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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES,1990)

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O.A/T.A No. 423/2000

R.A/C.P No.

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No. 55/2001
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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH:GUWAHATI.5

ORIGINAL APPLICATION NO. 423/2000

Sri T.K. Chakraborty .....Applicant.

versus

Union of India & Ors ..... Respondents.

For the applicant(s) Mr. B.C. Das.
" S. Dutta
" S.K. Ghosh

For the Respondents. Dr. B.P. Todi
Adv. of KVS

NOTES OF THE REGISTRY	DATE	ORDER
This Application but not in Time Complete. Petition is filed vide M.P. No ... C.F. for ... filed vide IPO/BD No 78100200 Dated 5/12/00 Dy. Registrar 6/12/00	7.12.00	Present : Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman. Heard Mr. B.C.Das, learned counsel for the applicant and Dr. B.P.Todi, learned counsel for the respondents. The application is admitted. Call for the records. Issue notice to show casue as to why appropriate interim order shall not be passed, returnable by four weeks. List the matter for order on 8.1.2001. In the meantime the operation of the impugned order of transfer bearing F.No. 11-6/99-KVS(Estt-I) dated 13.11.2000 transferring the applicant from Silchar to Delhi shall remain suspended. Pendency of this application shall not be a bar for the respondents to consider and dispose of the representation submitted by the applicant. Vice-Chairman

Requisite Envelops are filed.

6/12/00

Sec. Officer

12.12.2000

Copy of the order has been sent to the D/Sec for issuing the same to L/Advocates for the parties

Today I received the file. Notice prepared and sent to the D/section for issuing the respondent No 1 to 5 by Regd AD along with applications orders dtd 7/12/00 vide DI No 98 to 102 dtd 9.1.2001.

9/01/2001

nkm

7/12/2000

(2)

O.A.No.423/2000

10.1.2001 Heard Mr S. Dutta, learned counsel for the applicant and Ms B. Dutta Das on behalf of Dr B.P. Todi, learned counsel for the KVS. The respondents have not filed the written statement till now. Fou week further time is allowed to the respondents for filing of written statement. List it on 9.2.01 for orders.

The interim order dated 7.12.2000 shall continue.

Vice-Chairman

nkm

No written statement has been filed

27.2.01

28.2.2001 Four weeks time allowed to the respondents to file written statement. List it on 28.3.01 for orders. Interim order shall continue.

Vice-Chairman

nkm

2/3/01

No written statement has been filed.

27.3.01

28.3.2001 Three weeks time allowed to the respondents to file their return. The interim order passed on 7.12.2000 shall continue. Mr S. Sarma, learned counsel for the respondents is requested to obtain the necessary instructions in the matter as to the vacancy position at Calcutta and any possibility of posting the applicant in the said post. List it for orders on 25.4.01.

Vice-Chairman

nkm

29/3/01

2.4.2001

W/S has been filed by the Respondent No. 2, 3, 4 and 5.

Notes of the Registry	Date	Order of the Tribunal

Notes of the Registry	Date	Order of the Tribunal
	25.4.2001	Written statement has been filed. Mr S. Dutta, learned counsel for the applicant, however, submitted that no copy has, so far, been furnished to him. Mr S. Sarma, learned counsel for the respondents, is to furnish a copy of the written statement within fortyeight hours. The applicant may file rejoinder, if any, within three weeks from today. Mr S. Sarma, who was asked to obtain necessary instructions as to the vacancy position at Calcutta and possibility of posting the applicant in the said post, however, informed the Tribunal about its difficulty in posting the applicant at Calcutta. All these matters, however, shall be adjudicated upon in due course. In the meantime, the vacant post of Assistant at Calcutta under the respondents shall be kept vacant until further orders from this Tribunal. Let the matter be listed for hearing on 1.6.01. Vice-Chairman
11/5/2001 Order dated 25.4.2001 is prepared and sent to D/Section for issuing to the counsel on both side. NS 11/5/2001		
1-6-2001 Rejoinder has been filed by the applicant [illegible]	nkm 1.6.2001	The case is adjourned to 6-6-2001 for hearing in presence of learned counsel for the KVS. By order bb
20.6.2001 Copy of the Judgment has been sent to the D/Sec. for issuing the same to the applicant as well as to the L/Adv for the Respdt NS	5.6.01	Heard counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets. The application is allowed in terms of the order. No order as to costs. Vice-Chairman pg

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./~~T.A.~~ No. 423 of 2000.

DATE OF DECISION 5-6-2001.

Sri Tapan Kumar Chakraborty

APPLICANT(S)

Sri S.Sutta.

ADVOCATE FOR THE APPLICANT(S)

- VERSUS -

Union of India & Ors.

RESPONDENT(S)

S. Sarma.

ADVOCATE FOR THE RESPONDENTS.

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

THE HON'BLE

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 ?
5. Judgment delivered by Hon'ble Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 423 of 2000.

Date of Order : This the 5th Day of June, 2001.

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

Sri Tapan Kumar Chakraborty
Son of late Motilal Chakraborty,
Resident of Kanakpur Part-II,
Silchar-788005, District Cachar,
Assam. . . . Applicant

By Advocate Sri S.Dutta.

- Versus -

Union of India & Ors. . . . Respondents.

By Advocate Sri S.Sarma.

O R D E R

CHOWDHURY J.(V.C)

By an order dated 13.11.2000 3 Assistants of the Kendriya Vidyalaya Sangathan including the applicant were transferred to different places. The applicant who was ~~is presently~~ serving at Silchar ~~is~~ was transferred to Delhi. The aforementioned order is assailed in this proceeding as arbitrary, discriminatory and contrary to the professed norms of the respondents.

2. The applicant was initially appointed as a Lower Division Clerk under the Calcutta Regional Office of the Kendriya Vidyalaya Sangathan. Thereafter on his selection through departmental examination he was appointed to the post of UDC at Calcutta Regional Office. By order dated 15.9.95 the applicant was promoted to the post of Assistant and transferred to Silchar Regional office as such. He joined at Silchar on 31.10.95. In this application it was inter alia contended that service of the employees of the

contd..2

Sangathan i.e. teaching and non teaching are governed by the Education Code and Accounts Code of the Sangathan apart from various guidelines/circulars. The Sangathan has been issuing various transfer guidelines from time to time every year on adopting policy regarding transfer and posting of the employees. As per the guidelines issued for the year 1995-96, a person completing one year's stay at the same station was eligible to apply for transfer. Similar conditions were also incorporated in the transfer policy guidelines for the year 1996-97 and 1997-98. In the transfer guidelines for the year 1988-99 it was provided that a person applying for transfer should have completed minimum one year's service at his present place of posting. It was also provided that a person having completed 3 years tenure in North Eastern Region would be entitled to transfer to a place of his choice. The applicant on completion of one year at Silchar sought for transfer to Calcutta Regional office. According to the applicant though posts were available his case was not considered without any reason. The applicant however continued to press the matter and submitted representation from time to time. The applicant similarly submitted representation before the authority for his transfer to Calcutta on completion of 3 years service on 30.10.1998. The applicant also submitted representation in the year 1999. Para 10 of the Transfer Guidelines introduced by the Sangathan on 25.1.2000 is reproduced below:

