

2/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 359/2000

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI. 5

ORIGINAL APPLICATION NO. 359/2000

... *Sant. B. K. Sharma* APPLICANTS
versus.

Union of India & ors Respondents.

FOR THE APPLICANT(S) *Mr. B. K. Sharma*
ADVOCATE

Mr. U. U. Nair Mr. S. Sarma

FOR THE RESPONDENT(S) *Dr. B. P. Todi*
KVS.

Notes of the Registry

DATE

COURT'S ORDER

27.10.00

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

Heard Mr. B.K. Sharma learned counsel for the applicant. Mrs. P. Baruah, on behalf of Dr. B.P. Todi learned counsel for the respondents.

Application is admitted. Call for records. Issue notice on the respondents. Returnable by 2 months. List on 2.1.2001.

Issue notice on the respondents as to why the interim order as prayed for shall not be granted.

In the meantime, the applicant who is presently working as SUPW Teacher in the Kendriya Vidyalaya, Narangin, shall not be ousted from her service.

[Signature]
Vice-Chairman

lm

Heard Mr. S. Sarma, learned counsel for the applicant.

Dr. B.P. Todi, learned counsel for KVS is on accommodation.

List on 10.1.01 for further orders.

[Signature]
Vice-Chairman

2.1.2001

This application is in form
but the location
Particulars filed vide
M.F. No. 41677.8
for the purpose of
IPO/E. No. 41677.8
Dated 27.10.00

[Signature]
Reg. Registrar. 27/10/2000

Steps are received and Notice
prepared and sent to D/s for
crossing the respondents No 1 to 5
by Regd AID vide D/N
2614 to 2619 dtd 14/11/2000

[Signature]
13/11/2000

Respondent No 2 returned due
to incomplete address

[Signature]
17/11/00

① Service Report are
still awaited.

② Notice returned un served
in R. No-2 due to incomplete
addresses.
mk

23.01.2001

21

O.A.No.359/2000

① Notice duly served 10.1.2001
on R.No-4,

② Notice returned un-served
on R.No-2, due to incomplete
address.

③ Respondant No-1, 3 & 5 are
still awaited.

By
9.1.2001

nkm

NS
11/01/01

Order dtd. 10/1/01 Commenced
to the further Counsel.

By
12/01/01.

14.2.2001

Written statement has been filed. Two
weeks time allowed to the applicant for filing
rejoinder, if any. List for orders on 2.3.01.

By
Vice-Chairman

9.2.2001

nkm

5.3.01
XXXXX

W/s has been

filed by Respondent No.2,
3 & 4 and 5.

List on 28.3.01 to enable the
respondents to file written statement.
XXXXXXXXXX XX XXXX XXXXXXXX XXXXXXXXXX

By
Vice-Chairman

5.3.01

Written statement has been filed.

List on 28.3.01 to enable the applicant
to file written statement.

By
9/2

No Rejoinder has
been filed.

By
Vice-Chairman

By
27.3.01

lm

28.3.2001

Written statement has been
filed. The applicant may file
rejoinder, if any, within three weeks
from today. List it for orders on
25.4.01.

1) W/s has been filed
on R- 2, 3 and 4.



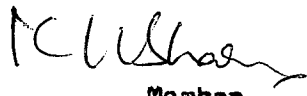
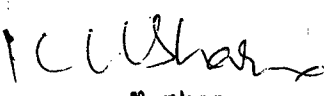
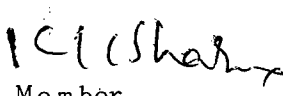

2) NO rejoinder has
been filed.

By
24/4/01

nkm

By
Vice-Chairman

Notes of the Registry	Date	Order of the Tribunal
	25.4.01	Three weeks time allowed to the applicant to file rejoinder to the written statement filed by the respondents. List on 18.5.01 for further order. Vice-Chairman
No. Rejoinder has been filed. 30 12.6.01	trd 18.5.01	Written statement has been filed. Two more Three weeks time is allowed to the applicant to file rejoinder, if any. List on 13.6.01 for order. Member
No. rejoinder has been filed. 30 3.7.01	pg. T 13.6.01	Written statement has been filed. Mr.S.Sarma learned counsel for the applicant prays for time to file rejoinder. Two weeks time is allowed for filing of rejoinder. List on 4.7.01 for hearing. Member
	lm 4.7.01	Mr.S.Sarma appearing for the respondents submits that he has missed the item and the case may be taken after two weeks. List on 20-7-2001 for hearing. Member
	bb	

Notes of the Registry	Date	Order of the Tribunal
	20.7.01	On the prayer of Mr.S.Sarma learned counsel for the applicant case is adjourned to 1.8.01 for hearing.
	1m	 Vice-Chairman
	1.8.01	Prayer has been made on behalf of the applicant for short adjournment on the ground of Mr.M.Chanda has now been engaged as counsel for the applicant. List ^{again} on 10.8.01 for hearing.
	1m	 Vice-Chairman
	10.8.2001	Mr.B.K.Sharma, learned Sr. counsel for the applicant, submits that the matter pertains to the threatening ^{proposed} termination, which is not within the scope of Single Bench. The application may be put up for hearing before the Division Bench on 12.9.2001.
	bb	 Member
	12.9.01	Prayer is made on behalf of the Mr.S.Sarma for adjournment of the case. Prayer is allowed. List on 24/9/01 for hearing.
	mb	 Member
	24.9.2001	Heard in part. List for further hearing on 17.10.01. The respondents to produce the relevant records on that day..
	nk m	 Member
	17/10	 Vice-Chairman
<p>17.9.2001</p> <p>Respondents to the W/S filed by the respondents 2, 3 & 4.</p>		<p>There is no Division Bench today. The case is adjourned to 22.11.01</p> <p>mb 17.10.01</p>

O.A.359 of 2000.

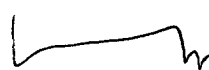
Notes of the Registry	Date	Order of the Tribunal
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	22.11.2001	
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		We have heard Mr.S.Sarma, learned counsel for the applicant and Mr.M.Chanda, learned counsel appearing for the respondents. Hearing concluded, judgment delivered in open Court, kept in separate sheets.
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		The application is allowed in terms of the order. No order as to costs.
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		<div>11/11/01 Member</div>
--	--	--------------------------------

		<div> Vice-Chairman</div>
--	--	---

bb

*Despite being
Received by
for KVS
26/11/01*

*7.12.2001
Copy of the Judgment
has been sent to the
office for filing in
case to the applicant.
H.S.*

Notes of the Registry

Date

Order of the Tribunal

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 359 of 2000.

Date of Decision. 22.11.2001.

Smt. Bulu Patowary

-----Petitioner(S)

Shri S. Sarma

-----Advocate for the
Petitioner(s)

-----Versus-----

-----Union of India & Others.

-----Respondent(s)

-----Sri M. Chanda

-----Advocate for the
Respondent(s)

THE HON'BLE MR. JUSTICE D.N. CHOWDHURY, VICE CHAIRMAN

THE HON'BLE MR. K.K. SHARMA, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble : Vice-Chairman.

N/A

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 359 of 2000.

Date of Order : This the 22nd Day of November, 2001.

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

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

Smt Bulu Patowary,
Socially Useful Productive Works Teacher,
Kendriya Vidyalaya, Narengi,
Guwahati, Assam. . . . Applicant.

By Advocate Shri S.Sarma.

- Versus -

1. The Union of India,
represented by the Secretary to the
Govt. of India, Ministry of Human
Resource Development,
New Delhi.
2. Kendriya Vidyalaya Sangathan,
through its Chairman,
Nehru House,
Bahadur Shah Zafar Marg,
New Delhi.
3. The Commissioner,
Kendriya Vidyalaya Sangathan,
J.N.S Campus,
New Delhi.
4. The Asstt. Commissioner,
Kendriya Vidyalaya Sangathan,
Guwahati Region,
Maligaon, Guwahati-12.
5. The Principal, Kendriya Vidyalaya,
Narengi, Guwahati-29. . . . Respondents.

By Advocate Sri M.Chanda.

O R D E R

CHOWDHURY J.(V.C)

The core issue involved in this application pertains to regularisation of service of a teacher of the Kendriya Vidyalaya. The brief facts essential for adjudication of the case are enumerated below :-

The applicant was initially appointed as Socially Useful productive Works Teacher (SUPW) in the Kendriya

Vidyalaya from 3.8.1983 to 30.4.1984 and thereafter until 30.4.1989 intermittently she had worked for a period of three years on ad hoc basis. She obtained the Bachelor Degree of Arts in the year 1987 and also holds one year National Trade Certificate from the Industrial Training Institute, Bongaigaon under the National Council for Training in Vocational Trades. The name of the applicant was sponsored by the Employment Exchange. The applicant since working on ad hoc basis made an application before the Gauhati High Court under Article 226 seeking for a direction for regularisation of her service. By order dated 16.11.89 in Civil Rule No. 619/89 the High Court directed the respondents to appoint the applicant to the post of SUPW(S&H) Teacher in temporary capacity until the services of a duly qualified teacher are obtained at which selection the petitioner may also be considered. Pursuant thereto the applicant was appointed with effect from 16.11.89 and she was provided regular pay scale. In the year 1996 she was deputed for an in-service course in Work Experience specifically meant for the teachers of various regions including Guwahati. The in-service course was imparted at Kendriya Vidyalaya, National Aeronautic Laboratory Campus, Bangalore. The applicant successfully completed the course. She was called for interview in the year 1995 before the Selection Committee comprising of five Members and she gathered the impression that she fared well. While the applicant was working as such she was served with a Memorandum dated 31.8.2000 intimating certain adverse remarks. She submitted her representation dated 27.9.2000 for expunction of the adverse remarks by way of review. The Memo dated 31.8.2000 also mentioned that the applicant was working on court order and there was no appointment order from the KVS. The applicant apprehending termination moved

the Tribunal by way of this application praying for a direction for regularisation of her service.

2. The respondents contested the case. According to the respondents she was appointed as SUPW teacher (sewing and needle) on purely ad hoc basis for the period starting 9.3.89 to 30.4.89 or till the regular incumbent joins whichever is earlier. The respondents disputed the eligibility of the applicant and stated that she did not possess diploma in tailoring and needle work from Government Industrial Training Institute, Kasturba Gandhi Marg, New Delhi nor did she secure one year training certificate in cutting and tailoring for Women Instructors, New Delhi as required in Kendriya Vidyalayas. She only possessed one year National Trade Certificate, as such she was not qualified for regular appointment. The respondents stated in the written statement that the applicant was interviewed on 8.12.95 by the Regional Selection Board and the proposal was forwarded to the KVS, Headquarter for her regular appointment but her case was not considered for regular appointment as she did not qualify for the post of SUPW teacher in KVS. The respondents also asserted that the applicant was deputed for an in-service course only because of her working in that post.

