

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 364/2000

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SECTION OFFICER (JUDI.)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI.5

ORIGINAL APPLICATION NO. 364/2000(T)

Smt. Rita Dey (Smta) . . . . . APPLICANTS  
versus.

Union of India &ors . . . . . Respondents.

FOR THE APPLICANT(S) Mr. S. R. Borthakur  
ADVO. CATE

Mr. H. A. Sarkar.

Mr. S. Bhagat

FOR THE RESPONDENT(S) Dr. B. P. Todi  
K.V.S.

Notes of the Registry DATE COURT'S ORDER

This C.R. No. 4062/95	8.11.00	Present: Hon'ble Mr. Justice D.N. Choudhury, Vice-Chairman.
Ans. on received from Hon'ble High Court Vide order dt. 10.8.2000 due to not mainta- nable before high Court. Hear this(CR) case registered as Original Application.	1m.	None appears for the applicant. Dr. B.P.Todi learned counsel for KVS On the prayer of Mr.Todi four weeks time is allowed for filing of written state- ment. List on 6.12.00 for ADMISSION. Orders.
Laid before Hon'ble court for further orders.	6.12.00	Vice-Chairman
	1m.	None appears for the applicant today also. Ms P. Baruah, learned counsel appearing on behalf of Dr.B.P.Todi, learned counsel for KVS prays for four weeks time to file written statement. Prayer allowed.
		List on 5.1.2001 for written statement and further orders.

M  
Tribhakt  
Smt. Rita Dey (Smta)  
Reg. Registrar

PN

26/11/2000

mk

Vice-Chairman

No. 105 has been  
filed.

Key  
5.12.2000

No. Wts has been filed.

3/2  
4.1.2001

5.1.2001 Two weeks time is granted to the respondents to file written statement on the prayer made on behalf of the respondents.

List on 19.1.01 for written statement and further orders.

No. Wts has been filed.

3/2  
18.1.2001

mk

Vice-Chairman

19.1.01 List on 2.2.01 to enable the respondents to file written statement.

U.U. Shar

Member

Vice-Chairman

pg

2-2

Court hearing at Swallow  
Adjusted to 23/2/2001M/s  
Abu  
2-22.2.2001

23.2.01

W/S has been filed by Respondents 2, 3, 4 and 5.

lm

~~Shro~~  
9/2

U.U. Shar

Member

Vice-Chairman

12.3.01

Written statement has been filed. Case is ready for hearing. List for hearing on 9.5.01.

U.U. Shar

Vice-Chairman

lm

9.5 - Left over.

Written on 23/5/2001

M/s  
Abu  
9/5

Notes of the Registry	Date	Order of the Tribunal
order dtd. 23/5/01 Communicated to the parties Counsel.  <i>Ad 4/6/01.</i>	23.5.01	None appears for the applicant. Mr. S. Sarma learned counsel for the respondents is present. Office to inform the applicant. List again for hearing on, on 5.7.2001  <i>PC Whay</i> Member
written statement billed by the respondent.  <i>3 4.7.01</i>	1m	Vice-Chairman
Copy of order dtd. 5/7/01 alongwith a written statement forwarded to the parties Counsel. Vice-Chairman dtd _____  <i>5 5/7/01</i>	5.7.2001	It appears that the case has come on transfer from the High Court. From the begining none appeared for the applicant. The names of the counsel shown in the cause list were counsel for the applicant in the High Court. For fitness of things the concerned party is to be informed about the transfer of the petition with a copy of the written statement. List again on 27.8.01 for hearing.  Office to act accordingly by informing the applicant about the transfer of the petition alongwith a copy of the written statement to enable the applicant to take steps in this case.  <i>K. ICSH</i> Member
WLS has been billed.  <i>14.9.01</i>	15 6/7/01 27-8	Vice-Chairman  There is no written bench order. The case is adjourned to 17.9.2001.  <i>MS A/C-Zero 27-8</i>

## Notes of the Registry

## Date

## Order of the Tribunal

17.9.01

None appears for the applicant to press the petition today also. List again on 19.9.2001 for hearing.

IC Usha  
Member

Vice-Chairman

bb

19.9.

There is no Magistrate today.  
The case is adjourned to 24.9.2001.

D/W.  
A.Y.B.  
19.9.

24.9.01

None appears for the applicant today also. List the case again on 25.9.2001.

IC Usha  
Member

Vice-Chairman

bb

25.9.01

List on 26.9.01 for hearing.

IC Usha  
Member

Vice-Chairman

lm

26.9.01

None appears on behalf of the applicant, today also. List the matter again on 27.9.2001 for hearing.

IC Usha  
Member

Vice-Chairman

trd

27.9.01

List on 28.9.01 for hearing.

Member

Vice-Chairman

lm

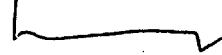
3  
5  
O.A. No. 364 of 2001

Notes of the Registry	Date	Order of the Tribunal
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28.9.01

Mr. S.Sarma, learned counsel appearing on behalf of the respondents. None appears on behalf of the applicant today also. On numerous occasions this case was listed for hearing and none came to support the application. In the circumstances the application is dismissed for default.

I C Chary  
Member

  
Vice-Chairman

11.10.2001

trd

MS  
11/10/2001

Copy of the order  
has been sent to the  
Office for issuing the  
same to the L/Adv.  
in the parties.

45

Notes of the Registry Date Order of the Tribunal

## THE GAUHATI HIGH COURT

(High Court of Assam Nagaland, Meghalaya, Manipur and Tripura)

## CIVIL APPELLATE SIDE

Appeal from

Civil Rule

No. .... 4062 of 19 9/

Appellant  
 Dr. Rita Dey (Dudh)  
 Petitioner

Versus  
 Director of Schools

Respondent  
 Opposite-Party

Appellant  
 For Petitioner  
 Mr. S. R. Bhattacharya  
 Mr. H. A. Sarbari  
 by S. Majum

Respondent  
 For Opposite-Party  
 C. G. S. C.