> "(1) Wheretransfer is sought by a teacher under para 8 of the guidelines after continuous stay of 3 years in NE & hard stations and 5 years elsewhere at places which were not of his choice, or by teachers falling the Provison to para 7 of these Guidelines, or very hard cases involving human compassion, the vacancies shall be created to accommodate him by transferring teachers with longest period of stay

contd...3

at that station provided they have served for not less than five years at that station. Provided that Principals who have been retained under para 4 to promote excellence, would not be displaced under this clause.

2) While transferring out such teachers, efforts will be made to accommodate lady teachers at nearby places/stations, to the extent possible and administratively desirable.

3) In case where a vacancy cannot be created at a station of choice of a teacher under this clause because no teacher at that station has the required length of stay., the exercise will be repeated for the station which is the next choice of the teacher seeking transfer.

Note : The transfers proposed under this rule shall be placed before a Committee consisting of Additional Secretary (Education) Chairman, Commissioner, Member and Joint Commissioner (Admn) KVS as the Member Secretary."

According to applicant though he had asked for such transfer after completion of his tenure his case was not considered and arbitrarily he was transferred out to Delhi which was not his choice. Hence this application assailing the aforesaid order as arbitrary and discriminatory.

3. The respondents contested the case and submitted its written statement. In the written statement the respondents have stated that his case for transfer to KVS Regional office Calcutta could not be considered because of the disciplinary proceeding initiated against the applicant as far back as on 17.9.1997. The respondents also stated that his representation for modification of the transfer order was considered and same was turned down in view of the para 18(d) of Transfer Guidelines.

4. I have heard Mr S.Dutta, learned counsel appearing for the applicant and Mr S.Sarma, learned counsel for the respondents respectively at length. Admittedly there is no dispute as to entitlement of a choice posting after completion of tenure in North Eastern Region. The policy

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guidelines as well as the education and accounts code also speaks of the policy of giving choice posting after completion of the tenure at North East. There is also no dispute that the applicant completed his tenure at North East and there is also no dispute that there is a post at Calcutta Regional office. Mr S.Sarma further referring to the written statement contended that in view of the pendency of the departmental proceeding against the applicant his case could not be considered for posting at Regional office, Calcutta. The disciplinary proceeding initiated as far back in 1997. The applicant submitted his written statement. The records pertaining to disciplinary proceeding were requisitioned by the KVS Headquarter. The applicant in fact assailed the proceeding before the High Court in Civil Rule No. 931 of 1998. That Civil Rule is yet to be disposed of. In the aforementioned Civil Rule the High Court passed the following interim order :

> "Heard learned counsel for the parties. Petitioner has approached this court for an order quashing departmental proceeding which has been initiated against him.
>
> It appears that the petitioner was posted as U.D. Asstt. he made certain note for the benefit of perusal by his superiors. In regard to advertising certain vacancies, the said note was to be finally approved by the respondent no.6, the Assistant Commissioner. It was after his approval that the advertisement was issued and appointments were made. As per the charge, the petitioner is said to be guilty enlarging the age limit for recruitment to the post and have also enhanceing the number of vacancies. If, what is said against the petitioner is correct then all the authorities including the respondents no.4 and 6 who were the relevant officers to finally approved should also have been roped in discharge. It also however appears that only the petitioner and another Class III Officer, namely, the Office Superintendent have been made answerable for illegality resulting in the illegal appointment. These alone would

contd...5

> not reveal the actual role played by the officers in making illegal appointments. The respondents are therefore under obligation to hold fresh, enquiry and intiate disciplinary proceeding against all the persons concerned including the officers who were responsible for talking the final decision according terms of the advertisement. Till it is done, the peoceeding intiated against the petitioner shall remain stayed."

The aforementioned order is still continuing. It has been stated that no action so far were taken by the respondents for initiating any proceeding against those respondents. Some of the officers involved in the case have already been retired and respondent No.6, the then Assistant Commissioner was promoted to the post of Deputy Commissioner and thereafter to Joint Commissioner and at present he is holding the post of Joint Commissioner in the Headquarter. The nature of the proceeding is reflected in the aforementioned order of the High Court. The materials on record did not indicate that the records of the proceeding are in Calcutta Regional office. In such a situation the plea that was taken by the respondents for not considering the case of the applicant for a choice posting of the applicant at Calcutta cannot be a valid reason. Para 18(d) of the transfer guideline also cannot stand on the way of the respondents to consider the case of the applicant for a choice posting. In the circumstances the impugned order dated 29.1.2001 rejecting the representation of the applicant cannot be sustained as lawful. For all the reasons stated above, the respondents are accordingly directed to re-consider the case of the applicant for his posting at Calcutta on the basis of his representation so far filed by the applicant in the year 1999-2000 and as per the policy guidelines without being influenced by the pendency of the departmental

contd.6

proceeding mentioned in the written statement.

The application is allowed to the extent indicated.

The interim order dated 7.12.2000 and 25.4.2001 passed by this Tribunal shall remain operative till the completion of the above exercise for posting him against the vacant post at Calcutta.

There shall, however, be no order as to costs.

(D.N.CHOWDHURY)
VICE CHAIRMAN

pg

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

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

Title of the Case : O. A. No. 423/2000

Sri Tapan Kr. Chakraborty : Applicant

-versus-

Union of India & Ors. : Respondents

I N D E X

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Date : 6.12.2000

Filed by
Surajit Dutta
Advocate

Contd.
6 DEC 2000
गुवाहाटी न्यायपीठ
Guwahati Bench

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File & by the applicant through Sri Sangh Deb Advocate 6.12.2000

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

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

O.A. No. 423/2000

BETWEEN

Sri Tapan Kumar Chakraborty
Son of Late Motilal Chakraborty
Resident of Kanakpur Part - II
Silchar-788005, District- Cachar
Assam

.... Applicant

-AND-

1. Union of India
Through the Secretary to the
Government of India,
Department of Education,
New Delhi-110001.

2. The Commissioner,
Kendriya Vidyalaya Sangathan
18, Institutional Area
Sahid Jeet Singh Marg
New Delhi-110016.

3. The Joint Commissioner (Admn.)
Kendriya Vidyalaya Sangathan
18, Institutional Area
Sahid Jeet Singh Marg
New Delhi-110016

Contd.....

