment under a gynaecologist at Dhaligaon. (B.R.P.L. Township).
- 5) That her condition requires check ups and this periodic facility is not available in and around her area of posting.
- 6) That after her miscarriage, my wife suffers from depression and her problem aggravates at Panbari as she remains alone over there and the place is very secluded.

In view of the above points, I fervently request your honour to post my wife at K.V. B.R.P.L. from K.V. Panbari. At present there is a vacancy of TGT (Maths) at K.V. B.R.P.L. created by the transfer of Shri Lal Singh on 08/09/98 to Dehradoon.

For this act of kind consideration I shall remain ever grateful to you.

Thanking you

On F.O.F/KVBRPL/98-99/82/ dt 20/9/98 Your's faithfully

Encl : (1) Photostatic copy of prescription and Medical certificate
Forwarded for favourable and sympathetic consideration. The needful may be done
as one post of TGT (PCM) is lying vacant.

BIRENDRA TIWARI
TGT (P.C.M)
K.V. B.R.P.L.

KENDRIYA VIDYALAYA SANGATHAN

24

Annexure-B

KENDRIYA
VIDYALAYA

K.V. Panbari, Dhubri

--	--

Transfer
Type

0	1
---	---

REGION
CODE

1	0
---	---

Hard Station Code

APPLICATION FOR TRANSFER ON REQUEST 1999-2000
(Read instructions carefully before filling up)

1. Name

V	E	N	A	T	R	I	P	A	T	H	I					
---	---	---	---	---	---	---	---	---	---	---	---	--	--	--	--	--

2. Date of birth

2	0	0	6	6	9
---	---	---	---	---	---

3. Date of appointment

2	3	0	9	9	7
---	---	---	---	---	---

4. Date from which posted at the
Vidyalaya* / Station in Present Post

2	3	0	9	9	7
---	---	---	---	---	---

5. Whether Male/Female

F

6. Post held

T	G	T
---	---	---

7. Sub-Code

0	1
---	---

CATEGORY

DIVISION

8. Grounds for Transfer

J	S	P
---	---	---

1	2
---	---

Station

Region Code

9. (a) Choice Vidyalaya* / Station

K.V. BRPL (Bongaigaon)

1	0
---	---

K.V. New Bongaigaon

1	0
---	---

K.V. Kokrajhar

1	0
---	---

9. (b) In case you are interested in transfer to any K.V. in a particular Region indicate the preferences in terms of Region

Region	Code

10. Station where spouse is working

1	0
---	---

11. Have you obtained a medical certificate overleaf?

N

12. Have you given the declaration regarding the

Y

employment and place of posting of spouse?

Please fill up
correct Code

13. Narrate the Compelling problem(s) for seeing
transfer (in 50 word(s))

Expecting delivery during month of Aug 1999, it is
essential for me to be near my husband for
proper care of child
Year from where transferred Reason Code

—

—

—	—
---	---

14. Details of last transfer

—

15. Type of disease certified in MC overleaf

—

16. Relationship of the patient with the applicant

—

Please fill up
in Code

I, Shri/Smt./Kum. VEENA TRIPATHI

do hereby affirm that the information given in
columns 01 to 16 of this application are correct and that the medical certificate/declaration given overleaf is/are
bona fide. I understand that wrong/suppressed information shall render me liable for disciplinary action.

Place: K.V. Panbari

Signature Veena

Date: 11.05.99

Name Veena Tripathi
Designation TGT (PCM)

* Vidyalaya is Applicable only for transfer within the station.

** Write 01 or Intra (within region) or 02 for inter.

(S) D
12-05-99

MEDICAL CERTIFICATE

9 copies 29
Signature of patient _____
Address _____
I, Dr. _____ of _____ (Name & Designation) (hospital & place)

after careful personal examination of the case, hereby certify that _____ whose _____ (Name of the patient)
signature is given above is suffering from _____ and that facilities for treatment
(full medical nomenclature of the ailment in CAPITAL letters)
of this disease are not at all available at this station or its vicinity. It is further certified that aforesaid disease is within
the parameters prescribed by the KVS at Para M.