At. Dr. B. P. Todi, Mrs. P. Barua, For Respdt. No. 3.

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports orders or proceedings with signature
1	2	3	4

## BEFORE

THE HON'BLE MR JUSTICE JN SARMA

20/9/95:- Heard the learned counsel for the petitioner.

Let a Rule issue calling upon the respondents to show cause as to why a Writ should not be issued, as prayed for, and/why such further order or orders should be passed as to this Court may deem fit proper.

The petitioner shall take steps registered post. One post of Post Graduate subject teacher in English in the Kendri

20/9/95  
 20/9/95

Noting by Office or  
Advocate

Serial  
No.

Date

Office notes, reports, or  
proceedings with signal

Contd.

-2-

Vidyalaya, Nagaon shall be kept vacant  
subject to the result of this Civil Rule

PL  
20.9.95

a.m.

mc  
11/10

JUDGE

30.10.95  
or aff. 20.9.95  
complaint

26-9-96.  
Notices issued to the  
Respondents no. 2, 3, 4 & 5  
by Regd. Post with A/D.

Noting by Office or Advocate

Serial  
No.

Date

Office notes, reports, orders or proceeding  
with signatureRef: Order dt. 20.5.95.  
at payee

As per court's order  
notices have been sent  
for despatch. But  
it was ~~sent~~ returned  
from that section  
due to shortage  
of postal stamps.

Learned Advocate  
may be asked to  
submit deficit  
postal stamps  
for issuance of  
Notices to Respondents

laid before the  
Lawazima Court  
for favour of orders.

Dated  
2/6/984.6.98.  
Reff - order above.

2 weeks time granted  
as last chance has  
already expired.

But the L/A has  
not deposited the deficit  
postal stamps as per

laid for favour of  
Respondents.

Dated  
24.6.98.

4.6.98.

2 (two) weeks time  
granted as last chanceRegistrar (I & E),  
GAUHATI HIGH COURT  
GUWAHATI

25.6.98. The L/A. 2 (two) weeks

time granted as a result  
as 21 days are  
not later, place in  
mail brief send

Registrar (I & E),  
GAUHATI HIGH COURT  
GUWAHATI

Noting by office or  
Advocate.

Serial.

Date

Office notes, reports, orders, or proceeding  
with signature.

17.8.98

RECORDED

RECORDED & INDEXED A.K. Patnaik

list it in the next week as  
prayed by Mr. Sarkas.

2

RECORDED  
COURT OF APPEAL  
CALCUTTA HIGH COURT

Let it be noted under  
B/1989

B/1989

Noting by Office or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
A Vakalatnama has been filed on behalf of respondent No. 3.			
<u>23.8.2000</u>			
<u>19.5.2k</u>			
C.G.S.C. has accepted notice on behalf of R/No. 1.			
Notice issued on the respondent Nos. 2 to 5 by Registered post with A/R vide No. 15,457-60/ R.M. dt. 23.8.99 at flag 'A'.			
Respondent No. 3. has <del>not</del> appeared by filing a vakalatnama.			
A/R on respondent No. 2, 4 and 5 have not yet been received back.			
In view of the above the service of notice for the respondents No. 2, 4 and 5 may perhaps be accepted as sufficient under order 5 rule 19(A) C.R.C.		22.5.2000	Service report in respect of respondent No. 1 is accepted. The respondent No. 3 has already entered appearance. The notices issued to the respondent Nos 2, 4 and 5 are also treated as served.
Laid for favour of orders.			<i>Lay before the Ben</i>
<u>19.5.2k</u>			<i>REGISTRAR (J&amp;E) GAUHATI HIGH COURT GUWAHATI</i>

by office or Advocate.	Serial	Date	Office notes, reports, orders, or proceeding with signature.
	28.8.98		<p style="text-align: center;"><u>BEFORE</u></p> <p>HON'BLE MR JUSTICE A.P.SINGH</p> <p>Learned counsel is allowed one week's time to make good the deficiency in the postal stamp as per the report of the office. Failing which the writ petition shall stand dismissed.</p> <p><i>ML</i></p> <p>JUDGE.</p> <p><i>one week to serve</i> <i>sd.</i> <i>31.8.98</i> <i>ML</i> <i>2/9/98</i></p>
23/7/98			<p>Notice Sent to Despatch Section for issue to Respondent Nos. 2 to 5 by Regd. A/D.</p> <p><i>AB</i></p> <p>23/7/98</p>
7.9.98			<p>Notice issued vide No 15,457-60/RM. dt. 23.8.98. to Respondent Nos. 2 to 5 by Registered A/D.</p> <p><i>AB</i></p> <p>7.9.98</p>
			A.G.P. 832/96 (H.C. 80,000)

Noting of office or  
AdvocateSl.  
No.

Date

Office Notes, Reports,  
Orders or proceeding  
with signature

10/8/2002

## REPORT

The Hon'ble Mr. Justice J. N. Bhattacharya

The writ application  
shall stand transferred  
to Central Administrative  
Tribunal at  
Guwahati as the  
matter comes within  
the jurisdiction of  
that Tribunal.  
The writ petition  
is disposed of.

J  
Judge,  
GUWAHATI HIGH COURT

P.  
Court's order 10/8/2002  
10/8/2002

Noting of office or  
Advocate

Sl.  
No:

Date

Office Notes, Reports,  
Orders or proceeding  
with signature

364/2000

**IN THE GAUHATI HIGH COURT**  
**(THE HIGH COURT OF ASSAM : NAGALAND : MEGHALAYA : MANIPUR : TRIPURA  
MIZORAM AND ARUNACHAL PRADESH )**

Filing No.—

**MENTION MEMO**

Court No.