Tapan Kr. Chakraborty

4. The Chairman
Kendriya Vidyalaya Sangathan
18 Institutional Area
Sahid Jeet Singh Marg,
New Delhi-110016.

5. The Assistant Commissioner
Kendriya Vidyalaya Sangathan
Silchar Regional Office,
Hospital Road,
Silchar-788005
Assam

....Respondents

DETAILS OF APPLICATION

1. Particulars of Order(s) against which this application is made:

This application is made against the order dated 13.11.2000 issued by the respondent No. 2 transferring the applicant from Silchar to Delhi in total violation of the existing transfer and posting guidelines of the respondents without considering his case for posting at his place of choice (i.e. at Calcutta) upon completion of tenure of 3 years in North Eastern Region.

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

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Tapan Kr. Chakraborty.

is within the limitation 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 entitled to the rights and privileges guaranteed under the Constitution of India.

4.2 That the applicant initially joined in the Kendriya Vidyalaya Sangathan (for short Sangathan) as a Lower Division Clerk and was posted under Calcutta Regional Office. Thereafter, he was appointed as Upper Division Clerk on his selection through Departmental Examination and was posted at Calcutta Regional Office. It was in pursuance of an order issued under Memorandum No. F.2-17/95-KVS(Estt.I) dated 15.9.95 that the applicant was promoted to the post of Assistant and was transferred to Silchar Regional Office. Accordingly, the applicant joined at Silchar on 31.10.1995 in compliance of the said order and has been working thereat since then.

4.3 That the applicant states that the services of the employees of the Sangathan (teaching and non teaching are governed by the Education Code and Accounts Code of the Sangathan apart from various guidelines/circulars. The Sangathan has been issuing various transfer guidelines from time to time every year on adopting policy regarding transfer and posting of its employees. Although the transfer guidelines are sometimes issued in respect of the teaching staff but they are also made applicable to the non-teaching staff and therefore there is no

Contd...

Tapan Kr. Chakraborty

separate guideline regulating transfer and posting of the non-teaching staff.

4.4 That the applicant states that as per the transfer and posting guidelines of the year 1995-96, a person completing one year's stay at the same station was eligible to apply for transfer. Similar condition was also incorporated in the transfer-posting guidelines of the year 1996-97 and 1997-98. In the transfer and posting fuidelines of the year 1988-99 it was stipulated that the person applying for transfer should have completed minimum one year's service at his present place of posting. It was however, provided in all the aforesaid guidelines that a person having completed three years tenure in North Eastern Region would be entitled to transfer to a place of his choice.

The applicant does not annex herewith the copies of the above circulars for the sake of brevity. He, however, craves leave of the Hon'ble Tribunal to refer to rely upon and produce the same at the time of hearing of this application if need be.

4.5 That in the above background, the applicant, on completion of one year's stay at Silchar w.e.f. 30.10.1995, applied to the respondents seeking his transfer to Caclutta Regional Office. It may be stated that at the relevant time there were vacancies at Calcutta Regional Office, ~~xxxx~~ and the applicant could be accommodated without any impediment. But surprisingly his prayer for transfer was not considered without any cogent reason. However, the applicant continued to press

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Tapan Kr. Chakraborty

on the matter through representations. It may be pertinent to mention here that earlier there was no tenure fixed for the Group C employees posted to serve in N.E. Region. Moreover, the employees upto the level of Group C were usually appointed in the same place upon their promotion/selection. In this view of the matter, there was no impediment on the part of the respondents to transfer and post the a plicant (who is basically recruited at Calcutta) to Calcutta Regional Office. But, nothing favourable was done and his representations remained unattended without any reason.

4.6 That as stated above, all the transfer guidelines issued by the respondents contained a provision permitting transfer of the employees to a place of his choice on completion of tenure of 3 years service in N.E. Region. In this view of the matter, the applicant finding no other alternative, represented to the respondents vide his representations dtd. 8.9.98, 14.12.98 and 23.12.98 seeking his transfer to Calcutta Regional Office on completion of 3 years tenure on 30.10.98. But the prayer of the applicant fell into deaf ears of the respondents and consequently nothing was done.

4.7 That the applicants states that the Accounts Code of the Sangathan specifically provides under its Appendix 24 that on completion of tenure of 3 years of service, the persons would be posted to the place of their choice. It is stated that the provisions of the Accounts Code are equally applicable to all the employees of the Sangathan and therefore the applicant is entitled to the benefits given under the code. Situated thus, the applicant again

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Tapan Kr. Chakraborty.

represented to the respondents to assert his right to get transfer to his place of choice in terms of the provision as provided under the Accounts Code as well as the transfer guidelines of the respondents for the year 1999-2000. But to the utter shock and surprise of the applicant, his representations dtd. 6.7.99 and 30.7.99, amongst others, remained unattended and consequently his prayer for transfer to Calcutta Regional Office was not considered favourably in spite of the fact that there were vacancies available.

4.8 That on 25.1.2000, the respondent Sangathan has issued a fresh transfer guidelines in respect of Kendriya Vidyalaya Employees for the year 2000-2001. The instant guidelines has been issued in supersession of the earlier guidelines/orders on the subject. The said guideline contains various provisions regulating transfer and posting of the employees of the Sangathan. The para 10 of the said guidelines proved that where a person seeks his transfer to a place of his choice under the provisions of the instant guidelines on having completed 3 year's continuous stay at N.E.Region, his case should be considered and if there is no vacancy at such place, vacancies shall be created by moving out the person having longest period of say.

A copy of the aforementioned transfer guidelines is annexed herewith as Annexure-1.

4.9 That immediately after coming of the abovementioned guidelines, the applicant submitted representations to the respondent authorities seeking transfer to Calcutta in the light of the provisions contained in the transfer guidelines

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Tapan Kr. Chakraborty.

for the year 2000-2001. But, like the earlier occasions, this time too, no favourable action came his way. In such a situation, the applicant submitted a representation on 10.7.2000 to the Department of Personnel & Training under the Ministry of Personnel, Public Grievances and Pensions, Govt. of India, who in turn took up the matter vide letter dated 26.7.2000 with the respondent no. requesting the letter to take appropriate action in the matter. But even thereafter nothing was done. In such a circumstance, the applicant badly filed a representation on 26.9.2000 to the respondent no. seeking his intervention in the matter and praying for favourable consideration of his dase in the light of the existing guidelines/circulars etc. governing transfer and posting of the employees of the Sangathan.

Copies of the representations dtd. 17.4.2000, 28.6.2000, letter dated 26.7.2000 and representation dated 26.9.2000 are annexed herewith as Annexures-2,3,4 and 5 respectively.