3. We have heard Mr S.Sarma, learned counsel for the applicant and also Mr M.Chanda, learned counsel appearing for the respondents at length. Mr Sarma, learned counsel for the applicant submitted that the applicant rendered her service for more than 12 years. She is eligible to hold the post in view of her experience as SUPW teacher. There is no justification for not regularising her service. Mr Sarma also submitted that in identical case, the respondents relaxed the qualification of the candidate pursuant to the

judgment of the Gauhati High Court in Civil Rule No.445/85, 1137/86 and 1138/86 disposed of on 3.7.87. Mr Sarma submitted that since the applicant had rendered her service in the institution and performing her duties to the satisfaction of the authorities, there is no justification for not regularising her service. Countering the arguments of Mr Sarma, Mr M.Chanda, learned counsel for the respondents submitted that the applicant lacked the essential qualification, namely, a diploma in tailoring and needle work from the recognised institute she could not be regularised in service. Mr Chanda, the learned counsel produced before us the relevant records including the minutes of the DPC that was held on 8.12.95. The applicant was awarded 55 marks out of 100 and the said proceeding was forwarded to the KVS Headquarters, New Delhi by communication dated 8.12.95 for approval of the select panel of Work Experience Teacher. It was also mentioned there that the applicant did not possess the requisite 3 years diploma in cutting and tailoring as required under the KVS rules. The Assistant Commissioner, KVS, New Delhi by communication dated 13.3.96 informed that the case of the applicant could not be considered for appointment on regular basis as she was not qualified for the post of SUPW teacher with a direction to terminate her service by appointing a SUPW teacher from the approved select panel. As per norms the following qualifications are prescribed for Work Experience Teacher :

"(i) Matriculation or Higher Secondary Examination; (ii) Three Years' Diploma in Electrical Engineering and Electronics, or in Tailoring, Needle Work and Embroidery from a recognized institution or Government Industrial Training Institute or polytechnic and two years' practical/teaching experience in the trade, or Instructors' Training Course Diploma plus three years' practical/teaching experience in the trade or Degree in Technical Education

from the Regional College of Education with two years' practical/teaching experience. Preference will be given to candidates possessing skill and knowledge of Toy and Doll Making, Puppetry, Batik, Leather Work, Sheet Metal Work, Wood work, Kitchen Gardening and Ornamental Gardening etc."

Admittedly the applicant fulfills one part of the eligibility test, namely, so far her educational qualification is concerned she possessed a diploma in cutting and tailoring for one year course and not a three years Diploma in Tailoring, Needle Work and Embroidery from Government institute or polytechnic. In identical matter the respondents however, relaxed that part of the qualification and appoint Smt Surjeet Kaur, Miss Mira Bhattacharjee and Rabindra Narayan Deb, petitioners in Civil Rule Nos. 445/85, 1137/86 and 1138/86. The petitioner in Civil Rule No. 445/85 had possessed one year certificate course from Industrial Training Institute and the other two petitioners had possessed three years' Diploma course from the respective institutes. The High Court considering the facts and circumstances of those petitions directed the respondents to consider their cases by relaxing the aforesaid qualifications. In Rabindra Narayan Deb case the High Court made the following observation :

"Sri Rabindra Narayan Deb had completed three years' course, two years from ITI, Shillong and one year Apprenticeship Training at Indian Oil Corporation, Guwahati Refinery and had qualified in the Trade as an electrician. He had been teaching the subject from 1978 satisfactorily as a teacher. We are inclined to take the view that it is not right for the authorities to continue a person in a job a year after year for 5-6 years or more and yet say that he is not qualified, particularly, when the incumbent has been performing duties satisfactorily, possibly because they have requisite educational knowledge but do not have the particular diploma required, which we are inclined to think is taking a very technical view in the matter. We accordingly think that this is also a fit case where the authorities

should consider whether the three years' certificate which the petitioner has should or should not be considered sympathetically for relaxation of the aforesaid qualification for the reasons stated above, and if required, the relaxation of age qualification should also be sympathetically considered."

The case of the applicant is not distinguishable from those mentioned, when the respondents consequent to the decision of the High Court regularised the services of the aforesaid persons, there is no ground in discriminating the applicant. Considering the facts and circumstances we do not find any justification in not giving the similar benefit to this applicant, else it would be held violative of the equality clause.

4. In the premises we direct the respondents No.2, 3 and 4 to consider the case of the applicant for her regular appointment as SUPW in the Kendriya Vidyalaya on the footing that she possessed the requisite qualification and if necessary by relaxing her eligibility condition on the basis of her experience and the respondents are also directed to pass an appropriate order thereon within a period of 2 months from the date of receipt of this order.

5. We also direct that till completion of the aforesaid exercise the applicant shall be allowed to continue in her present posting.

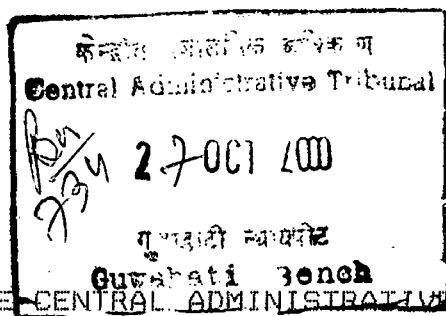
The application is allowed to the extent indicated. There shall however, be no order as to costs.

K. K. Sharma

(K.K.SHARMA)
ADMINISTRATIVE MEMBER

D. N. Chowdhury

(D.N.CHOWDHURY)
VICE CHAIRMAN



THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH
GUWAHATI

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

Title of the Case : O.A. No. 359 of 2000

Smt. Bulu Patowary ... Applicant

- Versus -

Union of India & Ors. ... Respondents

I N D E X

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For use in Tribunal's Office :

Registration No.

Date of filing :

Registrar

THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH
GUWAHATI

O.A. No. 359 of 2000

Filed By: 16
The Applicant
Through
U.K. Nair, Advocate.

BETWEEN

Smt. Bulu Patowary, W/O Shri K.K. Patowary, presently working a Socially Useful Productive Works Teacher, Kendriya Vidyalaya, Narengi, Guwahati, Assam..

.... Applicant

AND

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Human Resources Development, Central Secretariat, New Delhi.
2. Kendriya Vidyalaya Sangathan, through its Chairman, Kendriya Vidyalaya Sangathan, Nehru House, Bahadur Shah Zafar Marg, New Delhi.
3. The Commissioner, Kendriya Vidyalaya Sangathan, JNS Campus, New Delhi.
4. The Asstt. Commissioner, Kendriya Vidyalaya Sangathan, Guwahati Region, Maligaon, Guwahati-12.
5. The Principal, Kendriya Vidyalaya, Narengi, Guwahati-29.

... Respondents

DETAILS OF APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE :

The application is directed against the threatened ^{the} termination of service of the Applicant as socially Useful Productive Works (SUPW) Teacher of Kendriya Vidyalaya, Narengi in which post she has been working for the last 17 years.

BP

2. JURISDICTION OF THE TRIBUNAL :

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

3. LIMITATION :

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

4. FACTS OF THE CASE :

4.1 That the Applicant is a citizen of India and as such she is entitled to all the rights, protections and privileges guaranteed by the Constitution of India and the laws framed thereunder.

4.2 That the Applicant is now serving as a SUPW teacher in Kendriya Vidyalaya, Narengi. ^{Her} education/qualification is B.A. with certificate course in Cutting and Tailoring which she obtained from the Industrial Training Institute, Bongaigaon, controlled by the National Council for Training in Vocational Trades. In the said certificate course examination, she obtained 77% marks.

4.3 That the Applicant initially entered into the services of the Kendriya Vidyalaya Sangathan in the year 1983 and since then was continuing in her service with time to time engagement and extension. Her name was sponsored by the Employment Exchange, Bongaigaon. In

8

one of her appointments in 1985, she was so appointed pursuant to her selection by a duly constituted selection committee. During the year 1988-89, the Applicant was again selected by the selection committee for being appointed as SUPW teacher on the basis of the educational qualification and the certificate course.

Above factual aspect of the matter are not in dispute and was the subject matter of Civil Rule No. 619/89 and the Applicant craves leave of this Hon'ble Tribunal to produce the copies of the relevant documents as and when required.

4.4 That when the services of the Applicant was continued on ad hoc basis and there being no security of job, the Applicant approached the Hon'ble Gauhati High Court by filing Civil Rule No. 619/89 and the Hon'ble Court was pleased to admit the same. By an order dated 8.9.89, the Respondents therein were directed to consider the appointment in the available vacancies.

4.5 That the above Civil Rule was finally disposed of vide judgment and order dated 16.11.89 and the Respondents were directed to appoint the Applicant to the post of SUPW teacher.

A copy of the said judgment dated 16.11.89 is annexed hereto as ANNEXURE=1.

4.6 That Inspite of the aforesaid orders of the Hon'ble Court, the Applicant was not appointed as directed by the Hon'ble Court. After a protracted

BP

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correspondences, eventually the Applicant was appointed as SUPW w.e.f. 16.11.89 in the regular pay scale admissible to the post vide Memo No. F.36/KVN/93-94/2014-17 dated 15/22-11-93. This was preceded by due approval of the competent authorities as mentioned in the appointment letter itself.

A copy of the said memorandum dated 15/22.11.93 is annexed hereto as ANNEXURE-2.

4.7 That the Applicant states that ever since her appointment as above, she has been serving in the institution to the best of her ability and satisfaction of the students. In the year 1996, she was deputed for an in-service course in Work Experience specifically meant for the teachers of various regions including Guwahati. The in-service course was imparted at Kendriya Vidyalaya, National Aeronautic Laboratory campus, Bangalore. The Applicant successfully completed the said work experience course which is imparted to regular teachers of the Sangathan. This was preceded by an interview held only for the Applicant to which she was invited vide letter No. F.8-9/94-KVS(GR)/13075 dated 4/3.12.95. The Applicant appeared before the said interview and to the best of her knowledge, she was found suitable by the selection committee comprising of five members. During the course of her interview, she was also intimated by the members that having regard to the long five years of service to her credit and the experience she had gathered, the selection was a mere formality and that her services would automatically

2001
1989
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BP

stood regularised. However, she was not intimated anything in writing, but by the conduct of the Respondents towards recognition of the Applicant as a regular teacher, naturally proved that her service stood regularised.