BENCH : A/B

1. Number of the Case : Civil Rule no. 4062/95

2. Nature of the Case : Service matter

3. Name of Parties : Mrs. Rita Dey (Outta) vs - Woman & India & Ors.

4. Party seeking Posting : Petitioner

5. Name of the Advocate of Party seeking Posting : S. R. Bhattacharjee 1/98

6. Name of the Advocate for other sids. : C. G. S. S. 2/98  
Contra

7. Mention for : Motion / Admission / Orders

8. Reason for the Mention : Urgent order

9. Date on which posting Sought. : 9. 8. 2000

10. Date & Time of Filing : 19. 9. 95  
28. 8. 98

11. Date of Last Posting : H. A. Sarkar

Dated Guwahati the  
10th August 2000.

**SIGNATURE OF ADVOCATE**

No.—

By Order

Bench Section

56  
4/8/2K

C-8.2 N  
7-8-2K

Signature of Officer

Bench Asstt.

C-4

DISTRICT : NAGAON

OA. 364/2000 (T)

IN THE GAUHATTI HIGH COURT

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

Sub : K.V.S. Teacher,

( CIVIL SPECIAL JURISDICTION )

Bench - (B)

Civil Rule No. W62 / 95

Sub - Central, Teacher  
Service matter,

Mrs. Rita Dey (Datta).

..... Petitioner.

- Versus -

Union of India and ors. ..... Respondents.

I N D E X

<u>Sl.No.</u>	<u>Particulars</u>	<u>Page No.</u>
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3.	Annexure- A. ....	14.
4.	Annexure- B. ....	15. - 16
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6.	Annexure - D. ....	19

Filing Date 20.9.95.

Filed by -

Off 20.9.95

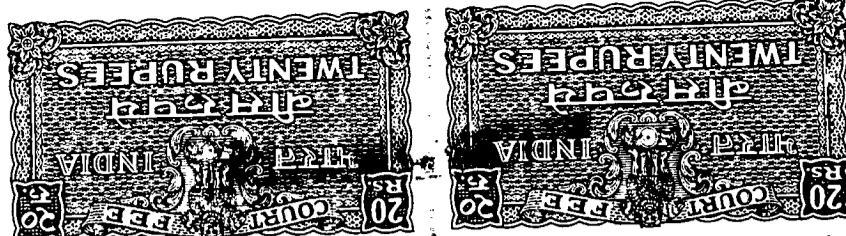
( H.A. Sarkar )

Advocate

Gauhati High Court

Guwahati.

6733/32



Filed by -

H. A. Sarkar.  
Advocate

20-9-95.

DISTRICT : NAGAON.

IN THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM : MEGHALAYA : NAGALAND : MONIPUR :  
TRIPURA : MIZORAM AND ARUNACHAL PRODESH ).

(CIVIL SPECIAL JURISDICTION).

Civil Rule No. 195.

To

The Hon'ble Sri. V.K. Khanna B.Sc., LL.B. Chief  
Justice of the Hon'ble Gauhati High Court and His  
Lordship's Companion Justices of the said Hon'ble Court.

In the matter of

An application under Article 226  
of the Constitution of India for  
writ in the nature of Certiorari and/  
or mandamus and/or any other appropriate  
writ or direction for enforcement  
of fundamental and legal right of  
the petitioner.

- And -

In the matter of

Violation of the petitioner's  
fundamental right granted under  
Article 14 and 15 of the Constitution  
of India.

- And -

Contd....2.

COVD

3. 50.00

Revised  
20/9/95

① Annexure A to D are photostat copies.

In the matter of

Violation of select list prepared and approved by the "espondents, on the basis of merit for appointment for the post of "Post Graduate Tracher" English, in Kendrya Vidyalaya Nagaon.

- And -

In the matter of

Direction to the Respondents to appoint the petitioner as post Graduate Teacher in English in the Kendrya Vidyalaya, Nagaon, in accordance with the select list prepared in 1993.

- And -

In the matter of

Mrs. Rita Dey (Datta),  
resident of Nagaon Town,

w/o Sri. A.K. Dey, Pioneer Medical Hall,  
under Nagaon police Station, in the  
district of Nagaon.

27. 8.

..... Petitioner.

- Vs -

1. Union of India.

2. Commissioner,

Kendriya Vidyalaya, Sangathan,

18 Institutional Area, Saheed  
Jeet Singh Marg,

New-Delhi - 16.

Contd....3.

3. Joint. Commissioner,

### Administration and personal.

Kendriya Vidyalaya Sangathan,

#### 18. Institutional Area Saheed

Jeet Singh Marg, New-Delhi - 16.

4. Assistant Commissioner

Kendriya Vidyalaya, Sangathana,

Sairane Bhaban, Maligaon, Charjiali.

P.S. Maligan, Guwahati III, Assam.

5. Assistant Commissioner,

## Kendriya Vidyalaya Sangathan

### Calcutta Region,

P-161/1, V.I.P. Road.

Ultadanga, 5th Floor, Calcutta-700054.

..... Respondents

The humble petition of the  
petitioner above-named

Most Respectfully Sherwth :-

1. That, the petitioner begs to state that this is an application under Article 226 of the Constitution of India for enforcement of petitioners' rights to consideration for appointment to the post of "Post Graduate Teacher".

2. That, the humble petitioner is a citizen of India and the permanent resident of Nagaon Town. The respondent No. 2 to 5 are the official under the Respondent No.1.

Contd....

3. That, the petitioner begs to state that she is an M.A. in English and B.Ed. She has now been working as a Trained Graduate Teacher in Kendriya Vidyalaya, Gagiroad H.P.C. etc. Nagaon Paper Mill. She is qualified eligible and experienced to be appointed a regular post graduate Teacher in English. She worked on Ad-hoc basis as post Graduate Teacher English in Nagaon Kendri Vidyalaya from 25.10.1988 to 18.8.93, although she was paid the pay scale Trained Graduate Teacher in English for that post, she worked for about 5 years. The petitioner ungrdgingly rendered honest, sincere and unblemish service both in the interest of Kendriya Vidyalaya as ~~ex~~ well as the students at large. Nedless to point out that she deserved reward and return from the authority's side, even wothout having asked for. It is partinent to draw the pointed attention to the fact that the post of post Graduate Teacher, English in Nagaon Kendriya Vidyalaya in still lying vacant.