4.10 That the applicant states that suddenly thereafter the Senior Administrative Officer has issued an order vide No. F.No.11-6/99-KVS(Estt.I) dated 13.11.2000 thereby transferred the applicant amongst others from Silchar to Delhi. The applicant received the same order on 15.11.2000 and immediately after receipt of the same represented to the Commissioner, Kendriya Vidyalaya Sangathan as well as Vice-Chairman, KVS vide his representations dated 17.11.2000 and 21.11.2000 respectively. While representing against the impugned order of transfer, specially made a prayer seeking his transfer to Calcutta Regional Office in terms of the guidelines of the transfer

Tapan Kr. Chakraborty.

and posting policy of the respondents for the year 2000-2001. The said representations have not yet been disposed of by the respondents till filing of this application and consequently the applicant has not been relieved from Silchar Regional Office in pursuance of the impugned order dated 13.11.2000.

Copies of the order dated 13.11.2000 and representations dated 17.11.200 and 21.11.2000 are annexed herewith as Annexures-6,7 and 8 respectively.

4.11 That the applicant states that since his appointment/posting to N.E. Region in terms of Memorandum dated 15.9.1995, he has been serving in the Region with all honesty and sincerity and devotion and to the satisfaction of the authorities concerned. It is reiterated that since his posting to N.E. Region he has been requesting for his transfer to Calcutta in terms of the transfer and posting guidelines of the respondents but the respondents did not pay any heed to the prayer of the applicant in spite of the fact that there were clear vacancies since September 1995 to 1997 at Calcutta. It may be pertinent to mention here that although there were vacancies at Calcutta from 1998 to February,2000, the said vacancies were kept unfilled denying the applicant his due claim even after completion of his tenure in N.E. Region on 30.10.1998 without any justifiable reason. It is further stated that since February 2000 till date there is another vacancy at Calcutta where the applicant can suitably be accommodated but the respondents has acted

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Tapan Kr. Chakraborty.

in utter disregard to the prayer of the applicant by transferring one Sri P.S.Sharma, Assistant from Lucknow to Calcutta and thereby has filled up one of such vacan--cies. The applicant states that the said Sri P.S.Sharma has not yet joined at Calcutta and as such the vacancy has not yet joined at Calcutta and as such the vacancy is still available against which his case can be considered. It may not be out of place to mention here that the Kendriya Vidyalaya Sangathan vide their instruction No. F-20-65/77-KVS(SS) dated 6.10.97 as intimated all the Regional Offices to the effect that in case any staff/ employee do not join to his respective post and the post remain vacant for a continuous period of 90 days then the person would not have any claim to that post as a matter of right and in that event the post may suitably filled up by appropriate candidate.

The applicant is not having a legitable copy of the said order and as such is unable to annex the same with this application.Therefore the Hon'ble Tribunal be pleased to direct the respondents to produce the said copy of the order before the Tribunal at the time hearing.

4.12. That the applicant begs to state that in view of exercise of his choice in accordance with the existing guidelines of the Sangathan after serving in the N.E.Region for more than the tenure period,he is entitled as right to be considered and transferred to his place of choice at Calcutta in terms of the transfer and posting guidlines. The Respondents are required to serupulously observe the guidelines while order--ing transfer and posting. But the Respondentsappear to have given a complete go-bye to the guidelines and arbitrarily trans--ferred and posted the applicant to Delhi. Not only that the post at Calcutta is also sought to be filled up by another person. The entire action of the Respondents is in information of the guidelines,arbitrary and malafide.The impugned order therefore is liable to be struck down.

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Tapan Kr. Chakraborty

is therefore liable to be set aside and quashed.

4.13 That what have been narrated above, it is apparent that the respondents have meted out differential treatment to the applicant without any justifiable reason or objective criteria, in view of the fact that the applicant has been continuously making his request seeking his transfer to Calcutta Region in terms of the existing guidelines of the Sangathan. There was no earthly reason on the part of the respondents to reject the claim of the applicant. The respondents are therefore duty bound to justify the reason before the Hon'ble Tribunal in this application.

4.14 That the applicant begs to state that since 30.10.95 he has been working at Regional Office, Silchar with full satisfaction to his officers at all levels. During last five years his ACRs were reportedly very good for three years and excellent for two years. He has been applying for his transfer from 1996 in every year for posting to Regional Office, Calcutta and considering the genuineness of his case and the sufferings undergone by him all the Assistant Commissioners recommended his case for transfer to Regional Office, Calcutta. As per the transfer and posting guidelines from 1989-90 and 90-99, on completion of period for one year many employees of Group C and D category were transferred and posted to their choice place. But the transfer of the applicant to Regional Office, Calcutta against clear vacancy was denied. The applicant has submitted various representations since 6.11.1995 to 26.9.2000 to the authorities concerned seeking favourable consideration

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Tapan Kr. Chakraborty.

but to no result. It is pertinent to mention here that the Director, Department of Personnel and Training, Ministry of personnel and public Grievance and Pensions vide his letter dated 17.7.2000 and 26.7.2000 issued in response to a representation filed by the applicant, also requested the respondents for appropriate action regarding his transfer to Calcuttabut nothing has been done and neither of the representation submitted by the applicant to the higher authorities (Respondents) have been disposed of due to unknown and inexplicable reasons. The impugned order therefore suffers from malice in law and molice in fact.

4.15. That during the year 1995-2000 as many as 500 persons who had been transferred to their choice of place in terms of transfer and posting guidelines for the year 2000-2001 but the case of the applicant has surprisingly been single out and not considered. It is stated that in terms of Article 10(1) and 10(3) of transfer guidelines for 2000, thousand of employeeswho have completed three year tenure in NER have been transferred to their choice place on request even by creating vacancies at the choice of their places. During the period of 1991-1999 the following employees of Regional Office, Silchar were transferred from NER to their choice plaee on request.