Copies of the interview call letter dated 4.12.95 and the list of participants in the in-service course are annexed hereto as ANNEXURES-3 and 4 respectively.

4.8 That pursuant to her such selection, she was sent to the said "in-service course" which is always imparted to regular teacher only. The Applicant has also been given all service benefits including membership to pension scheme, Group Insurance Scheme, GPF etc. She has also been granted the incremental benefits and her case was recommended for crossing of efficiency bar btu in the mean time in view of the Fifth Pay Commission recommendations came into being and accordingly as per the said recommendation it was not necessary to cross the efficiency bar. Be it stated here that her case was also recommended for confirmation. Treating her to be regular teacher, she has been allowed to take loan for LIC, Housing Finance Ltd. and the school as acted as guarantor with the undertaking to reverse the loan instalments and to remit the same to LIC, Housing Finance Ltd.

A copy of the undertaking dated 2.6.2000 is annexed hereto as ANNEXURE-5.

BP

4.9 That the Applicant states that she has got 2 sons and one daughter studying in bachelor of Computer Education Course, Class-XII and Class-IV respectively. The Government of India, Ministry of Human Resource Development has granted financial assistance for her eldest son's education as admissible to regular teacher.

In the above context, copies of the letters dated 10.4.2000 and 10.5.2000 are annexed hereto as ANNEXURES-6 and 7 respectively.

4.10 That in the year 1995, the Principal of the school issued a certificate certifying the duration of service of the Applicant and as to how she has been allowed to draw all service benefits admissible to KVS employees. It was also certified that she was teaching from Class-VII to Class-XII satisfactorily.

A copy of the certificate dated 7.12.95 is annexed hereto as ANNEXURE-8.

4.11 That the service records including the ACRs of the Applicant depict her sincere and dedicated service during the academic inspection also the authorities of KVS also have all along given favourable reports to her of which mention may be made of 1997 wherein she has been given the following remarks :

"SUPW lessons and activities are very much upto the mark - variety of activity is taught, ^{to} the students are very interested and ^{learn} ~~have~~ a lot. Teacher is excellent and effective."

RP

The Applicant craves leave of the Hon'ble Tribunal for a direction to produce her annual confidential rolls and the yearly academic inspection reports.

4.12 That the Applicant was surprised to receive a memorandum No. F.5-4/98-KVS(GR)/5591-92 dated 31.8.2000 making certain wild and baseless allegations as adverse remarks purportedly recorded in her ACR for the year ending 30.6.2000. Before recording such adverse remarks, the Applicant was never intimated of any deficiency in her service and/or no warning either oral or in writing was given to her to remove the alleged deficiencies as required under the rules. Such remarks suddenly reported in her ACR during 30.6.2000 run contrary to her earlier ACRs wherein no such remark was recorded and rather she has always been reported as a good and efficient teacher and her all the ACRs prior to the one dated 31.8.2000 carry good remarks. thus the memorandum dated 31.8.2000 is not sustainable being not founded on materials facts and there being procedural irregularity in recording the adverse remarks. Further on the face of it, the remarks recorded are vague and indefinite and all are in general in nature without specifying anything and detaching the particulars. No reasonable man instructed in law could have recorded such sweeping remarks in the ACR, except with an oblique purpose. Hints of malafide and colourable exercise of power are the foundation of the said remarks so much so there could not have been a remark regarding her appointment which is also contrary to the

BP

factual aspect of the matter depicting total non-application of mind.

A copy of the memorandum dated 31.8.2000 is annexed hereto as ANNEXURE-9.

4.13 That on receipt of the aforesaid memorandum, the Applicant submitted the representation against the aid adverse remarks on 27.9.2000. In the representation, she has dealt with the matter in detail.

A copy of the memorandum dated 27.9.2000 is annexed hereto as ANNEXURE-10.

4.14 That ever since the issuance of the memorandum dated 31.8.2000 (Annexure-9), things have started moving adversely against the Applicant. It is being whispered that she being not a regular appointee, and having been continued in service pursuant to the Annexure-1 order of the Hon'ble Gauhati High Court, her service would be terminated at any moment. It is also whispered that although no one else has been selected in her post, but the post being held by her is going to be filled up by another incumbent on transfer from another school in Bihar and pursuant to that her service will be dispensed with. Everything is being done in a hush hush manner. Going by the facts and circumstances involved in the case and there being delay towards regularisation of the services of the Applicant although she was interviewed for the purpose way back in 1995, it is her genuine apprehension that her service is going to be terminated at any moment

BP

upon joining of the incumbent from Bihar. It is a device being adopted by the Respondents to see the ouster of the Applicant so that the post that would fall vacant could be filled up by their own nearer and dearer one.

4.15 That the Applicant states that her apprehension is fortified with the issuance of Annexure-9 memorandum dated 31.8.2000 inasmuch as there could not have been any other occasion to issue such a memorandum making a statement therein that she has been continuing in her service as per the order of the Hon'ble Court and there is no order from the KVS regarding her appointment. Such a statement could not have been an adverse remark and same is also incorrect inasmuch as she has been appointed in her post with due approval of the competent authorities. For all practical purposes, she is a regular teacher of the school with all service benefits. The Respondents have all along treated her to be so, more particularly, after the interview held in 1995. The Applicant cannot be made responsible for non-issuance of any order towards regularisation of her service pursuant to the interview and her selection in 1995.

4.16 That the Applicant has come to know that although the incumbent from a Bihar school is sought to be transferred to her school, the school authority has reported that there is no vacancy in the school to accommodate the said transferee. However, the authority of the KVS is hell bound to see the ouster of the Applicant and to that effect has reportedly advised the

BBP

local authorities to replace the Applicant by way of termination of her service with that of the transferee. As per the whisper made in the Vidyalaya, the aforesaid development has taken place in the middle of October itself and now there is imminent that of termination of her service. In such an eventuality, she will suffer irreparable loss and injury and the same will seriously tell upon her family life.

4.17 That the Applicant states that there was some doubt regarding her certificate course qualification as reflected in the final order of the Hon'ble High Court. However, the KVS itself found it difficult to get candidates with their laid down qualification as per which such certificate course qualification is required to be obtained only from the selective institutions. Having regard to such a difficult situation, the authorities of the KVS were pleased to relax the said qualification in respect of many teachers and their services have been regularised of which mention may be made of the cases of Miss Mira Bhattacharjee, Shri R.N. Deb and Smti. Surjit Kaur. In this connection, letter No. F.3-1/80-KVS(RP-II) dated 11.11.88 by which all the three persons were granted relaxation. This being the position, there is no earthly reasons as to why same benefit should not be extended to the Applicant also. In fact, during the course of interview, held in 1995, solely for the purpose of regularisation of her services, the members of the selection committee made it known to her that her services would be regularised, if necessary, by way of extending the

BP

benefit of relaxation having regard to her length of service and experience and that she could very well take it that her services had been regularised. She was also appraised by the said members that the selection was a mere formality. Although no further intimation was given to her, as per her legitimate expectation and going by the sequence of events, she took it to be a deemed regularisation of her service, more particularly, in view of the fact that after the said selection, she has been extended all service benefits and she has been treated as a regular teacher with retrospective effect. Now contrary to such a fact situation and her legitimate expectation, there is a move to terminate her services by way of replacement to be made by a transferee. Even if the Hon'ble High Court's order is taken recourse to holding that her services have not yet been regularised, then also her services cannot be terminated in this manner and the Respondents are precluded from doing so in terms of the order of the Hon'ble Court and without complying with the same.

4.18 That the Applicant has filed this O.A. seeking urgent and immediate relief in view of threatened termination of her service. It is a fit case for passing the impugned order as has been prayed for. Balance of convenience lies in her favour and if the impugned order prayed for is not granted, she would suffer irreparable loss and injury including financial hardship and liability. Having regard to the fact that she has been working in the KVS for the last 17 years,

DBP

she cannot be branded to be a temporary appointee and even otherwise also her services should be deemed to be regular and the same cannot be dispensed with in the manner as has been sought to be done by the Respondents.

4.19 That in any view of the matter, the impugned and proposed action of the Respondents are not sustainable and liable to be set aside granting the reliefs to the Applicant as has been prayed for.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that the Applicant having rendered about 17 years of service, her services cannot be terminated and/or dispensed with in the manner as has been sought to be done by the Respondents.

5.2 For that the Applicant having already been selected on various occasions by the KVS authorities, her services are deemed to be regularised with retrospective effect and the same cannot be dispensed with without following the due process of law.

5.3 For that the Applicant having already been selected in the year 1995 pursuant to the order of the Hon'ble High Court and she having been granted all service benefits retrospectively, now suddenly, after 17 years, she cannot be termed as a temporary appointee so as to dispense with her service by way of posing an incumbent on transfer.

BSP

5.4 For that the very fact that the Applicant has been rendering her services with utmost devotion and sincerity and that her service record and the ACRs also depict the same itself will nullify the adverse remarks as reflected in the Annexure-9 memorandum and accordingly, the said adverse remarks are not at all sustainable and no action on that basis can be taken towards dispensation of the services of the Applicant.

5.5 For that malafide and colourable exercise of power being the foundation of the proposed termination of the services of the Applicant and the Annexure-9 memorandum having been issued with an oblique purpose which is now evident in view of the fact that her services are going to be terminated, such action on the part of the Respondents are not at all sustainable.

5.6 For that the Applicant having already been selected in 1995 and whatever relaxation is required to be given even if the same is held to be essential, such procedure having already been followed and the Applicant having all along been treated as a regular teacher of the school, her services cannot be terminated in the manner as has been sought to be done.

5.7 For that having regard to the length of service and the experience, the Applicant has already gathered, having worked in the KVS for the last 17 years, there should be deemed relaxation in favour of her in respect of certificate course qualification which was also the ground reality as realised by the members of the selection committee held in 1995.

BP

5.8 For that the Applicant being a regular teacher of the school, her services cannot be terminated without following the due process of law and her services cannot be replaced by a transferee.

5.9 For that the Appellant having fulfilled all the requisites in the matter of appointment, her services cannot be dispensed with and even if it is held that she was lacking in the certificate course qualification, same should be deemed to be relaxed and/or be expressly relaxed as was done in case of others in deference to Article 14 and 16 of the Constitution of India.

5.10 For that the Applicant having always been treated as a regular employee, there could not have been any occasion for this sudden development, more particularly, with the issuance of Annexure-9 memorandum, but for an oblique purpose to accommodate person of the choice of the Respondents.

5.11 For that if the services of the Applicant is dispensed with and/or terminated in the manner as has been sought to be done, same will be violative of the order of the Hon'ble High Court.