(Working experience certificate as an Ad-hoc basis enclosed herewith as Annexure - A ).

4. That the petitioner begs to state that the process was instituated by the Kendriya Vidyalaya Sangathan for selection of post Graduate Teachers amongst others in 1993. The petitioner appeared before the selection Board III English. Room No.13 of Kendriya Vidyalaya No.1, Salt Lake, Calcutta on 24.9.1993. This selection was made on the

Contd.....5.

on the basis of All India Advertisement issued during 1992-93. The petitioner appeared from the Gauhati Region being asked for appearing at the said Interview by the authority. The petitioner faired well in the interview and it is understood that she was select for appointment to the post of post Graduate Teacher (PGT). The petitioner came to know from the kendriya vidyalaya Ad-hoc Teacher name was found in the select list of PGT candidates prepared on the basis of the above mentioned interview held at Calutta on 24.9.93.

(Photostat Copy of P.G.T interview circular is enclosed herewith as Annexure - B ).

5. That, the petitioner begs to state that far from appointing the petitioner Kendriya Vidyalaya Sangathan have been appointing candidates out side the select list. Some of the candidates were also appointed who are below to the rank of the petitioner. Select list prepared on the basis of merit wise. It is needless to mentioned herethat the petitioner's position in the select list was not communicate to her. No appointment is still being issued in favour of the petitioner, although she got selection and is entitled to be appointed as P.G.T. and despite persistence of vacancy in Nagaon Kendriya Vidyalaya in Assam. The petitioner time and again draw the attention of the Commissioner, Asstt. Commissioner both of Gauhati and Calcutta Regions. Joint Commissioner (Academic) New-Delhi by letters and representations. But the

29

But the authorities preferred to remain silent and inert rather than doing justice to the petitioner. Such a high handed and pick and choose behaviour of the authorities had adversely affected the genuine interest claim and right of the petitioner. A long time has elapsed since the selection have been made but the authorities have been trying to over-ride the selection in a most unbecoming and arbitrary manner ; and thereby the petitioner was exposed to be called in question in the court of law of the land.

6. That the petitioner begs to state that he had worked in Nagaon Kendriya ~~Vidyalaya~~ Vidyalaya as P.G.T. (Eng.) post as Ad-hoc basis since 25.10.88 to 18.8.93. The said post is still lying vacant for regular Teacher. The petitioner worked in the said post for about 5 years and at the same time the petitioner name was appear in the select list which was prepared on the basis of interview dated 24.9.1993 held at Calcutta.

7. That the petitioner begs to state that the principal of Kandriya Vidyalaya Nagaon made an advertisement in Assam Tribune on 17.7.95 for the post of " Post Graduate Teacher" in English and invited eligible candidates to appear before the selection Board on 24.7.95. Against the said advertisement the petitioner filed an application before the Hon'ble Gauhati High Court , which was registered as Civil Rule No. 2953/95. Hon'ble court "Called for records. Issue Rule calling upon the Respondents to show-cause

as to why a writ should not be issued as prayed " and further made an observation that " Any appointment made in pursuance of the advertisement dated 17.7.95 in Assam Tribune Guwahati for the post of P.G.T. (English) in the interview dated 24.7.95 in Kandriya Vidyalaya Nagaon, Assam shall be subject to the result of the Civil Rule ".

( Photostat copy of the High Court order dated 21.7.95 is enclosed herewith as Annexure - C).

8. That the petitioner begs to state that the said Civil Rule No. 2953/95 is pending before the Hon'ble Gauhati High Court. The said Civil Rule was filed regarding the same subject matter, where the petitioner worked as a Trained ~~xxxxxxxxxxxxxx~~ Graduate Teacher in Kandriya Vidyalaya, Nagaon, for about 5 years.

9. That, the petitioner begs to state that if any advertisement made in All India basis for the post of "Post Graduate Teacher" of Kandriya Vidyalaya, will directly affect the Hon'ble High Court's order dated 21.7.95. Because the post of PGT (English) Kandriya Vidyalaya Nagaon will filled up by the All India level Selection.

10. That the petitioner begs to state that the terms of appointment of the said select list of 1993 has been extended from time to time and many of them have been appointed from the said select list on regular basis. The ~~selectlist~~ petitioner

apprehend that the said 1993 select list will be cancell and fresh advertigement for interview for the post of P.G.T. (English) and etc. will be start very recently. ✓

11. That, the petitioner begs to state that on 24.9.93 the petitioner appear for interview at calcatta for the post of Post Graduate Teacher (Eng.) Her name appear in the select list, but the said select list was not disclosed by the Respondents. The petitioner repeatedly request the authorities by written to communicate the actual position of the select list, but the said select list was not communicate to the petitioner. And at the same time the petitioner was not appoint for the post of P.G.T. (English) at Nagaon Kandriya Vidyalaya, where she had worked for about 5 years as a trained Graduate Teacher as an Ad-hoc basis. After 1993, another advertisement was made in "Employment News" paper on 28 May to 3rd June 1994 vide advertisement No. 1/94-KVS(RP-II), for the post of Trained Graduate Teachers and Post Graduate Teachers. Now very recently selection interview will be held against the said advertisement for the post of Trained Graduate Teacher and Post Graduate Teacher. If the next interview will held than the previous select list will automatically cancell and there will be injustice if the interview will held without consider the previous select list to appoint the petitioner where ~~the~~ her name is appear in the select list.