Sl.No.	Name & Designation	Posted at NER w.e.f.	Transferred to Choice station in the year.	
1.	Shri D.Babu, A/Asstt.	31.7.84	BBSR	30.9.98
2.	Shri R.M.Sharma,-do-	17.11.86	Jaipur,	8.2.99
3.	Shri V.K.Paney -do-	3.9.85	Ahmeda--bad.	15.5.92
4.	Sri S.Raju, -do-	24.4.90	-do-	27.8.93.
5.	Sri Balaji Rao,Supdt.(Adm.)	26.6.91	BBSR	27.8.93

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6.	Shri S.B.Chaturvedi, A.C.	27.2.92	Jabalpur	05.95
7.	Sri Prem Kumar, A/Asstt.	12.4.94	Guwahati	23.2.96
8	Sri G.D.Sharma, A.C.	07.95	Bhopal	4.4.96
9	Sri S.S.Sharma, A.O.	14.2.94	Ahmedabad	3.11.98
10	Sri Monorajan Kar, L.D.C.	7.3.94	Patna	9.6.99

4.16 That in terms of article 10(1) of transfer and posting guidelines 2000 vacancey is to be creted only to accommodate employees for NER on completion of their fixed tenure. The applicant applied for his transfer to Regional Office, Calcutta only on having completed his fixed tenure in NER, therefore no other employee can be posted to such vacancy/post on transfer specially created in supersession of the duedclaime of the applicant. But surprisingly Shri R.K. Rastogi, Assistant of Regional Office, Delhi has been transferred to Regional Office, Calcutta with a view to deny the claim of the present applicant out of vindictiveness attitude of the respondents. It is therefore evident that the respondents are acted in total disregard to the existing guidelines governing the transfer and posting of employees of the Sangathan as well as to the claim of the applicant. Such action of the respondents is wholly unjustified and unreasonable and therefore liable to be ~~xxxxxxxxxxxxxx~~ ~~quashed~~ declared void.

4.17 That it is a fit case for the Hon'ble Tribunal to interfere with the impugned order of transfer and posting dated 13.11.2000 in protecting the rights and interests of the applicant and to restrain the respondents from giving effect to the impugned order of transfer and

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posting dated 13.11.2000 till the case of the applicant for transfer is considered to his choice place i.e. at Calcutta.

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

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

5.1. For that the impugned order of transfer and posting dated 13.11.2000 is illegal and liable to be set aside.

5.2. For that the applicant having completed more than five years service in M.E. Region i.e. more than the tenure period has acquired a valuable right for his choice posting at Calcutta in conformity with the transfer and posting guidlines.

5.3. For that in view of the transfer and posting guidelines, the respondents are duty bound to observe the same scrupulously and consider the case of the applicant for his choice posting at Calcutta but that having been violated, it has rendered the impugned order bad in law and therefore liable to be set aside.

5.4. For that the impugned order has been issued in complete desregard to the provisions laid down in the transfer and posting guidelines of the Sanga--than for its employees for the year 2000-2001.and as such the impugned order is liable to be struck down.

5.5. For that the impugned order has been issued with an ulterior motive and mala fide intention to harass the applicant with a view to deny his bona--fide claims of choice station posting at Calcutta.

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5.6 For that the applicant having duly exercised his option seeking posting at Calcutta since long back i.e. from 1996, is entitled to be posted at this place of choice in terms of the transfer and posting guidelines on completion of fixed tenure in N.E. Region.

5.7 For that the respondents have meted out a hostile discrimination to the applicant in not considering the case for posting at his place of choice while instances are at gallore who are similarly situated persons were favourably considered.

5.8 For that in any view of the matter, the impugned order of transfer and posting is bad in law and is there liable to be set aside and quashed.

6. Details of remedies exhausted :

That the applicant states that he has no other alternative and other efficacious remedy than to file this application. Representations through proper channel were submitted by the applicant but no favourable action has yet been taken by the respondents.

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

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any Court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

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8. Reliefs sought for :

Under the facts and circumstances of the case the applicant prays that Your Lordships would be pleased to issue notice to the respondents to show cause as to why the reliefs sought for by the applicant shall not be granted, call for the records of the case and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s) :

8.1 That the impugned order of transfer issued under letter No.F.No.II-6/99-KVS(Estt.I) dated 13.11.2000 (Annexure-6) transferring the applicant from Regional Office, Silchar to Regional Office, Delhi be set aside and quashed.

8.2 That the respondents be restrained from relieving the applicant from duty from the ~~office of the~~ Regional Office, Silchar till disposal of this application or till the case of the applicant for transfer to his choice place is considered.

8.3 Costs of the Application.

8.4 Any other relief/reliefs to which the applicant is entitled to under the facts and circumstance of the case and as may be deemed fit and proper by the Hon'ble Tribunal.

9. Interim Relief(s) prayed for :

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

9.1 That the respondents be restrained from filling up the existing vacancy available at Calcutta,

Contd...

Tapan Kr. Chakraborty.

Regional office by any other person other than the applicant.

9.2 That the respondents be directed not to disutrb the applicant from his present place of posting i.e. at Regional Office, Silchar till disposal of this application or the case of the applicant for transfer to his choice place is considered.

10. .....

That this application has been filed through Advocate.

11. Particulars of the I.P.O./Bank Draft :

i. I.P.O./Bank Draft No. : 938080

ii. Date of issue : 5.12.2000

iii. I.P.O/Bank Draft ~~xxx~~ issued from : S.B.I. Guwahati

iv. I.P.O./Bank Draft payable at : Guwahati.

12. List of enclosures

As stated in the Index.

.... Verification

Tapan Kr. Chakraborty.

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

I, Shri Tapan Kumar Chakraborty, son of Late Motilal Chakraborty, aged about 45 years, resident of Kanakpur Part-II, ~~xxxxxxxx~~Silchar, District-Cachar, Assam, do hereby verify and declare that the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph are true to my legal advice which I believe to be true and I have not suppressed any material fact.

And I sign this verification on this the 6th day of December, 2000.

Tapan Kr. Chakraborty.
Signature

Annexure-1 31

KENDRIYA VIDYALAYA SANGATHAN
18, INSTITUTIONAL AREA
SHAHEED JEET SINGH MARG,
NEW DELHI-110016.

No.F.1-1/99-KVS(ESTT.III) Dated: 25.1.2000

To,

The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
All Regional Offices.

Sub:- Annual Transfer applications in respect of Kendriya Vidyalaya employees for 2000-2001.

****

Sir/Madam,

In continuation to the zerox copied Draft Annual Request Transfer application (2000-2001) set already sent to you, I am to forward herewith 2 sets of printed application sets for information and necessary action.

All the Vidyalayas have been supplied with 3sets of transfer application sets without transfer guidelines. You are requested to send zerox copies of Transfer Guidelines sets to all the Kendriya Vidyalayas for wider publicity among the staff.

It may kindly ensured that the filled in forms are forwarded to Kendriya Vidyalaya Sangathan(HQ), New Delhi by 29.2.2000.

Yours faithfully,

(S.B. CHATURVEDI)
DEPUTY COMMISSIONER (ACAD.)

F-41/99-KVS(TR)
Dated :-07.02-00.

To

All Principals, Kendriya Vidyalayas (Silchar Region)

Sub:- Forwarding Transfer Guidelines.

Sir/Madam,

A copy of transfer guidelines is enclosed herewith for your information, guidance & necessary action.

Encl:- As stated.