5.12 For that in any view of the matter, the impugned action on the part of the Respondents is not sustainable and interference of this Hon'ble Tribunal is called for in the matter.

BR

6. DETAILS OF REMEDIES EXHAUSTED :

The Applicant declares that she has no other alternative and efficacious remedy except by way of filing this application..

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT :

The Applicant further declares that no other application, writ petition or suit in respect of the subject matter of the instant application is filed before any other Court, Authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

7. RELIEFS SOUGHT FOR :

Under the facts and circumstances stated above, the Applicant prays that this application be admitted, records be called for and notice be issued to the Respondents to show cause as to why the reliefs sought for in this application should not be granted and upon hearing the parties and on perusal of the records, be pleased to grant the following reliefs :

8.1 To set aside and quash the impugned action/proposal towards termination of the services of the Applicant as SUPW teacher in the Kendriya Vidyalaya, Narengi.

8.2 To direct the Respondents to treat the Applicant as a regular teacher of the said school with effect from 16.11.89 with all consequential benefits.

BB

8.3 Cost of the application.

8.4 Any other relief or reliefs to which the Applicant is entitled and as may be deemed fit and proper.

9. INTERIM ORDER PRAYED FOR :

Under the facts and circumstances of the case, the Applicant prays for an interim order issuing a direction to the Respondents not to dispense with the services of the Applicant as SUPW teacher of Kendriya Vidyalaya, Narengi.

10.

The application is filed through Advocate.

11. PARTICULARS OF THE I.P.O. :

- i) I.P.O. No. : ^L 22E 416778 26503429
- ii) Date : 7.8.26 15.10.2000
- iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

Verification.....

27

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

I, Smt. Bulu Patowary, aged about 39 years, wife of Shri K.K. Patowary, presently working as SUPW teacher of Kendriya Vidyalaya, Narengi, do hereby solemnly affirm and verify that the statements made in paragraphs 1 to 3, 4.1 to 4.5, 4.7 to 4.17, 4.19 and 5 to 12 are true to my knowledge ; those made in paragraphs 4.6 are true to my information derived from records and the rests are my humble submissions before the Hon'ble Tribunal.

And I sign this verification on this the 25 th day of October 2000.

- Mrs. Bulu Patowary.

তারিখের দিনে আবেদন করা মুদ্রা Date of application for the copy.	আবেদন করা মতে আবেদন করা মতে আবেদন মুদ্রা Date fixed for notifying the requisite number of stamps and tolls.	আবেদন করা মতে আবেদন করা মতে আবেদন মুদ্রা Date of delivery of the requisite stamps and tolls.	আবেদন করা মতে আবেদন করা মতে আবেদন মুদ্রা Date on which the copy was ready for delivery.	আবেদন করা মতে আবেদন করা মতে আবেদন মুদ্রা Date of making over the copy to the applicant.
19-11-89	21-11-89	21-11-89	21-11-89	21-11-89

IN THE GAROHI HIGH COURT
(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura,
Mizoram and Arunachal Pradesh)

Civil Rule No. 110 of 1989.

Smt. Dulu Patowari petitioner.

-versus-

The Union of India and others ... respondents.

PRESENT

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

THE HON'BLE JUSTICE DR. B.J. SAHA.

For the petitioner : Mr. S. Birmah, Advocate.
Mr. V.M. Thomas, Advocates.

For the respondents : Mr. S.K. Choudhury, Advocate,
Sr. Central Govt. Standing Counsel.

Dates of hearing : 9.11.89, 10.11.89 and 16.11.89.

Date of Judgment and Order : 16.11.89.

JUDGMENT
(Oral)

Privastava, J :-

The petitioner seeks a direction from this Court for regularization of her services in the post of SUPV (S&M) teacher in the Kendriya Vidyalaya, Barangi, on the grounds that the petitioner was initially appointed in

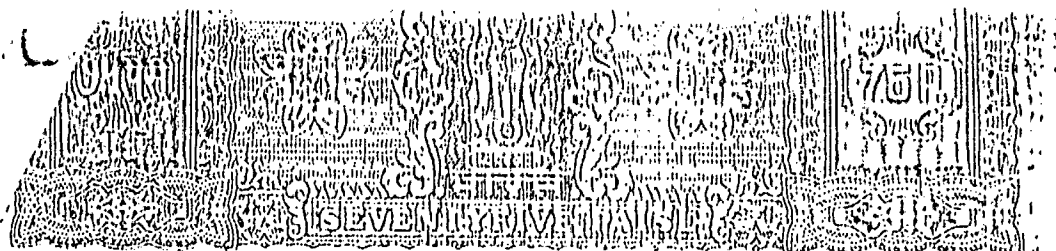
मितिदिन के दिवस अवेदन की तिथि Date of application for the copy.	छात्र और पोलिओ की अवधि दिनांक अवेदन की तिथि तिथि : Date fixed for notifying the requisite number of stamp and follow.	अवधि (छात्र और पोलिओ की) तिथि Date of delivery of the requisite stamp and follow.	तारीख, जहाँ से दिवस मितिदिन की तिथि State on which the copy was ready for delivery.	अवधि की मितिदिन की तिथि तिथि Date of making over the copy to the applicant.
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- 2 -

SUM (S & H) teacher (Craft) from 3.8.83 to 30.4.84 and thereafter until 30.4.89, intermittently she has worked for a period of three years on ad-hoc basis. The petitioner submits that she has graduated Handloom in the year 1987 and holds one year National Trade Certificate from the Industrial Training Institute, Bongaigaon under the National Council for Training in Vocational Trades. It appears that according to the recruitment rules for the said post the qualification the petitioner has in tailoring is not recognized. But it is also a fact that despite efforts to recruit a duly qualified teacher, the respondents have so far not been able to obtain the services of a qualified teacher.

We have heard Shri S. Dirmal, the learned counsel for the petitioner and also Shri SK. Ghosh and Muhammad, the learned senior counsel Govt. standing counsel for the respondents.

Shri....



मिति के दिने अर्पण के Date of application for the copy.	रजम और कोटि के अर्पण के दिने Date fixed for notifying the requisite number of stamps and fees.	अर्पण रजम और कोटि के दिने Date of delivery of the requisite stamps and fees.	मिति, अर्पण के दिने मिति के दिने Date on which the copy was ready for delivery.	अर्पण के दिने के दिने मिति Date of making over the copy to the applicant.
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- 3 -

Giri Chand Mahimond has submitted, after ascer-
taining it from the authorities of the Kendriya Vidyalaya
that the said post has not yet been filled and is
vacant because they have not yet been able to obtain
any qualified teacher.

On consideration of the submission for the par-
ties we are inclined to dispose of this petition with
a direction that in view of the fact that the petitioner
has worked in the said post since 1983, may be not a continuous
for the entire period, it appears
satisfactorily, the respondents shall appoint the
petitioner to the post of GVW (GVN) teacher in
temporary capacity until the services of a duly
qualified teacher are obtained at which selection
the petitioner may also be considered.

With the above observation this petition
is disposed of. No costs.

Sd/ B.P. Saraf,
Judge

Sd/ J.H. Srivastava,
Judge.

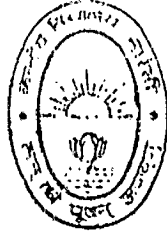
by [Signature]
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[Signature]

Sanctioned to be true copy
[Signature]
21.11.87
Asst. Secy. (Judl.)
GAUHATI HIGH COURT
Gauhati

केन्द्रीय विद्यालय, नारंगी

डाक : सातगाँव, गुवाहाटी

असम : पिन : ७८१०२७



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ANNEXURE - 2

Phone : 34821-28/385

Kendriya Vidyalaya, Narangi

P. O. Satgaon, Guwahati,

Assam : Pin : 781027

संदर्भ F.30/KVN/93-94/ 2014-17

Date 15/11/1993
22

MEMORANDUM

Subject:-

OFFER OF APPOINTMENT TO THE POST OF SUPW (S&N)
TEACHER IN KENDRIYA VIDYALAYA SANGATHAN.

With reference to the Assistant Commissioner, Kendriya Vidyalaya Sangathan(HQ) New Delhi letter No. F.4-22/91-KVS(Estt-IV) dt. 26.08.1993 and Assistant Commissioner, Kendriya Vidyalaya Sangathan letter No.F.20-8/89-KVS(GR)/10025 (Gauhati Region) dated 20.09.1993, Smt. Bulu Patowary has been appointed against a temporary post of SUPW (S&N) Teacher in Kendriya Vidyalaya Sangathan and posted at Kendriya Vidyalaya Narangi with effect from 16.11.1989 on initial pay of Rs.1400/- in the Scale of Rs. 1400-40-1600-50-1650-EB-50-1950-EB-50-2250-EB-50-2300-60-2600/-. She will draw allowances and all other benefits in addition to pay at the rates admissible to the Kendriya Vidyalaya Sangathan Employees.

The arrears of salary for the period from 16.11.89 has been paid to her on 24.09.1993 in terms of the above mentioned letters.
To

Smt. Bulu Patowary,
SUPW (S&N) Teacher,
Kendriya Vidyalaya Narangi, ASSAM.

Copy sent for information and necessary action to the :-

1. Assistant Commissioner, KVS, GR, Gauhati-3.
2. Assistant Commissioner, KVS(HQ), New Delhi, 1100 67
3. Personnel file of Smt. Bulu Patowary.

Ram Singh
(R.K. MISRA)
PRINCIPAL
Kendriya Vidyalaya, Narangi

PRINCIPAL

S. Binay/

-0-0-0-0-

UNDERCERTIFICATE OF POSTING

KENDRIYA VIDYALAYA SANGATHAN : RO : MALIGAN : GOWAHATI - 12.

No.F.8-9/94-KVS(GR)/13075

Dated : 08-12-95

To,

Mrs. Pulu Pataary

W/o K.L. Pataary, Head clerk

Kendriya Vidyalaya Narongi

Sub:- Interview for the post of ~~DEAN/TGR(Exam)~~/SUPW/Bibliarian/Music/
PRACT/Drawing Teachers.

Sir/Madam,

With reference to your application for the above post in KVS, you are hereby requested to appear for interview at the place, date and time indicated below :

PLACE KENDRIYA VIDYALAYA SANGATHAN:RO:MALIGAN:GHY-12

DATE DATE : 08-12-95 TIME : 10.00 AM

2. If the selection committee is unable to interview on the date specified above, it may be necessary for you to stay till the next day without any claim for overstay.