Contd.....9.

12. That the petitioner begs to submits that there will be irreparable loss and injury to the petitioner if the fresh interview will made, and ultimately she will be deprive for appointment. The petitioner acquire sufficient qualification for the post of PGT (English). The petitioner will deprive, if the fresh interview will held next time for the said post, without considering the previous select list.

13. That the petitioner begs to submits that the petitioner appeared before the interview Board for selection of PGT in English in the year 1993. But no appointment letter has still been issued in the name of the petitioner although she reportedly got selection. Inspite of that the Respondent made an advertisement No. 1/94-KVS(RP-II) for the post of Trained Graduate Teacher in Kendriya Vidyalaya, which is illegal and without jurisdiction and violation of natural justice and to devise to deprive the petitioner of the right to appointment to the post.

14. That the petitioner begs to state that the PGT post of Nagaon Kendriya Vidyalaya where the petitioner worked as an Ad-hoc basis for about 5 years is a vacant post. The petitioner worked in the said post as an Ad-hoc basis from 25.10.88 to 10.8.93 and the petitioner made several representation before the appropriate authorities for gatting regular appointment to that post. Lastly on 19.11.94 the

Contd.....10.

the petitioner sent an advocate's notice to the appropriate authorities asking issuance of appointment letter to the post of Post Graduate Teacher in English in favour of the petitioner. Inspite of that , the Respondents are going to held the interview very ~~xx~~ recently which will prefereably within this month (i.e. September 1995) , as per Adversitement No. 1/94-KVS (RP-II) for the post of "Trained Graduate Teacher " and "Post Graduate Teacher".

15. That the petitioner begs to state that the petitioner already worked for about 5 years in the said post as an Ad-hoc basis and at the same time the petitioner appreared before interview Board at Calcutta for regular appointment to the post and also submits several representations to the appropriate authorities asking them to issue appointment letter. The petitioner apprehend that if the interview as proposed vide Adv. No. 1/94-KVS (RP-II) is held, in pursuant to the advertisement in question, the scope of the petitioner for appointment to the said post pursuant to the select list made in 1993, will be done away with fully.

16. That the petitioner begs to submits that the selection list of 1993 may continue till the appointment of all the selected candidates.

17. That the petitioner begs to submits that he worked for 5 years as an Ad-hoc basis against the permanent post and as such she is legally entitle to get the appointment on a regular basis to the post of P.G.T. in English in the school at Nagaon.

18. That, the petitioner begs to submits that the respondents are acting in a most high handed, malafide, arbitrary and whimsical manner and their intention is backed by an evil motive to take away the right of the petitioner to get appointment and regularisation to that post, although she worked for 5 years in the post of "Post Graduate Teacher" in English in Nagaon Kendriya Vidyalaya. There cannot be any genuine and ~~ou~~ensible reason for issuing the advertigement No.1/94-KVS (RP-II), for which the interview will be held in the month of Septembor 1995 for the post of Trained Graduate Teacher and post Graduate Teacher. The Respondents have thus violated the Article 14,15 and 16 of the Constitution of India - a.

19. That the petitioner begs to state that as per circular No. 2201 /2/78 Estt(D), dated 8.2.82 from the Ministry of Home Affairs Deptt. of personal and Administrative Reform, it was mentioned in the said ~~concerned~~ circular, operative portion - "Thus where selected candidates are awaiting appointments, recruitment should be postponed till all the selected candidates are ~~arranged~~ accommodated". According to this circular the authority cannot make any arrangement for new recruitment, till the selected candidates are ~~absorbe~~ in the next available vacancy. The post of Kandriya Vidyalaya in Nagaon is still vant, where the petitioner worked for about 5 years as an adc basis against the post of "Post Graduate Teacher".

(Copy of the circular enclosed  
herewith as Annexure - D).

20. That the Respondents have violated the principle of natural justice and rule of law and committed manifested error of law.

21. That, the petitioner begs to submits that in view of the circular and as well as the selection of the petitioner in 1993 select list, as duty is cast upon the respondents to appoint the petitioner to the post of PGT(EM).

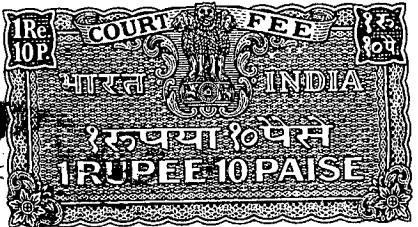
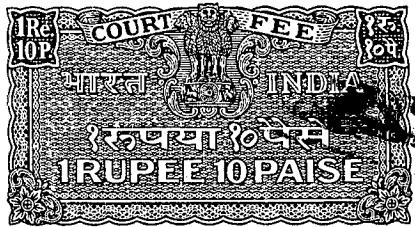
22. That the petitioner has no other adequate alternative remedy and the remedy as prayed for shall be complete and adequate. The petitioner demanded justice which has been denied to him.

23. That the application had been made bonafide and for ends of justice.

The petitioner, therefore, prays that Your Lordships may be pleased to call for selection list's records, issue Rule calling upon the Respondents to show cause as to why the writ of mandamus and/or certiorari and/or any other appropriate writ/order/direction should not be issued quashing the impugned advertisement No.1/94-KVs (RP-II), and directing the respondents to refrain from holding the interview for selection to the post of "Post Graduate Teacher" (English) in Kendriya Vidyalaya and from proceeding with the selection and further directing the respondents No.2, 3, 4 and 5 to issue appointment order in favour of the petitioner on the basis of select list prepared in 1993 by holding the interview at Calcutta and on perused of the records and hearing the parties make the Rule absolute or pass such further order or orders as to your Lordships may seem fit and proper.

-And-

Pending final disposal of the Rule no fresh PGT interview to be held till the appointment of the petitioner Mrs. Rita Dey (Dutta), and proceeding in terms of the advertisement No.1/94-KVS (RP-II) may kindly be stayed. And for this the petitioner shall ever pray.