Yours faithfully,

(G. Rabha)
ADMINISTRATIVE OFFICER.

TRANSFER GUIDELINES

In supersession of existing guidelines/orders on the subject, it has been decided that transfers in the Kendriya Vidyalaya Sangathan will hereafter be made as far as practicable in accordance with the guidelines indicated below:

2. In these guidelines unless the context otherwise requires:

i) "Commissioner" means Commissioner, Kendriya Vidyalaya Sangathan including any officer thereof who has been authorised or delegated to exercise all or any of the powers and functions of the Commissioner;

ii) "Performance" means

a) Where the Annual Confidential Report(s) is/are available in the concerned Regional office, the assessment of teacher as reflected in his Annual Confidential Report for the last three years preceding the year in which transfers are taken up;

b) Where the Annual Confidential Report(s) for last three years or any of the last three years is/are not available in the concerned Regional Office for whatever reason, the assessment by the Assistant Commissioner of the Region from where transfer is being sought on the work and conduct of the teacher for the year(s) in respect of which the ACR(s) is/are not available.

iii) "Sangathan" means the Kendriya Vidyalaya Sangathan.

iv) "Service" means the period during which a person has been holding charge of the post in the Sangathan on a regular basis

v) "Station" means any place or a group of places within an urban agglomeration.

vi) "Stay" means service at a station excluding the period or periods of continuous absence from duties exceeding 30 days (45 days in case of N.E. Region, Sikkim and A&N Islands) at a stretch other than on training or vacation.

vii) "Teacher" means all categories of teachers in the employment of Sangathan and includes Vice-Principals and Principals but does not include Education Officers and above.

viii) "Tenure" means a continuous stay of three years in North Eastern Region, Sikkim, A&N Islands and listed hard stations. (Note: While calculating the aforesaid stay of three years, the period or periods of continuous absence from duties exceeding thirty days (45 days in case of N.E.Region, Sikkim and A&N Islands) at a stretch other than on maternity leave, training or vacation shall be excluded.

ix) "Year" means a period of 12 months commencing on 1st April.

Unless the context otherwise indicates:

a) words importing the singular number shall include plural number and vice-versa;

b) words importing the masculine gender shall include the feminine gender.

3. In terms of their all India transfer liability, all the employees of the KVS are liable to be transferred at any time depending upon the administrative exigencies/grounds, organisational reasons or on request, as provided in these guidelines. The dominant consideration in effecting transfers will be administrative exigencies/grounds and organisational reasons including the need to maintain continuity, uninterrupted academic schedule and quality of teaching and to that extent the individual interest/request shall be subservient. These are mere guidelines to facilitate the realization of objectives as spelt out earlier. Transfers cannot be claimed as of right by those making requests nor do these guidelines intend to confer any such right.

4. The maximum period of service at a station shall generally not exceed three years in the case of Assistant Commissioners and five years in case of Principals/Education Officers. They are, however, liable to be transferred even before completion of the aforesaid period, depending upon organisational interest or administrative exigencies, etc. Principals with outstanding record in terms of their performance as reflected in ACRs and CBSE results may be retained in a Kendriya Vidyalaya even after completion of five years as aforesaid to promote excellence in the Vidyalaya.

5. Apart from others, the following would be administrative grounds for transfers.

(i) A teacher is liable to be transferred on the recommendation of the Principal and the Chairman of the Vidyalaya Management Committee of the Kendriya Vidyalaya.

(ii) Transfer of spouse of a Principal to a Kendriya Vidyalaya at the station where the Principal is working or nearby, but not the Vidyalaya where he is a Principal.

6. As far as possible, the annual transfers may be made during summer vacations. However, no transfers, except those on the following grounds shall be made after 31st August

i. Organisational reasons, administrative grounds and cases covered by para 5;

ii. Transfers on account of death of spouse or serious illness when it is not practicable to defer the transfer till next year without causing serious danger to the life of the teacher, his/her spouse and son/daughter.

iii Mutual transfers as provided in para 12.

7 Priority for transfers on request shall follow the descending order of combined weightage to be calculated in terms of entitlement points for organisational reasons/interests as also the individual needs and request of the teachers seeking transfers in accordance with para 8 below:

Provided that transfers sought on account of death of spouse within a period of two years of death and medical grounds as per para 9 will be placed en bloc higher than others listed in para 8 of these Guidelines.

8 (i) Organisational reasons/interest shall be classified and assigned entitlement points as under:

(a) Transfer from places where tenure is involved (see para 2(viii) of these Guidelines) — 20

(b) Performance:

RATING OF PERFORMANCE	ENTITLEMENT POINTS
Outstanding	10 for each year
Very Good	6 for each year
Good	4 for each year
Average	0 for each year
Unsatisfactory	(-)10 for each year

(ii) Needs denoted by the following reasons shall be assigned entitlement points as given against each

S No	REASONS/GROUND	ENTITLEMENT POINTS
A	Blind and orthopaedically handicapped persons. The standards of physical handicap will be the same as prescribed by the Govt. of India for sanction of Conveyance allowance.	15
B	SPOUSE CASES	
(i)	Where spouse is a Sangathan employee	20

(ii)	Where spouse is a Central Government employee	18
(iii)	Where spouse is an employee of autonomous body or PSU under Central Government.	15
(iv)	Where spouse is an employee of State Government or its autonomous body or PSU	12
(v)	Other spouse cases	10

'Note for 'Spouse Cases' :

The aforesaid points will be awarded only where the teacher seeks transfer to a station (a) other than the one where he/she is currently posted and (b) where his/her spouse is posted or nearby. This condition, i.e. (b) will, however, not apply in those cases where the spouse of the teacher is posted to a non-family station provided the transfer is sought to a place nearest to the station where his/her spouse is posted.

C.	Unmarried/divorced/judicially separated/widowed ladies	12
D.	General Cases which are not covered by A-C above.	10
E.	Stay at the station from where the transfer is being sought;	1 for each year of stay exceeding three years subject to a maximum of 20 points
	OR	
	Teachers who have less than 2 years to retire	20

9. For the purpose of calculation of entitlement points in respect of medical grounds as mentioned in the Proviso to phra 7 of these Guidelines, such illnesses of teacher himself/herself or his/her spouse and dependent son/daughter alone as may be prescribed by the Commissioner will be considered as medical ground for transfer.

Note: A son will be deemed to be dependent till he starts earning or attains the age of 25 years, whichever is earlier or suffers from permanent disability of any kind (physical or mental) irrespective of age limit. A daughter will be deemed to be dependent till she starts earning or gets married irrespective of age limit.