3. Candidates are free to answer/speak in Hindi before the Interview Board/selection committee.

4. You are also requested to bring the following :

- i) All original certificates in support of your qualifications (including degree certificates) experience and etc age certificates of teaching experience of recognised/Govt Institutions should be duly countersigned by D.E/Dy Inspector of school or higher authorities failing which no weightage will be given.
- ii) All original Marksheets in support of the aggregate percentage of marks mentioned in your application(Marksheets issued for each part/semester by the University must be brought). Only marksheet issued by the examining board or University(not from college) will be taken as valid.
- iii) In case you are not employee of KVS and your application has not already been forwarded through proper channel. NO OBJECTION CERTIFICATE from the employer.
- iv) If you belong to SC/ST/OBC community a certificate (in original) from the competent authority i.e. the District Magistrate/Dy Comm/Collector etc. of your District in this regard. The candidate belonging to OBC are required to bring with them the certificate in the form attached.
- v) Certificate(in original) from a Head of Orthopaedic/Ophthalmological Deptt. of a Govt. Civil Hospital/Civil Surgeon stating the nature of handicap and extent of disability, if you are physically handicapped.
- vi) The discharge certificate(in original) if you are an ex-service man/discharged defence personnel.
- vii) A certificate of registration of name from the Employment Exchange that you are holding current registration.
- viii) Original certificate issued by the Dy. Commissioner of District in Assam under resident of Assam (Relaxation of age) rules, 1985 if relaxation in age, being a person ordinarily residing in Assam from 1-1-81 to 15.8.85 is sought.
- ix) In case of candidates called for interview for the post of TGI(Eng/Hindi where the marksheet does not indicate the level of the course i.e. general/literature in the concerned subject at degree level the candidate should produce a certificate from the University to that effect.

5. Failure to produce the documents mentioned at para (i) to (ix) above, wherever applicable will entail forfeiture of candidature and in that case you will neither be interviewed nor paid T.A. similarly if any of the particulars stated by you in your appl. is found wrong or incorrect on verification and also found to have wilfully suppressed any material information relevant to the consideration of your case, without prejudice to any other action that may be taken in consequence thereof, your candidature will be summarily rejected and no travelling allowance will be paid to you.
6. For attending interview, if the journey is performed by train, return second class through ticket rail fare by the shortest route will be paid to you from the railway station nearest to the address given in your application or the station from which you commence your journey for interview and back, whichever is less. In case of places which are not connected by rail, actual bus or steamer fare by lowest class will be paid upto the nearest Rly. station and thereafter 2nd class rail fare by shortest route. In case the journey or a portion thereof is performed by bus, return 2nd class rail fare as above, or return bus fare whichever is less will be paid. Cheaper return tickets should be purchased wherever those are available. No reservation charges will be paid. Your claim for the fare must be accompanied by rail/bus/steamer tickets in respect of fare paid for the onward journey. However, if the railway tickets are surrendered, the ticket number, issuing station and the amount of fare paid be noted on a sheet of paper, got attested by the ticket collector and produce. The address given in the application form only will normally be accepted for the purpose unless a change has already been communicated and also received in time.
7. In respect of candidates appearing for interview from abroad they can claim TA only from the nearest place of interview and back. They are not entitled to TA from the place of residence abroad to the place of interview in India. This is equally applicable in respect staff working in Kendriya Vidyalaya abroad. The travel expenses admissible will be paid by means of crossed cheque or by cash if possible. No TA will however be paid if the admitted claim is Rs.20/- or less. If the railway/bus/steamer ticket No. is not produced in support of the claim on the date of interview, no payment will be made and no further correspondence will be entertained. Please bring a REVENUE STAMP worth re.1/- with you to affix at the time of receiving the payment. if claim exceeds Rs.500/-.
8. KVS employees attending the interview will have to apply for leave of the kind due for the purpose. The absence for attending the interview shall not be treated as on duty.
9. It is your responsibility to make proper arrangement for the receipt or redirection of communication addressed to you. No plea of non-receipt or late receipt of this communication for whatsoever reason shall be accepted for postponing the date of interview for any other purposes.

Entry to India to the place of

Yours faithfully,

[Signature]

DEPT ASSISTANT COMMISSIONER.

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ANNEXURE-4

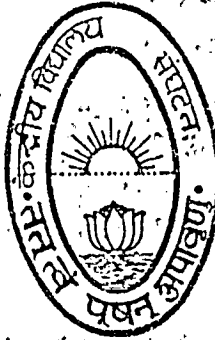
केन्द्रीय विद्यालय संगठन
KENDRIYA VIDYALAYA SANGATHAN

Inservice Course in Work Experience
for the teachers of

Ahmedabad, Bangalore, Bhopal, Bhubhaneshwar, Bombay,
Chandigarh, Dehradun, Delhi, Guwahati, Gwalior,
Lucknow, Madras, Patna, and Silchar Regions

from 01-06-1996 to 21-06-1996

VENUE : KENDRIYA VIDYALAYA, NAL Campus
Bangalore-560017



Course Director
Mr. G. Chacko
Principal

Kendriya Vidyalaya, NAL Campus, Bangalore-560017

Assistance and Co-ordination to the Director
Mr. Mohamed Hasnuddin
Work Experience Teacher
Kendriya Vidyalaya, NAL Campus, Bangalore-560 017

LIST OF PARTICIPANTS

AHMEDABAD REGION

1. Mrs. Datta J. Patel
2. Mr. S.V. Panchal
3. Mrs. A.A. Patel
4. Mr. R.R. Tyagi

- K.V.: Vallabh Vidyanagar
K.V.: Sahasrabati
K.V.: Ahmedabad Cantonment
K.V.: OMSC, Ankleshwar

BANGALORE REGION

1. Mrs. S. Akhterunnisa
2. Mrs. Kusara Kalpana
3. Mr. R. Marayanan

- K.V.: N.A.L. Campus, Bangalore
K.V.: H.S. Railway Colony, Bangalore
K.V.: Aruvankadu

BHOPAL REGION

1. Mr. Lokman Prasad Ladiya
2. Mr. Pradip Kumar S. Raut

- K.V.: Sarni
K.V.: WCL, EOC, Chandrapur

BHUBANESHWAR REGION

1. Mr. Dhananjay Panda
2. Mrs. Pramila Subudhi
3. Mr. Sanatana Pattnayak

- K.V.: Ordnance Factory, Bolangir
K.V.: Puri
K.V.: No.2, CRPF, Bhubaneswar

BOMBAY REGION

1. Mrs. Usha Soni

- K.V.: No.3, Colaba, Bombay

CHANDIGARH REGION

1. Mr. Baldev Singh Sandu

- K.V.: HMT, Pinjore

DEHRADUN REGION

1. Mr. Premchand
2. Mr. Shripal
3. Mr. Zahir Ahmed

- K.V.: AFS, Chandigarh
K.V.: No.1, BNEL, Haridwar
K.V.: No.2, ASC Cantonment, Bareilly

DELHI REGION

1. Mrs. Annu Bala
2. Mrs. Daya Jauhari
3. Mrs. Indrajit Ghussa
4. Mr. Kuldeep Gupta
5. Mr. J.P. Mehta
6. Mrs. Sharda Madan
7. Mr. S.P. Singh
8. Mrs. Sonia Vohra Uppal

- K.V.: Masjid Moth, New Delhi
K.V.: Tagore Garden, New Delhi
K.V.: ASBR Colony, Delhi
K.V.: Ghaziabad
K.V.: No.2, Delhi Cantonment
K.V.: Lawrence Road, Delhi
K.V.: MTPC, Ghaziabad
K.V.: ASBR Colony, Delhi

GUWAHATI REGION

1. Mr. D.M. Barman
2. Mrs. Bulu Patowari
3. Mr. Rajib Baruah

- K.V.: Borjhar
K.V.: Narani
K.V.: Chabua

GWALIOR REGION

1. Mrs. J.S. Benjamin
2. Mr. R.K. Sharma

- K.V.: No.1, Gwalior
K.V.: No.3, Gwalior

LUCKNOW REGION

1. Mr. Jitendra Singh Rathore
2. Mr. Kalika Prasad
3. Mr. D.K. Khanna
4. Mr. R.K. Verma
5. Mr. R.K. Vishwa Karma
6. Mr. K.F.S. Yadav

- K.V.: No.3, AFS, Chakeri, Kanpur
K.V.: No.2, DEF, Kanpur
K.V.: No.1, AFS, Chakeri, Kanpur
K.V.: AFS, Margura, Lucknow
K.V.: No.1, AFS, Chakeri, Kanpur
K.V.: AMC Centre, Lucknow

MADRAS REGION

1. Mr. C.R. Vinod Krishnan

- K.V.: Uttapalan

PATNA REGION

1. Mr. Jai Narayan
2. Mr. Laldeo Singh

- K.V.: No.1, HED, Ranchi
K.V.: Hindoo, Ranchi

SILCHAR REGION

1. Mr. Abdul Jalil Laskar
2. Mr. Debashish Paul
3. Mr. Suknendu Bhuyan Paul

- K.V.: Masimour, Silchar Cantonment
K.V.: CDI, Bokajan
K.V.: AFS, Khumbirgram



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ANNEXURE- 5
LIC HOUSING FINANCE LIMITED

AREA OFFICE GUWAHATI
JEEVAN PRAKASH, S. S. ROAD
FANCY BAZAR, GUWAHATI-781 001

FORM OF UNDERTAKING FOR REPAYMENT

To,

The

Principal,
Kendriya Vidyalaya, Narangi,
Guwahati - 781027.
(Address of the employer)

Sub :- Authority for recovery of loan Instalments/dues

Dear Sir

I do hereby authorise you to recover from my monthly salary every month the loan instalments/premiums etc. In case of my default in repaying the Loan to the LIC Housing Finance Ltd. Guwahati. Area Office, taken for purchasing/constructing a house/flat, situated at Sadgaon
Guwahati - 27 in the plot of my husband's property.

as and when intimated by the said Area Office and remit the same to the said Area Office till the loan with interest due there-on is liquidated fully.

I also declare and affirm that I shall have no right to revoke this authority during the period of the loan.

Yours faithfully,

Mrs. Bulu Patowary
Signature

Full Name : Mrs. Bulu Patowary
Designation : S. D. P. W. Teacher
Address : K. V. Narangi

Accepted the above authority letter. We have no objection for sanctioning loan to Shri/Smt. Bulu Patowary.....an employee of our establishment. We also undertake to recover loan instalment from the above named employee/s and remit the same to LIC HFL, Guwahati as and when intimated by the LIC HFL, Area Office Guwahati.