- 13 -

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- A F F I D A V I T -

I. Mrs Rita Dey (Datta), aged about 42 years, W/O A.K. Dey, resident of Nagaon Town, Mioner Medical Hall, under Nagaon Police Station, in the district of Nagaon, do hereby solemnly affirm as follow :-

1. That I am the petitioner in this case and am acquainted with the facts and circumstances of the case.
2. That the statement made in this affidavit and in paragraphs 1, 2, 5, 6, 8, 9, 10, 11, 14, 15, 20, 22 and 23, are true to the best of my knowledge and those made in paragraphs 3, 4, 7, and 19, are being matter of records and those made in the rest are humble submission before the Hon'ble Court.

I Signed this affidavit on this 20th  
20th day of September 1995 at Guwahati.

Identified by

Hafizul Hassan  
Advocate's Clerk.  
20/9/95

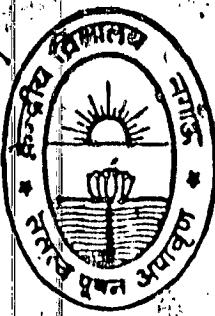
Rita Dey (Datta)  
Deponent

20-9-95

Deponent affirmed before me this 20th day of September 1995  
Deponent is identified by Sri.....  
H.H. Choudhury (A.P.) Person.....  
Known to me I certify that I read over  
and explained the contents to the  
deponent and that the deponent seemed  
willing to understand them.

Commissioner of Court  
Court Fee 20/9/95  
GUWAHATI

42  
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## केन्द्रीय विद्यालय, नगाँव Kendriya Vidyalaya Nagaon

पोस्ट ऑफिस: : नगाँव- ७८२००१, जिला: नगाँव ( असम )  
P. o : Nagaon- 782 001, Dist :- Nagaon ( Assam ).

पत्रांक/Ref No. ....

दिनांक/ Dated 7-7-94.

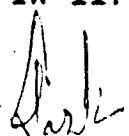
### TO WHOM IT MAY CONCERN

Certify that Mrs.R.Dey was working in this  
Vidyalaya in the following periods:-

1. 25-10-88 to 22-4-89 as Adhoc PGT(Eng)
2. 11-08-89 to 31-03-90 as -do-
3. 09-10-90 to 06-12-90 as Part time PGT(Eng)
4. 10-12-90 to 22-12-90 as Adhoc PGT(Eng)
5. 16-08-91 to 18-08-93 as -do-

She was drawing TGT scale as per terms  
and condition of appointment letter agreed by both  
employee & employer.

I wish her success in life.

  
PRINCIPAL

केन्द्रीय विद्यालय  
KENDRIYA VIDYALAYA  
नगाँव- ७८२००१ असम  
Assam-782001 Nagaland

- 15 -

Annexure-B.

**KENDRIYA VIDYALAYA SANGATHAN**  
**CALCUTTA REGION**

P. 21-51

KVS (CAL)

P-161/1, V. I. P. ROAD,

Ultadanga, 5th Floor,

CALCUTTA-700054

Date : 17.9.93

**Under Certificate of posting**

To.

2. RITA DEY (DATIA)  
PIONEER MEDICAL HALL  
NAGAON-782001 (ASSAM)

P.G.T. (Eng.)

Subject : Interview for the post of PRT / TGT ( )

Misc. Categories of teachers ( )

Sir/Madam,

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

PLACE :

KENDRIYA VIDYALAYA  
SANGATHAN, CALCUTTA  
CALCUTTA-700054

DATE : 24.9.93

TIME : Checking of certificate : 9.00 hrs. 13.00 hrs.

Interview : 10.00 hrs. 14.00 hrs

2. If the Selection Committee is unable to interview you on the date specified above, it may be necessary for you to stay on until the next day without any claim for over-stay.

3. You are also requested to bring the following :—

- i) Original certificates in support of your qualifications and experience.
- ii) In case, you are not an employee of Kendriya Vidyalaya and your application has not been forwarded through proper channel, no objection certificate from your present employer.

iii) If you belong to SC/ST, a certificate (in original) from the competent authority viz. the District Magistrate/Deputy Commissioner/Collector etc. of your District in this regard.

iv) Original Employment Exchange Card, failing you would neither be allowed to appear for interview nor given any TA for attending the interview. This would not however be necessary for residents of the states of Sikkim and Arunachal Pradesh where there are no Employment Exchange.

4. For attending the interview, if the journey is performed by train, return second class through ticket rail fair by the shortest route will be paid to you from the Railway station nearest the address given in your application or the station from which you commence 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 railway station and thereafter second class rail fare by shortest route. In case the journey or a portion thereof is performed by bus, return second class rail fare as above, or return bus fare, whichever is less, will be paid, cheaper return tickets should be purchased wherever these are available. No other 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. The addresses given in the applications form only will normally be accepted for the purpose, unless a change has already been communicated also received well in time.

5. In respect of candidates appearing for interview from abroad they can claim T.A. only from the nearest place of entry to India to the place of interview and back. They are not entitled to T.A. from the place of residence/work abroad to the place of interview in India. This is equally applicable in respect of staff working in Kendriya Vidyalayas abroad.

6. The travel expenses admissible will be paid by means of a crossed cheque or by cash if possible. No T.A. will, however, be paid if the approved claim is less than Rs 20/- If the Railway/Bus/Steamer ticket 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. If your claim is for Rs. 20/- or more, please bring a revenue stamp with you to affix at the time of receiving the payment.

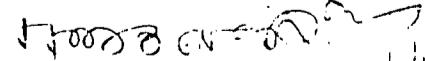
7. Kendriya Vidyalaya Sangathan employees attending the interview will have to apply for leave of the kind due for the purpose. The absence for attending the interview shall not be treated as on 'duty'.