10(1) Where transfer is sought by a teacher under para 8 of the guidelines after continuous stay of 3 years in NE & hard stations and 5 years elsewhere at places which were not of his choice, or by teachers falling under the Proviso to para 7 of these Guidelines, or very hard cases involving human compassion, the vacancies shall be created to accommodate him by transferring teachers with longest period of stay at that station provided they have served for not less than five years at that station. Provided that Principals who have been retained under para 4 to promote excellence, would not be displaced under this clause.

(2) While transferring out such teachers, efforts will be made to accommodate lady teachers at nearby places / stations, to the extent possible and administratively desirable.

(3) In cases where a vacancy cannot be created at a station of choice of a teacher under this clause because no teacher at that station has the required length of stay, the exercise will be repeated for the station which is the next choice of the teacher seeking transfer.

Note: The transfers proposed under this rule shall be placed before a Committee consisting of Additional Secretary (Education) Chairman, Commissioner, Member and Joint Commissioner (Admn) KVS as the Member Secretary.

11 In order to effect transfers in terms of para 8 and 10 of these Guidelines, two priority lists shall be prepared and operated as under:

(a) First priority list shall list all the applications received for transfer in terms of paras 7 and 8 showing the entitlement points against each applicant. This priority list shall be operated against the vacancies available during normal course for being filled up.

(b) Second priority list will be maintained in respect of cases of transfer in terms of para 10 of the guidelines listing all the applications as also the entitlement points of each applicant in terms of priorities given in para 8 of the guidelines. The applicants included in this priority list alone will be accommodated by transferring teachers with the longest period of stay at that station provided they have served for not less than 5 years from the date of joining at that station. For this purpose, a list of persons who have served for 5 years or more at the stations shall be prepared by the Assistant Commissioners of the respective regions and displayed.

12. Mutual transfer may be permitted on satisfaction of the Commissioner but such cases will be taken up on completion of annual transfers as per clause 8 and completed by 30th September.

13. Intra and inter-regional transfers may, as far as practicable, be made simultaneously.

14. Upon promotion or direct recruitment as Principals/ Education Officers/Assistant Commissioners, an officer shall necessarily be posted to a different State other than the one where he is posted or domiciled, as the case may be, subject to availability of vacancies. Subject to availability of vacancies and other administrative reasons those who are due to retire within next three years may not be posted outside their home state if their service at the same station prior to promotion does not exceed three years.

15. A teacher on promotion shall necessarily be posted out of the Region where he is currently posted. However, a lady teacher may on promotion be posted within the same Region but a district or two away from the existing place of posting, subject to availability of vacancy.

16. Transfer TA will be regulated as per orders of the Government of India on the subject

17. Assistant Commissioner will be competent to change the headquarters of a teacher on administrative grounds to any place within the region as deemed fit and direct him to discharge his duties there. The Assistant Commissioners shall report forthwith the case with full facts to the Commissioner for confirmation or directions.

18. Notwithstanding anything contained in these guidelines,

(a) a teacher or an employee is liable to be transferred to any Kendriya Vidyalaya or office of the Sangathan at any time on short notice on grounds mentioned in clause 5 and 6 (i) of these guidelines;

(b) the Commissioner will be competent to make such departure from the guidelines as he may consider necessary with the prior approval of the Chairman;

(c) the request of a teacher may be considered for transfer to a station in respect of which no other person has made a claim or request even if such teacher has not submitted the application in the prescribed proforma at the time of annual transfer or within the time limit prescribed for the purpose;

(d) Following cases will not be considered for transfer:

(i) cases of Education Officers/Assistant Commissioners for transfer without completing three years' stay at the place to which they were posted upon promotion.

(ii) cases where a teacher, Education Officer, or Assistant Commissioner was transferred on grounds mentioned in paras 5(i), 6 and 7 of these guidelines will not be considered for transfer without completing 5 years' stay at the station to which they were so posted.

(iii) Principals, Education Officers and Assistant Commissioners will not be transferred back to the same station from where they were transferred earlier on completion of period as specified in para 4 above unless a period of three years has elapsed.

(iv) cases of fresh postings whether on direct recruitment or on promotion unless they complete three years of stay at the place of their posting except that, in case of women teachers, the request for posting to a place of choice can be considered after stay of one year. This will not, however, be applicable in cases covered by paras 5, 6, and 7(i) of these Guidelines.

19. These Guidelines shall mutatis mutandis apply to non-teaching staff to the extent applicable.

20. If any difficulty arises in giving effect to these guidelines, the Commissioner may pass such orders as appears to him to be necessary or expedient for the purpose of removing such difficulty.

21. If any question arises as to the interpretation of these guidelines, it shall be decided by the Commissioner.

22. The attention of all the employees is invited to Rule 55(27) of the Education Code and rule 20 of the CCS(Conduct) Rules which provide as under:

(i) As per Rule 55(17) of Education Code:

"No teacher shall represent his grievance, if any, except through proper channel, nor will he convass any non-official or outside influence or support in respect of any matter pertaining to his service in the Vidyalaya."

(ii) As per Rule 20 of CCS(Conduct) Rules:

No Govt. servant shall bring or attempt to bring any political or other outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under KVS.

If the above provisions as mentioned at (i) and (ii) above are contravened, the following actions shall follow:

(a) That the name of the applicant will be removed from the priority list and he/she will be debarred for three years from being considered for transfer without any further reference to the teacher.

(b) That the teacher will be open to disciplinary proceedings as per rules.

ANNEXURE-2

Date:- 17-04-2000

To

The Commissioner,
Kendriya Vidyalaya Sangathan,HQ,
New Delhi-16.

(Through Proper Channel)

Subj:- Transfer of Shri Tapan Kr. Chakraborty,Asstt. from KVS,R.O., Silchar to R.O.Calcutta on Completion of TENURE in NER & Surplus Ground.

Sir,

On Selection through departmental examination held in 1992 I was posted as Asstt. at R.O.,Silchar which was not of my choice, from R.O.,Patna. I joined R.O.,Silchar on 30-10-95(FN).

I have completed three years Tenure in NER successfully on 30-10-98. Fifth year of my stay in NER is running.

KV, CCI,Bokajan and Doyang have been closed w.e.f. 01-04-2000 & 11-01-2000 respectively. As a result of closure of two KVs one post of Asstt. is surplus in Silchar Region. As per norms, for KVs upto 39 there will be one post of Asstt. and for KVs 40 and above, there will be two posts of Asstt. in each R.O..

In terms of KVS rules an employee with longest stay in station will be declared surplus and transferred to his choice place. Accordingly, being senior most I am due for transfer to my choice place/Home Town at R.O.,Calcutta.