Signature of the Employer

Office Seal

Phone No. 610046

Date : 02-6-2000

Principal,

Kendriya Vidyalaya Narangi
Guwahati, Pin-781027

Principal,
Kendriya Vidyalaya Narangi
Guwahati, Pin-781027

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ANNEXURE-6

Kendriya Vidyalaya Sangathan
18 Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi-110 016

35

F.No.2-5/2000-KVS(Acad)NFT. Trs. id. Sch. Dated : 10 April, 2000

To

✓ Miss/Mrs/Mr. Bulu Paulwary
52 Kendriya Vidyalaya
Narangji

Sub: Grant of financial assistance for professional education
of teachers' wards

..000..

Madam/ Sir,

The Government of India, Ministry of Human Resource Development, NDTV has granted financial assistance of Rs. 2000/- (Rupees two thousand only) for the professional education of your ward in response to the application submitted.

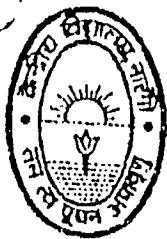
2. Send advance stamped receipt for the sanctioned amount of assistance in the format given below to the undersigned by name at the earliest.

3. Also write the name of the place of the nearest branch of INDIAN BANK only for preparing the Demand Draft in your favour.

Yours faithfully,

Z. S. Chhikara
(Z. S. Chhikara)
Education Officer

Copy to : The Principal of the concerned Vidyalaya for doing
the needful.



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ANNEAURE-7

दुरभाष - 640046

केन्द्रीय विद्यालय, नारंगी

डाक - सातगाँव, गुवाहाटी (असम), पिन - 781027

KENDRIYA VIDYALAYA, NARANGI

PO-Satgaon, Guwahati(Assam). PIN-781027

F.2-16/KVN/2000-2001/ 12

Dated 10-5-2000

To,

Shri Z.S.Chhikara,
Education Officer,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi-110016.

Sub:- Grant of financial assistance for professional
education of teachers' wards-Receipt thereon.

Ref:- Your office letter No.2-5/2000-KVS(Acad)NFTW/ Trs.Wd.Sch.
dated 10-4-2000.

Sir,

In response to your above cited letter, I am sending
herewith the advance stamped receipt collected from Mrs.Bulu
Patowary, SUPW Teacher, the mother of Master Neelkamal Patowary
along with Bank Code Number for necessary payment of financial
assistance.

The Indian Bank's Code No. is B-077, Beitala Branch
at Guwahati-781028.

Thanking you,

Yours faithfully,

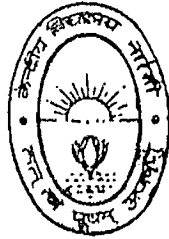
(G.S.C.Bosebabu)
Principal

✓ Copy to Mrs.Bulu Patowary, SUPW Teacher,
K.V.Narangi for information.

Principal
Principal

Kendriya Vidyalaya Narangi
Guwahati, Pin-781027

केन्द्रीय विद्यालय, नारंगी
डाक : सातगाँव, गुवाहाटी
असम : पिन : ७८१०२७



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ANNEXURE-8

Phone : 40412/7385
KENDRIYA VIDYALAYA, NARANGI
P. O. Satgaon, Guwahati.
Assam : Pin : 781027

सन्दर्भ :

Date 07-12-1995 .

TO WHOM IT MAY CONCERN

This is to certify that Smt. Bulu Patowary, S.U.P.W(S&N) Teacher has been working in the Kendriya Vidyalayas as under-

- From 03-8-1983 to 30-4-1984 - in the Kendriya Vidyalaya(BRPL) Bongaigaon as SUPW(Girls)Teacher on ad-hoc basis.
From 14-8-1985 to 30-4-1986 - in the Kendriya Vidyalaya Narangi SUPW(Girls)Teacher on ad-hoc basis.
From 05-11-1986 to 31-1-1987- in the Kendriya Vidyalaya Narangi as Primary Teacher on ad-hoc basis.
From 09-3-1989 to 30-4-1989 - in the Kendriya Vidyalaya Narangi as SUPW Teacher on ad-hoc basis against consolidated pay.

This is also to certify that with effect from 16-11-1989, Smt. Bulu Patowary is working as SUPW(S&N) Teacher in temporary capacity against a regular vacancy in the pay scale of Rs.1400-40-1600-60-1650-EB-50-1950-EB-50-2250-EB-50-2300-60-2600/- and allowed to draw all other benefits such as increment, pensionary benefits, leave etc. at the rate of admissible to the Kendriya Vidyalaya Sangathan Employee, and she is continuing in her post.

During these period of her service she is teaching from class VII to Class XII satisfactorily.

She is found to be sincere, energetic and dutiful.

(J.S. MURTHY)
PRINCIPAL
Principal,

Kendriya Vidyalaya Narangi
Guwahati, Pin-781027

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ANNEXURE-9

KENDRIYA VIDYALAYA SANGATHAN
Regional Office,
Chayaram Bhawan, Maligaon Chariali,
GUWAHATI-12

No.F. 5-4/98-KVS(GR)/5591-22

Dated : 31.8.2000

MEMORANDUM

CONFIDENTIAL

The adverse remarks made in the Annual Confidential Report of
Shri/Smt Bulu Patowary, SUPW, KV Narangi for the year
ending 30.6.2000 are reproduced below :-

Sl.No.	Item of assessment
	<u>Observation</u>
1.	Academic competence.....: "Very less competent in class room organisation".
2.	Indicate in inservice.....: "Nil"
3.	Interest taken.....: "Nil"
4.	Zeal, diligence.....: "Always follow very old methods. Lazy in work".
5.	Other observation.....: "Working on court order. No KVS apptt. order till date."

No objection

Shri/Smt Bulu Patowary, SUPW is hereby given an opportunity
to represent on the adverse remarks within 15 days from the date of the
Memorandum failing which it will be presumed that he/she has nothing to
say on the adverse remarks made.

(D. K. SAINI)
ASSISTANT COMMISSIONER

To
Shri/Smt Bulu Patowary, SUPW through the Principal, KV
Narangi.

Copy to :- The Principal, KV Narangi with a request to serve
the Memorandum on the employee under dated acknowledgement.
Representation, if any, preferred by the employee within
15 days from the date of the memorandum may be forwarded to
this office alongwith your comments thereon.

ASSISTANT COMMISSIONER

To,

The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office, Chayaram Bhawan,
Malligaon Chariali,
Guwahati-781012.

Through the Principal, Kendriya Vidyalaya Narangl.

Dated, the 27th. Sept. 00.

Sub:- REPRESENTATION ON ADVERSE REMARKS.

Ref:- Memo.No.F.5-4/98-KVS(GR)/5591-92 dated 31-8-2000.

Sir,

In response to the above referred memorandum served to me in the afternoon of 18-9-2000. I beg to represent my replies (parawise) as under for your kind review and consideration:-

1. Academic Competence:-
2. Indicate in inservice:-
3. Interest taken:-

:- In respect of these remarks made on my teaching. I would like to express that I may not shown more competency in my teaching as I have not been provided with specific syllabus, materials and guidences. I have searched out some books from library and materials from the booklet of the inservice course I attended and prepared the matters for teaching. The students I taught during last eleven years were very happy and satisfied in my class room organisation. During last 11 years, several inspecting team of KVS have inspected my SUPW room and teaching, and passed good remarks and suggestions which I am trying to follow. Further, proper guidance and materials may please be provided by the authority so as to make myself more competence for the benifits of the students.

4. Zeal & delageance:-
5. Other observations:-

In respect of this remarks, I also feel sincerely that the methods which I am teaching is old in the age of computers/electronics. But, the majority of the girls students who are not going for higher studies are benificial as they are to run simple life with their own efforts. The works, I myself and the students are attended in the practical room are time taking which seems to be lazy. But, I have not waste time unnecessarily. The authority is requested kindly to provide the specific new syllabus, practical materials and the guidences so that I can develop in new methode of teaching for the benifits of students.

In respect of the remarks made on my service conditions, I beg to state that the order of the Honourable High Court was referred to KVS Headquarter by your good office. Thereafter, on the direction of the KVS.H.Q. vide F.2-165/89-KVS(I&C) dated 5-1-1990; F.4-22/91-KVS(Estt-IV) 23-4-1993 and dated 26-8-1993. I have been appointed and allowed to draw all benifits such as GPF/GISS etc. vide your office letter No.F.20-3/89-KVS(GR)/10025 dated 20-9-1993. A special Interview also conducted by the Regional Selection Board on 8-12-1995 and as I know, my candidature is recommended strongly. I have attended the Inservice Training Course at Bangalore in 1986 under the direction of the KVS(HQ). My name has also been recommended for confirmation, as I know. Thereafter, I have not been given any understanding that I required any other appointment order/letter. I may please be guided in the interest of my future, if any.

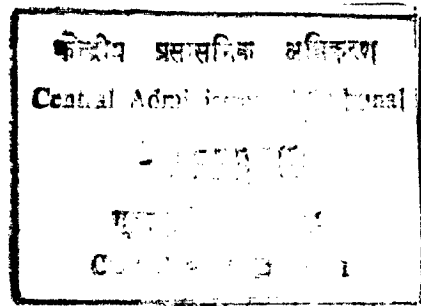
Under above circumstances, my representation may please be reviewed, and I request you kindly to consider the same. Further suggestions and guidance in the interest of the teaching shall be followed properly.

Thanking you,

Yours faithfully,

Mrs. B. Paloury, 27/9/2000
(Smt. B. Paloury) S. U. P. M. Teacher
K.V. Narangl.

Copy
recd.
Principal,
Kendriya Vidyalaya Narangl
Guwahati, Pin-781027



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:: GUWAHATI BENCH
AT GUWAHATI

ORIGINAL APPLICATION No. 359/2000

Smti Bulu Patowary ... Applicant

~~-vs-~~

Union of India & ors.

... Respondents

The Respondent Nos. 2, 3 and 4 above
named beg to file their Written Statement as
follows:-

1. That all the averments and submissions made in the Original Application (hereinafter referred in short 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 the statements made in paragraph 4.1 of the application the answering Respondents have no comments as they are matters of record.
3. That with regard to statements made in paragraph 4.2 of the application the answering Respondents beg to state that the applicant, Smti Bulu Patowary was appointed as Socially useful Productive Works (sewing and needle) teacher on purely adhoc basis for the period starting 9.3.89

to 30.4.89 or till the regular incumbent joins which ever is earlier on a consolidated pay of Rs. 900/- P.m. As per the terms and conditions of the adhoc appointment the services of the applicant was terminated on 30th April, 1989. But on the strength of the Hon'ble High Court's order in C.N. No. 619/1989 dated 16.11.89 she is still continuing in service.