8. If any of the particulars stated by you in your application is found incomplete or wrong on verification or if you are found to have wilfully suppressed 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.

9. It is your responsibility to make proper arrangements for the receipt of redirection of communications addressed to you and save in exceptional circumstances, no plea regarding non-receipt or late receipt of this communication for whatever reasons shall be accepted for postponing the date of the interview or for any other purposes.

10. The receipt of this communication may please be acknowledged.

Yours faithfully,



Ass'tt. Commissioner



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाप और फोलिओ की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाप और फोलिओ देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
24.7.95	25.7.95	25.7.95	25.7.95	25.7.95

IN THE GAUHATI HIGH COURT

Annexure - C

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

CIVIL RULE NO. 2953/95.

Mrs. Rita Dey (Dutta) ..... Petitioner.

Versus

Union of India and Ors. ..... Respondents.

1993

PRESENT

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

For the petitioner :: Mr. S.R. Bhattacharjee,  
Mr. H.A. Sarkar,  
Mr. K.N. Das,  
Ms. S. Bhuyan, Advs.

For the respondents ::

DATE

ORDER

21.7.95.

Heard Mr. H.A. Sarkar, learned Advocate for the petitioner.

Call for the records.

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

Cont...2.



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाप और फोलियो की आवेदित रोपण सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाप और फोलियो देने की तारीख Date of delivery of the requisite stamp and folios.	सारील, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
			(18)	

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Shri K.N. Choudhury, learned C.G.S.C. accepts notice on behalf of all the respondents.

Any appointments made in pursuance of the advertisement dated 17th July/95 in the Assam Tribune, Guwahati for the post of PGT (English) in the interview dated 24th July, 1995, ~~छात्राक्षम~~ in Kendriya Vidyalaya Nagaon, Assam, shall be subject to the result of this Civil Rule.

Sd/- J.N. Sarma,

Judge.

Typed by.....	25/7/95
Read by.....	25/7/95
Prepared by.....	25/7/95

**Certified to be true Copy**  
 Gauriakalati 25/7/95  
 Superintendent (Copyin)  
 GAURATI HIGH COURT  
 Authorized U/S 78 Act. 3 of 1872

25/7/95

Copy of OM No. 22011/2/79-Eatt(D) dated the 8th Feb. 1982 from the Ministry of Home Affairs, Deptt. of Personnel and Administrative Reforms.

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**Subject:-** Validity period of list of selected candidates prepared on the basis of direct recruitment/Departmental competitive examinations.

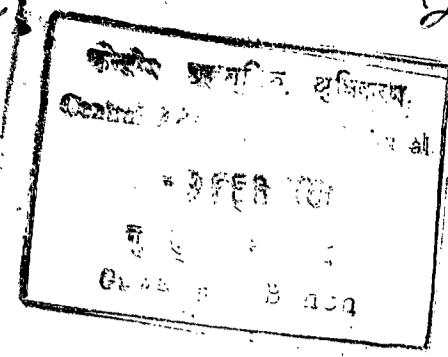
The undersigned is directed to say that references are being received from time to time from Ministries/Departments enquiring as to what should be prepared on the basis of direct recruitment or Departmental Competitive Examination.

2. Normally, in the case of direct recruitment a list of selected candidates is prepared to the extent of the number of vacancies (Other persons found suitable being put on a reserve list, in case some of the persons on the list of selected candidates do not become available for appointment). Similarly in the case of Departmental Competitive Examinations, the list of selected candidates has to be based on the number of vacancies on the date of declaration of results, as the examination is competitive and selection is based on merit. A problem may arise when there is a fluctuation in the vacancies after the list of selected candidates is announced.

3. The matter has been carefully considered. Normally recruitment whether from the open market or through a Departmental Competitive Examination should take place only when there are no candidates available from an earlier list of selected candidates. However, there is a likelihood of vacancies arising in future, in case, names of selected candidates are already available, there should either be no further recruitment till the available selected candidates are appointed or the declared vacancies for the next examination should take into account the number of persons already on the list of selected candidates awaiting appointment. Thus, there would be no limit on the period of validity of the list of selected candidates prepared to the extent of declared vacancies, either by the method of direct recruitment or through a Departmental Competitive Examination.

4. Once a person is declared successful according to the merit list of selected candidates, which is based on the declared number of vacancies, the appointing authority has the responsibility to appoint him even if the number of vacancies undergo a change, after his name has been included in the list of selected candidates. Thus, where selected candidates are awaiting appointments, recruitment should either be postponed till all the selected candidates are accommodated or alternatively take for the next recruitment reduced by the number of candidates already awaiting appointment and the candidates awaiting appointment should be given appointments first, before starting appointment from a fresh list from a subsequent recruitment or examination.

5. Ministry of Finance etc., are requested to bring the above instructions to the notice of all the appointing authorities under them for information and guidance.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH  
AT GUWAHATI

ORIGINAL APPLICATION No. 364/2000

Rita Dey (Dutta)

... Applicant

-Versus-

Union of India & ors. ... Respondents

The Respondents Nos. 2, 3, 4 and 5 above named  
beg to file their Written Statements as follows:-

1. That all the averments and submissions made in the original application (hereinafter referred to 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 record of the case.
2. That with regard to statements made in paragraph 1 and 2 of the application the answering Respondents have no comment.
3. That with regard to the statements made in paragraph 3 of the application the answering Respondents beg to state that acquiring of qualifications and working on adhoc basis in the Kendriya Vidyalaya (hereinafter referred to in short as KV) and availability of a vacant post in the

Vidalaya does not give right or claim to any candidate for being appointed to the post on regular basis. The applicant was working both as a Post Graduate Teacher (PGT) and subsequently as a trained graduate Teacher (TGT) ~~only~~ on adhoc basis and at the time of filing of the petition she was working as a TGT.