Place: _____ Signature of the competent authority. _____
Date: _____ Designation: _____
Seal of the Competent authority. _____

DECLARATION

(Kindly fill the information in bold letters. Strike out whichever is not applicable)

I, Veena Tripathi solemnly declare that my spouse BIRENDRA TIWARI is presently
employed at/under orders of transfer to K.V. BRPL as TGT (PCM) in K.V.S
(name) (place) (Designation) (Dept/Unit/Branch)
since 28.11.94 His/Her full office address with Name and Designation of immediate superior/details
(date) of self-employment is/are as follows:

Name and Office/Registered Business or
Professional Address of spouse
BIRENDRA TIWARI
K.V. BRPL

BONGAIGAON

Name and Address of Immediate
Superior Officer or Registration No. of Business/Profession
MR. J.P. NAGAR

K.V. BRPL (BONGAIGAON)

Signature of the Employee Veena Tripathi

Name: VEENA TRIPATHI

Designation: TGT (PCM)

For Office use only in Kendriya Vidyalaya

(Strike out whichever is not applicable)

1. * Disciplinary case is pending/contemplated not pending/not contemplated against Meena Tripathi Shri/Smt./Kum.
2. * The medical certificate/declaration given in the application itself is from the competent authority. Meena Tripathi
3. Certified that the details furnished by the applicant have been verified from the service records and found correct. Meena Tripathi
4. She/He was on leave/absent without pay during 15 Jan 91 to 31 Jan 91 and is still away/not away from duties. Meena Tripathi

Place: K.V. Panbari

Date: 20/5/99

(in 98-99 only)

Signature _____

Name of the Principal _____

Office Seal _____

Book No. 7

FIRST COPY

Serial No. 302

Bongaigaon Refinery & Petrochemicals Ltd. Hospital

DHALIGAON-783 385 (ASSAM)

Date 31. 8. 99

BIRTH CERTIFICATE

This is to certify that a **female/male** child was born toSmti Veena Tripathi,wife of Shri Birendra Tiwari,of (Address) BRPL Township,P.O. Dhaligaon.on 27. 8. 99 at 1D-10 A.M./P.M. in this hospital.Birth Weight 2.5 KgBirth Regd. No. 100/99

CHIEF MEDICAL OFFICER
 CMO (BRPL Hospital)
 Bongaigaon Refinery & Petrochemicals Ltd
 P.O. Dhaligaon, Dist. Bongaigaon
 ASSAM-783 385

DOCTOR I/C WARD
 Gynecologist
 Dr. B. K. Deka
 Dr. B. K. Deka
 Dr. B. K. Deka
 Dr. B. K. Deka

To
The Assistant Commissioner
Guwahati Region.
Date - 4.10.99

Sub- omission of the name of Smt Veena Tripathi (TGT Maths) from priority list.

Sir,

Please refer to your circular no. *F/0-3/99/KVSL/1766-206* regarding the publication of priority list for intra region transfer.

I had applied from K.V. Panbari for transfer to K.V. BRPL on the grounds of spouse case. (Copy of my application form is attached)

On perusal of the list, I discovered my name does not figure in the list despite the fact that I fulfill all the criteria.

- 1) As on 31/03/99 I have completed 1 year, 6 months and 8 days (my date of appointment being 23.7.97 at the place of posting, K.V. Panbari.
- 2) My husband Shri B Tiwari is posted at K.V. BRPL.
- 3) There exists a vacancy of TGT (PCM) at K.V. BRPL.

In view of the above-mentioned facts, I request you to kindly look into the matter so that the mistakes may be rectified. I further request you to intimate to me the status of my case.