The Respondents further beg to state that the applicant Smti Bulu Patowary was not qualified for the post as she was neither ~~for~~ a graduate nor possessed a diploma in tailoring and needle work from Govt. Industrial Training Institute, Kasturba Gandhi Marg, New Delhi or having one year training certificate in cutting and tailoring for Women Instructors from "Central Training Institute for Women Instructors, New Delhi" as required in Kendriya Vidyalaya Sangathan (hereinafter referred to in short as KVS). But she possesses only "National Trade Certificate". As such she is not qualified for regular appointment in KVS.

4. That with regard to statements made in paragraph 4.3 to 4.6 of the application the answering Respondents beg to state that the applicant Smti Bulu Patowary was appointed to the post of SUPW (Girls) on purely temporary and adhoc basis on a consolidated pay of Rs. 900/- p.m. vide appointment letter No. F-53/BSIT/KVN/88-89/2185 dtd. 8.3.89 of K.V.Narangi and she joined her duties on 8.3.89. The terms and condition of the temporary appointment was upto

30th April, 1989 or till the regular incumbent joins duties. As per the ~~xxxxxx~~ terms and conditions of the appointment her services were going to end on 30.4.89. Smti Bulu Patowary filed a suit in the Hon'ble Gauhati High Court on 27.4.89 being case No. C.R. No.619/89. The Hon'ble High Court vide order dated 8.9.89 had granted temporary stay and to consider her appointment in the vacancies pending disposal of the Civil Rule. Again the Hon'ble High Court in the Judgement (Oral) dated 16.11.89 disposed off her petition with the direction to the respondent to appoint the petitioner to the post of SUPW teacher in temporary capacity until the service of a duly qualified teacher are obtained by which selection of the petitioner may also be considered.

However, the applicant was interviewed on 8.12.95 by the Regional Selection Board and the proposal was forwarded to the KVS H.Q. for necessary approval of her regular appointment. But her case was not considered for regular appointment as Smti Bulu Patowary did not qualify for the post of SUPW teacher in KVS.

5. That with regard to statements made in paragraph 4.7 of the application the answering respondents beg to state that in 1996 the applicant Smti Bulu Patowary was deputed for an inservice course in work-experience only because of her working in that post.

Further the applicant was called for an interview on the basis of the Hon'ble High Court's order dated 16.11.89

Recd

para 4
Did not have
3 yrs diploma

When?

But she was not selected in the interview.

6. That with regard to the statements made in paragraph 4.8 of the application the answering Respondents beg to state that the applicant was given all service benefits by virtue of her being a teacher of K.V.S. though in temporary capacity. Deserving these benefits does not entitle her to be posted as a regular teacher.

Regarding the LIC Housing Loan, the school is not at all the guarantor but only the authority for recovery of loan in case of default.

7. That with regard to the statements made in paragraph 4.9 of the application the answering Respondents beg to state that out of good gesture the KVS had granted financial assistance to a teacher of KVS drawing allowances and all other benefits in addition to pay at the rates admissible to KVS employees though she has been appointed as per the judgement of Hon'ble Guwahati High Court order dated 16.11.89 in temporary capacity. Deriving the above benefits does not mean she is a regular teacher.

8. That with regard to statements made in paragraph 4.10 of the application the answering Respondents beg to state that the certificate was issued to the applicant as per records.

9. That with regard to the statements made in paragraph 4.11, 4.12, 4.13 and 4.14 of the application the answering Respondents beg to state that ACR is related to the performance of the employee in that particular year and it is no way related to the appointment. Performances recorded in the ACR is in no way related to her being appointed as a regular teacher.

Further the Respondents beg to state that it is only an illusion of the applicant about the matters stated.

10. That with regard to statements made in paragraph 4.15 of the application the answering Respondents beg to state that as there was no fresh recruitment after 1995, the services of the applicant has been continued as per the Hon'ble High Court's order dated 16.11.89.

Now since a regular SUPW Teacher has been posted by KVS (HQ) the applicant had to be relieved.

11. That with regard to statements made in paragraph 4.16 of the application the answering Respondents beg to state that the authorities have transferred are SUPW teacher from Bihar to Kendriya Vidyalaya, Narangi after knowing clearly that there is a vacancy at Kendriya Vidyalaya (hereinafter referred to in short as KV), Narangi, where Mrs Bulu Patowary has been working on Court Order in temporary capacity on the condition that she will be relieved whenever a regular appointee is posted.

The incharge principal who was working at that particular time when the regular Principal was on leave was compelled by Mr K.K. Patowary the husband of the applicant who is working as the Head Clerk at K.V., Narangi to send a telegram saying that there is no vacancy. But the KVS (HQ) knowing fully well that there is a vacancy posted the regular teacher at K.V., Narangi.

✓

12. That with regard to the statements made in paragraph 4.17 of the application the answering respondents beg to state that the applicant Mrs Bulu Patowary did not possess the requisite qualification of 3 years diploma which is required for the post of SUPW teacher in Kendriya Vidyalaya.

✓

Since there was no eligible candidate in March, 1989 when the interviews were conducted, she was appointed on temporary capacity. When her services were going to end according to the terms of the temporary appointment she approached the Hon'ble High Court and the Hon'ble High Court by order dated 16.11.89 had directed the Respondents, to appoint her in temporary capacity until the services of a duly qualified teacher are obtained. On the basis of the Hon'ble High Court order the applicant was appointed temporarily in January, 1990. At that time no interview was conducted. Hence there was no question of availability of qualified candidates.

KVS had relaxed the qualification in the earlier occasions only on the High Court's order under different

circumstances. But that may not be applicable in case of Mrs Bulu Patowary as she was appointed by the Hon'ble High Court in Temporary capacity until a regular teacher is posted. In 1995 though interview was conducted her case was not considered for the said post of regular appointment since she did not possess the requisite qualification for the SUPW teacher. It is only her illusion that she was selected for the Post. But KVS authorities never gave any indication or hope to the applicant by any means.

13. That with regard to the statements made in paragraph 4.18 and 4.19 of the application the answering Respondents beg to state that though the applicant was working in the K.V.S. for a long time but that does not mean her services would be regularised. Moreover, the applicant was working only on the strength of the order of the Hon'ble High Court. She did not possess the requisite qualification of 3 years diploma. The appointment is purely in temporary capacity as per the Hon'ble High Court order dated 16.11.89.

14. That the answering respondents beg to submit that the present application was not filed bonafide before the Hon'ble Tribunal and in the facts and circumstances stated in the foregoing paragraphs, it is respectfully prayed that the Hon'ble Tribunal may be pleased to dismiss the application with cost.

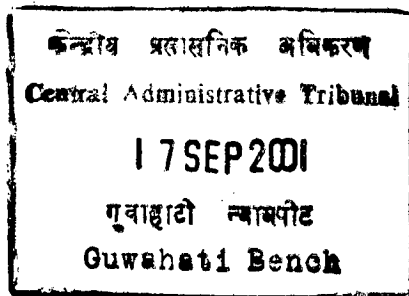
V E R I F I C A T I O N

I, Mr D.K.Saini aged about 51 years, son of Shri C.L.Saini presently working as the Assistant Commissioner, Kendriya Vidyalaya Sangathan Guwahati Region, do hereby verify that the statements made in paragraphs 6, 7, 8, 9, 12 are true to my personal knowledge, those made in paragraphs 3, 4, 5, 10, 11, 13 are based on legal advice and nothing material has been concealed therefrom.

Place

Guwahati

D.K. Saini
DEPONENT 9/2



Filed by
Usha Das,
Advocate
13/9/2001

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

OA No. 359 of 2000

Smti Bulu Patowary.

... Applicant.

- Versus -

Union of India & Ors.

... Respondents

Rejoinder to written statement filed by the
Respondents No. 2, 3 & 4.

1. That the Applicant has received the copy of the written statement filed by the Respondents No. 2, 3 and 4 and has gone through the same. Save and except the statement which are specifically admitted herein below, rests may be treated as total denial. The statement which are not borne on record are also denial and the Respondents are put to the strictest proof thereof.
2. That with regard to the statements made in paragraph 1 of the written statement the Applicant while denying the statement made therein reiterates and reaffirms the statement made in the OA.
3. That with regard to the statement made in para 2 of the written statement the applicant begs to state that the respondents have admitted the fact.
4. That with regard to the statements made in paragraph 3 of the written statement the Applicant begs to state that she is now serving as SUPW (Sewing & Needle) teacher in K.V.

6
6)

Narengi and she got her said appointment pursuant to a selection. The Applicant in the year 1983 got her said appointment and she is now continuing in the said post. In the year 1986 she placed her candidature pursuant to an advertisement in the year 1986 for the said post but she was not called for the said interview for the reasons best known to the Respondents. It is pertinent to mention here that similarly situated employees namely Mrs. M. Bhattacharyya, Sri. R.M. Deb and Smti Surjit Kaur got their appointment pursuant to the judgment and order passed by the Hon'ble High Court in CR 1137 and 1138 of 1986 and CR 445 of 1985. The present Applicant also claiming the same benefit approached the Hon'ble High Court by filing CR 619/89 and the Hon'ble High Court was pleased to pass an interim order on 8.9.89 protecting her service. The said interim order however was not implemented by the Respondents. Finally the said CR was disposed of by judgment dated 16.11.89 (Annexure-1 to the OA) by which Applicant was allowed to continue on temporary basis. However, Respondents have wilfully and deliberately violated the same even after the repeated request made by the Applicant. To that effect the Respondent No. 4 has also violated the direction of KVS Head quarter causing financial hardship to the applicant with effect from Jan'90 to Sep'93. Thereafter pursuant to an order dated 26.8.93 the Respondent No. as per the direction of the higher authority appointed the Applicant in the post of SUPW on temporary basis. All the said appointments made initially are of temporary in nature. As per the terms and condition of service approved by the Board of Chairman she was on probation and during these period there was nothing against her so the Respondents ought to have confirmed her

(d)

serving much earlier.

The Applicant further begs to state that the contention regarding educational qualification has already been adjudicated in the CR No. 619/89 and relaxation has ✓ virtually granted to her case, and now the Respondents cannot put forward the said argument.