4. That with regard to the statements made in paragraph 4 of the application the answering Respondents beg to state that it was a mere illusion on the part of the applicant that she was selected as PGT( English). The selection committee did not recommend her name for inclusion in the select panel on the basis of the interview held in 1993. Merely attending the interview does not entitle any candidate to be appointed to the post. Had the name of the applicant been in Select Panel she would have been appointed to the post.

5. That with regard to the statements made in paragraph 5 of the application the answering respondents beg to state that since the applicant was not selected in the said interview her name did not appear in the select panel. As such there was no question of communicating anything to the applicant. The applicants contention that she was selected for the post but the offer was not issued was wrong. The Respondents did not take any arbitrary decision nor they appointed any candidate whose name did not figure in the select panel.

6. That with regard to statements made in paragraph 6 of the application the answering respondents beg to state that the applicants claim about figuring of her name in the select panel on the basis of the interview held in Calcutta is denied. Had she been selected she would have been issued appointment letter.

7. That with regard to the statements made in paragraph 7 and 8 of the application the answering respondents have no comments as they are matters of record. However the Principals action was in accordance with the rules/policies of the sangathan.

8. That with regard to statements made in paragraph 9 of the application the answering respondents beg to state that the post of PGT( Eng.) in Kendriya Vidyalaya, Nagaoon was advertised locally by the Principal of the Vidyalaya for being filled on short term basis i.e. on contract basis and not on regular basis. The selection to the post of PGT's on regular basis is made by the M.S on All India basis. In view of the directions given by the Hon'ble High Court the said post of PGT ( Eng) in K.V., Nagaoon has not been filled on regular basis.

9. That with regard to the statements made in paragraph 10 of the application the answering respondents beg to state that the candidates selected in 1993 have already been appointed. After the expiry of the panel, the candidates selected in 1995 and 1997 on the basis of

advertisements published in 1994 and 1996 have also been appointed to the post. For valid reasons, candidates whose name did not figure in the select panel cannot be appointed to the post. Further it is also submitted that the process of making recruitment for the post of PGT on the basis of advertisement published in February, 1998 is in process and for the first time written test(s) was conducted on 10th and 11th July, 1999.

10. That with regard to the statements made in paragraph 11 of the application the answering respondents beg to state that the averments made by the applicant that her name figured in the select panel is wrong. There is no provision in the rules either to give access to the panel or to communicate the panel details to the candidates called for interview. Working on adhoc basis, irrespective of the duration does not entitle any candidate to be appointed on regular basis. The selection process on the basis of interview held in 1993 has already been completed in 1994. Though she appeared in the interview she was not selected neither her name was recommended for appointment by the selection committee. In view of this the applicant is not eligible for appointment or regularisation as claimed by her.

11. That with regard to the statements made in paragraph 12 of the application the answering respondents beg to state that merely acquiring of qualification and attending the interview does not give any right or claim

for appointment to the post. Appearing in the interview does not mean that the candidates name necessarily figures in the Select Panel. As a matter of fact since the applicant was not selected there is no question of considering or not considering the previous select list.

12. That with regard to the statements made in paragraph 13 of the application the answering respondents beg to state that since the name of the applicant did not figure in the select panel. She cannot be issued offer of appointment. The applicant has not been deprived of the ~~right~~ ~~right~~ to be appointed to the post. As such the action of the Respondents in advertising the post is not against law, without jurisdiction or in violation of natural justice.

13. That with regard to the statements made in paragraph 14 and 15 of the application the answering respondents beg to state that since the applicant was not selected the question of issue of offer of appointment to her does not arise. Publication of advertisement for existing vacancies is a regular process and is related to the organisations concern in matters related to the academic needs of Kendriya Vidyalaya students all over the country.

14. That with regard to the statements made in paragraph 16 of the application the answering respondents beg to state that the contention of the applicant is unfounded and not based on facts.

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15. That with regard to the statements made in paragraph 17 of the application the answering respondents beg to state that the claim of the applicant that she is legally entitled for the post of PGT (Eng.) is not correct. There is no provision in the rules/regulations of the ~~of~~ the Sangathan for regular appointment on the basis of previous adhoc basis appointment to the post. Continuous appointment for five years is immaterial for the purpose. As such she is not legally eligible for regular appointment to the post of PGT (Eng) as claimed by her.

16. That with regard to the statements made in paragraph 18 and 19 of the application the answering respondents beg to state that the action of the respondents is neither malafide, arbitrary, high handed or reflecting whimsical manner, nor is it violative of Article 14, 15, 16 or of the Constitution of India. It is submitted that the selection Committee did not recommend the name of the applicant for appointment. As such her contention against the interviews for the posts held in September, 1995 is not justicied.

The panel of the selected candidates got approved in accordance with the guidelines laid down by the Govt and norms of the Sangathan. The ~~action~~ of the Respondents are in accordance with law.

17. That with regard to the statements made in

paragraph 20 and 21 of the application the answering respondents beg to state that the averments made by the applicant are not correct.

18. That with regard to the statements made in paragraph 22 and 23 of the application the answering respondents beg to state that there is no justified cause in the application. As such the application filed by the applicant is liable to be dismissed and the applicant is not eligible for any relief as claimed by her in the application. The respondents further pray before the Hon'ble Court to vacate the interim order dated 20.9.95.

19. That this affidavit is made bonafide and for the ends of justice.

20. That the respondents beg to submit that the present application was not filed bonafide before this Hon'ble Tribunal and in the facts and circumstances stated in the foregoing paragraphs. It is therefore respectfully prayed that the hon'ble Tribunal may be pleased to dismiss the application with cost.

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VERIFICATION

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 3, 5, 6, 7, 11, 12, 13, 15 are true to my personal knowledge, those made in paragraphs 8, 9, 10 are based on records and nothing material has been concealed therefrom.

place:- Guwahati

Date 9.2.2001

Arulanain  
DEPONENT 912