Yours sincerely,

Vg
(Veena Tripathi)

- 1) Copy to Commissioner for information
- 2) Copy to Principal K.V Panbari

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal
GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 356/99

OF 199

Applicant(s) *Smt. Veena Tripathi*Respondent(s) *Union of India and others*Advocate for Applicant(s) *M/s. R.P. Sharma*Advocate for Respondent(s) *M/s. S.C. Kucheria, M/s. U.C. Das,**K.V.S.*

Notes of the Registry

Date

Order of the Tribunal

11.11.99 Present : Hon'ble Mr Justice D.N. Baruah,
Vice-Chairman and
Hon'ble Mr G.L. Sanglyine,
Administrative Member.

In this application the applicant is seeking certain directions. The applicant is a graduate trained teacher working at Kendriya Vidyalaya, Panbari. According to the applicant this place is situated in a remote locality of the Dhubri district of Assam. Her husband is also working as Teacher in Bongaigaon. Besides, the applicant has got a 2 months old baby. This has become very difficult for her to live in a remote place like Panbari. Situated thus the applicant submitted several representations praying for transfer her to Bongaigaon or to some other place where both the husband and wife can work. The representations have



Q3

Date	Order of the Tribunal
11.11.99	<p>not yet been disposed of. Hence the present application.</p> <p>We have heard Mr S.C.Dutta Roy, learned counsel for the applicant and Mr B.C.Das, learned counsel for the Kendriya Vidyalaya Sangathan. On hearing the counsel for the parties We feel that the respondents should dispose of the representations which were filed long back. Accordingly we dispose of this application with a direction to the respondents to consider the representations of the applicant and dispose of the same as early as possible at any rate within a period of 1 month from the date of receipt of this order. While disposing of the representation the respondents shall also follow the rules.</p> <p>Application is disposed of. No order as to costs.</p>

Sd/- VICE CHAIRMAN
Sd/- MEMBER (AUMN)

Certified to be true Copy

प्राप्तिक्रिया

19/11/99

Section Officer (1)

आनुसारा अधिकारी । अधिकारी शास्त्र

Central Administrative Tribunal

देशभरी अधिकारी अधिकारी

Guwahati Bench, Guwahati-6

गुवाहाटी अधिकारी, गुवाहाटी-6

12/11/99

5 copies

29

Annexure (C)

Annexure - 5

Annexure 5

S. NO. 9

123

No. 28034/7/86-Estt.(A)
Government of IndiaMinistry of Personnel, Public Grievances & Pensions
(Department of Personnel & Training)

New Delhi, the 12th June, 1987

OFFICE MEMORANDUM

Subject: posting of husband and wife at the same station.

Circular

Vide Flag No. 12

The undersigned is directed to say that on the subject mentioned above, Government had issued detailed guidelines vide OM No. 28034/7/86-Estt.(A) dated 3.4.86. The Fifth Central Pay Commission has now recommended that not only the existing instructions regarding the need to post husband and wife at the same station need to be reiterated, it has also recommended that the scope of these instructions should be widened to include the provision that where posts at the appropriate level exist in the organisation at the same station, the husband and wife may invariably be posted together in order to enable them to lead a normal family life and look after the welfare of the children, especially till the children are 10 years of age.

2. The Government, after considering the matter, has decided to accept this recommendation of the Fifth Central Pay Commission. Accordingly, it is reiterated that all Ministries / Departments should strictly adhere to the guidelines laid down in OM No. 28034/7/86-Estt.(A) dated 3.4.86 while deciding on the requests for posting of husband and wife at the same station and should ensure that such posting is invariably done, especially till their children are 10 years of age, if posts at the appropriate level exist in the organisation at the same station and if no administrative problems are expected to result as a consequence.

3. It is further clarified that even in cases where only the wife is a government servant, the concession elaborated in para 2 of this O.M. would be admissible to the government servant.

4. These instructions would be applicable only to posts within the same department and would not apply on appointment under the Central Staffing Scheme.

1W

27. Deptt. of Health

After pick
After pick
G. S. 12/6/97

30

16

35

-2-

5. A copy of this Department's OM No. 28034/7/86-Estt.(A) dated 3.4.86 is enclosed for ready reference and guidance.

6. Hindi version of the OM is enclosed.

27-4-86

(Harinder Singh)
Joint Secretary to the Govt. of India
Tel. No. 301 1276

To

- (1) All Ministries / Departments of the Government of India.
- (2) Department of Women & Child Development.
- (3) The National Commission for Women,
4, Deendayal Upadhyay Marg,
ITO, New Delhi.

*Pls. find
S. D.*