5. That with regard to the statements made in paragraphs 4, 7 and 5 of the written statement the Applicant while denying the statement made herein begs to state that she was again called for the interview scheduled on 8.12.95 with the direction of KVS headquarters for her regularisation. Before calling the qualification of the Applicant was verified and finally after selection she was not offered the said post on regular basis. In the month of May 1996 Applicant got the chance she has been deputed for in-service course. The said in-service course is only available to the regular teacher only and the Respondents treating her as regular teacher & deputed her for said in-service course. In fact, her case for regularisation has been forwarded by the competent authority for consideration but nothing happened thereafter.

6. That with regard to the statements made in paragraph 6 of the written statement the Applicant while denying the contentions made therein begs to state that by virtue the benefits given to her by the Respondents, her service can be termed as quasi-permanent and taking into consideration the length of her service the Respondents ought to have confirmed the same with retrospective effect.

7. That with regard to the statements made in paragraph 7 of

2b

the written statement the Applicant while denying the statement made therein reiterates and reaffirms the statement made above as well as in the OA and begs to state that financial assistance is only given to the regular employees and the Respondents treating her service as regular/quasi-permanent granted the financial assistance.

8. That with regard to the statements made in paragraph 8 of the written statement the Applicant reaffirms the statement made above as well as in the OA and begs to state that the Principal, KV Narengi issued a certificate dated 7.12.95 certifying her sincere and dutiful service as regular teacher.

9. That with regard to the statements made in paragraph 9 of the written statement the Applicant denies the correctness of the same and begs to reiterate and reaffirm the statement made above as well as in the OA and the Respondents are put to the strictest proof thereof.

10. That with regard to the statements made in paragraph 10 of the written statement, the Applicant denies the correctness of the same and begs to state that since 1995 there was no fresh recruitment and the present Applicant now has been sought to be replaced by an employee who was recruited in the post of WET in the year 1993. On the other hand the Applicant was appointed SUPW (Sewing & Needle) teacher pursuant to a judgment passed by the Hon'ble High Court dated 16.11.89 wherein there has been a clear cut indication regarding selection of a duly qualified teacher. It is pertinent to mention here that there are number of vacancies still in existence against which said Sri Kumar could have been adjusted, since there was no regular

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selection the service of the Applicant could not have been disturbed.

11. That with regard to the statements made in paragraph 11 of the written statement the Applicant denies the correctness of the same and begs to state that the judgment of the Hon'ble High Court dated 16.11.89 is very clear and hence the Respondents are duty bound to follow the same.

That the allegation made against the husband of the Applicant is baseless and the Respondents are put to the strictest proof thereof. The husband of the Applicant being a head clerk, has got no authority to say anything regard to vacancy. In fact the office of the Asstt. Commissioner, KVS located at Maligaon, Ghy knows the exact particulars of the vacancy in the NE region not the head clerk of KV Narengi. More over since 1990 the yearly vacancy position submitted by KV Narengi says that there was no clear vacancy. It is pertinent to mention here that presently there is no qualified person in the KVS to hold the post of SUPW (S & N). Only in the year 1993 there was vacant a post of Work Experience Teacher (Electrical Gajate and Electronics.)

12. That with regard to the statements made in paragraph 12 of the written statement, the Applicant denies the correctness of the same and begs to state that the judgment and order dated 16.11.⁸⁹~~89~~ has already dealt with the contention regarding her qualification vis-a-vis the relaxation, and now there is no scope to reopen the said issue. It is pertinent to mention here that now in KVS recruitment of SUPW (Sewing & Needle) has been stopped as there is no qualified person available till date and in view

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of continuation of Applicant's service rendered by the Applicant the Respondents could have relaxed the Recruitment Rule even in individual case.

13. That with regard to the statements made in paragraph 13 of the written statement, the Applicant denies the contentions made therein and begs to state that the Hon'ble High Court while adjudicating the CR No. 619/89 in its judgment dated 16.11.89 virtually relaxed the qualification so far as the present Applicant is concerned.

14. That with regard to the statements made in paragraph 14 of the written statement the Applicant denies the correctness of the same and reiterates and reaffirms the statement made above as well as in the OA.

15. That the Applicant begs to bring to the notice of the Hon'ble Tribunal the following developments after filing of the OA by her before this Hon'ble Tribunal.

(i) Her husband was working as Head Clerk in the same Kendriya Vidyalaya wherein the Applicant has been working, has been transferred to KVS, EAC, Upper Shillong, Meghalaya by an office order No. F.13-2/2000-KVS (GR) dated 19.1.2001.

(ii) The House rent Allowance of the Applicant has been held up putting her into financial hardship. When the Applicant represented her case for sanction of HRA, she has been intimated by a communication dated 7.4.2001 that the matter was referred to the Assistant Commissioner, and for her information the clarification received has been enclosed alongwith the said communication. In terms of the said communication, the Applicant has been working on the

instruction of Hon'ble Court as part time SUPW teacher and thus the question of payment of HRA does not arise.

It is surprising that the Applicant has been treated to be a part time teacher by the said communication dated 4.4.2001 inspite of the fact that she is a regular teacher in the KVS.

(iii) That one Shri J.K. Kumar, has been posted to KVS Narengi from Patna against no vacancy and it is now been whispered in the office of the Respondents that the Applicant being the senior teacher would be declared surplus and would be posted elsewhere as three teachers cannot be continued against two posts.

This is a situation which has been created by the Respondents only to deprive the Applicant. In this connection the Applicant has already submitted a representation 14.11.2000. In fact one SUPW (Electrical Gadget) and one SUPW (S & N) have been working against two sanctioned posts including the Applicant. Thus there was no question of posting said Shri Kumar at KVS, Narengi. Further said Shri Kumar who has been posted in excess in SUPW (Electrical Gadget) and thus there is no question of rendering the Applicant as surplus, instead the said SUPW (Electrical Gadget) has become surplus.

(iv) That the Applicant has applied for GPF advance, but the same has not been released and the matter has been referred to some other authority, although the Principal of the school is the competent authority.

(v) That the Applicant is entitled to senior scale with

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effect from 16.11.2001, but it is being whispered that she would not be given the said scale.

Copies of the documents in the above contexts are annexed as Annexure-A series.

16. That the Applicant states that in a brief history of KVS, Narengi prepared by authority, it has been specifically mentioned under the head "socially useful productive works & drawing" - "The Vidyalaya has two teachers for teaching the Craft Electric Gadgets and one teacher for teaching drawing. Students are most interests in all these subjects".

17. That the Applicant submits that from the narration of the facts both in the OA and the rejoinder including the events which have taken place after filing of the OA, clearly revealed the malafide and colourable exercise of power on the part of the Respondents. This being the position the Applicant is entitled to appropriate relief in addition to the reliefs sought for in the OA and she may be provided with adequate protection of her service career.

18. That under the facts and circumstances stated above the OA filed by the Applicant deserves to be allowed with costs.

In view of the aforesaid facts and circumstances, the Applicant prays that Your Lordships would graciously be pleased to allow the Applicant, all the reliefs as prayed for in the OA.

Verification.....

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VERIFICATION

I, Smti. Bulu Patowary, wife of K.K. Patowary, aged about 40 years, presently working as SUPW teacher of Kendriya Vidyalaya, Narengi, do here by solemnly affirm and state that the statements made in this application from paragraph 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 are true to my knowledge and those made in paragraphs _____ are matters of records informations derived therefrom which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

And I sign this verification on 13th day of

Sept. 2001.

Mrs. Bulu Patowary



केन्द्रीय विद्यालय संगठन
KENDRIYA VIDYALAYA SANGATHAN

क्षेत्रीय कार्यालय Regional Office
मालीगाँव चारियाली Maligaon Chariali
गुवाहाटी : 781 012 Guwahati : 781 012

पत्रांक : 13-2/2000-KVS (GR)
No. F :

दिनांक : 19.01.2001
Dated :

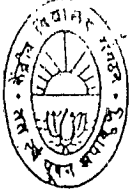
OFFICE ORDER

Shri K.K. Patowari, Head Clerk is hereby transferred from Kendriya Vidyalaya, Narangi, Guwahati to Kendriya Vidyalaya, EAC- Upper Shillong (Meghalaya) with immediate effect in public interest.

(D. K. SAINI)
ASSISTANT COMMISSIONER

Copy to :

1. Shri K.K. Patowari, Head Clerk, Kendriya Vidyalaya, Narangi, Guwahati.
2. The Principal, Kendriya Vidyalaya, Narangi, Guwahati. He is required to relieve Shri K.K. Patowari, H/C. forthwith with the directions to report at Kendriya Vidyalaya, EAC- Upper Shillong (Meghalaya).
3. The Principal, Kendriya Vidyalaya, EAC Upper Shillong.
4. Personal File.
5. Office Order/Guard file.



ANNEXURE - A (SERIES)

- 9 -

दूरभाष / Phone : 671787, 571788
Fax : 571799

केन्द्रीय विद्यालय संगठन
KENDRIYA VIDYALAYA SANGATHAN

क्षेत्रीय कार्यालय Regional Office
मालीगौन चारियाली Maligaon Chariali
गुवाहाटी : 781 012 Guwahati : 781 012

पत्रांक :
No. F
2-5 /2000/KVS(GR)/ 11089

दिनांक :
Dated :
4.4.2001

To

The Principal,
Kendriya Vidyalaya
Narangl

Subject : Sanction of HRA to Mrs. Bulu Patowary, SUPW teacher - reg.

Sir,

I am to refer to your letter No.1-7/KVN/2000-2001/1084-85, dated 30.3.2001 regarding the Subject cited above and to say that Mrs. Bulu Patowary has been working on the instruction of Hon'ble Court as Part time SUPW teacher. Hence, the question of payment of HRA to the Part time Teacher does not arise.

You are advised to take necessary action as per entitlement of Part-time/Adhoc. Teacher

Yours faithfully,

(D. K. SAINI)
Assistant Commissioner

केन्द्रीय विद्यालय, नारंगी

KENDRIYA VIDYALAYA, NARANGI

PO Satalon, Guwahati/Assam, PIN 781027

Ref : Ho.F.1-7/KVN/2001-2002/6

Dated : 7-4-2001

To,

Smt. Bulu Patowary, SUPW

K. V. NARANGI, GHY-27

Sub:- Sanction of HRA-reg.

Madam,

In response to the above subject I am to inform you that the matter was referred to our Asstt. Commissioner, KVS GR, regarding admissibility of drawal of HRA.

A clarification from Asstt. Commissioner, KVS, GR, received vide No.2-5/2000/KVS(GR)/11089 dated 4-4-2001 a copy of the same is enclosed herewith for your information.

Thanking you,

Yours faithfully,



(GSC BOSE BABU)

PRINCIPAL
Principal,

Triya Vidyalaya Narang
Guwahati, Pin-781027

Enclo: As above.