As per clause 10(1) (of transfer guidelines) and special facilities for employees posted in NER as enumerated in A/cs Code, on completion of Tenure in NER, to accommodate the employee working in NER to his choice place, vacancy is to be created by posting out of an employee working for more than five years. Shri Subrata Chakraborty, Asstt. has been working continuously at R.O.Calcutta from 01-08-84 as UDC and from 15-2-93 as Asstt.

My performance points stand as 48 as per criteria adopted in KVS.

From June,1995 to Feb'2000 one post of Asstt. was lying vacant at R.O.,Calcutta. On completion of Tenure in NER on 30-10-98 I was the only claimant to be transferred to Calcutta under Rules. I was denied the transfer without any cogent reason in 1998-99 & 1999-2000. The vacancy has been blocked in Feb'2000 by transferring Shri P.S.Sharma, Asstt, from Lucknow to R.O.Calcutta .

I opt for my transfer only for Calcutta from Silchar as my presence is quint-essential at Calcutta for rendering filial services to my son studing in St. Xavier's Institution at Calcutta, and taking care of him at his adolescent stage.

In view of above, I request your honour to please do justice to me by issuing orders for my transfer from R.O.,Silchar to R.O., Calcutta either by creating vacancy after transferring Shri S.Chakraborty,Asstt. or modifying transfer order of Shri P.S.Sharma from Calcutta to elsewhere in terms of transfer guidelines at the earliest.

Yours faithfully,

(TAPAN KUMAR CHAKRABORTY)
ASSISTANT
KVS,R.O. SILCHAR.

Copy to:-
The Vice-Chairman,KVS,New Delhi - with the request to look into the matter personally and issue orders for my transfer in terms of transfer guidelines at the earliest.

(TAPAN KUMAR CHAKRABORTY)
ASSTT.

ANNEXURE-3

Kendriya Vidyalaya Sangathan,
Hospital Road, Silchar-788001,
Dist. Cachar, Assam.

To

Sri K. S. Sarma, I.A.S.,
Additional Secretary,
Govt. of India,
D/O Education, M.H.R.D.
&
Vice- Chairman, K.V.Sangathan,
Shastri Bhawan,
New Delhi-110001.

Date:- 28.02.2000.

SPEED POST

(Through proper channel)

Sub:- Redressal of grievances being continued for last twelve years.

Ref:- Injustice done by KVS in the matter of posting/transfer and even on completion of TENURE IN NER in violation of transfer guidelines in respect of Sri Tapan Kumar Chakraborty, Assistant from R.O. Silchar to R. O. Calcutta.

Respected Sir,

With due deference and humble submission I beg to appeal to your kind honour for personal intervention into the grievances detailed here-in-below for compassionate consideration and redressal of grievances being continued since last twelve years at the earliest please.

(1) That during the period from 1988 to Dec'92 there were two vacancies of Assistant at R.O. Calcutta. While approximately thirty one U.D.Cs on promotion on adhoc basiswere posted in same place in 1988 & 1992 I was denied promotion and posting at Calcutta as Assistant

(a) In 1988 - I was superseded by my two juniors Sri G. T. Baa and Sri BalKishan belonging to ST/SC category respectively although as per orders of the Supreme Court "RESERVATION RULES DO NOT APPLY FOR PROMOTION ON ADHOC BASIS."

(b) In 1992 - On the ground of non-availability of ACRs maintained at KVS H.Qtrs;

out of personal biasness of Sri V. K. Gupta, the then Sr. A.O. ,now A.C.(Admn) and Sri Puran Chand, the then D.C.(Admn.) now J.C.(Acad) as their ill-effort to make me a scape-goat in the recruitment of UDC in K.Vs in 1988 under Calcutta Region was not successful.

(2) That in 1992 I was selected for the post of Asstt. through departmental examination and stood second in panel. There were two vacancies at R.O. Calcutta in 1992. Inspite. I was denied the offer and posting at Calcutta by the then Sr. A.O. and D.C.(Admn) out of sheer vindictiveness. My junior Sri J. K. Gupta(Sl.No.3) in panel was posted from Delhi to KVS(H.Qtrs) in same station.

The vacancies of Assistants at R.O. Calcutta were filled

(1) by promoting Sri S. Chakraborty, UDC of R.O. Calcutta in 01/1993.
(2) by posting Sri D. Ghadai from Select Panel of Assistant- junior to me in panel prepared in 1992.

contd. P/2

Page/2

(3) That due to transfer of Sri D. Ghadai, Asstt. from R.O. Calcutta to R. O. Bhubaneswar on request, there was a clear vacancy at R.O. Calcutta in June'92.

After withholding the select panel from 1992 to Sept.'93 without any cogent reason, I was offered posting of Assistant on 15.09.93 at R.O. Silchar inspite of clear vacancy at R.O. Calcutta, while allothers were posted in same place/station.

(4) That there was no disciplinary case pending and no charge-sheet was served upon me from 1988 to 15-9-95, the date of release of promotion without any reservation, the promotion was released on 15.9.95.

(5) That the vacancy of Calcutta in 1995 was blocked by posting Sri P. S. Sharma, on Reversion from S.O. to Assistant, as a disciplinary measure. He had refused to join at Calcutta and applied for transfer to Lucknow. Keeping the vacancy of Assistant blocked for two years approximately at Calcutta, he was posted to R.O. Lucknow, his choice place.

(6) That from 1997 to February,2000 there was a clear vacancy of Assistant at R.O. Calcutta.

(7) As per rules for KVS and guidelines for transfer during the period from 1995 to 1999, employees in Gr. 'C' & 'D' were transferred to their choice place on completion of one year cut-off period. No fixed Tenure was adopted for them in order to lessen their hardship in N.E.R. BUT MY CASE WAS NOT CONSIDERED.

As per special facilities for employees posted in NER from out side on completion of three years in NER employees are transferred to their home station/choice place. AGAIN MY DUE TRANSFER TO CALCUTTA WAS NOT DONE IN 1998 ON COMPLETION OF TENURE WHILE OTHER TENURE CASE WERE DONE AFTER THREE YEARS.

(8) I was the only element for transfer to R.O. Calcutta. I have been applying for my transfer to R.O. Calcutta since 1995. Inspite of clear vacancy at R.O. Calcutta I was denied my due transfer to Calcutta even on completion of three years TENURE IN NER in 1998 based on whims and extraneous consideration by the J.C.(Adm). In order to deprive me from my due transfer the vacancy of R.O. Calcutta has been blocked again by transferring the same Sri P. S. Sharma from Lucknow A-1 city to Calcutta A-1 City on administrative ground by the J.C.(Adm) in Feb.2000. Sri Sharma has again refused to join and applied for cancellation of his transfer.

In fact, in the guise of penal transfer Shri Sharma, the delinquent official who had been showing plump thumb to KVS by disobeying the orders, has been prized with the posting from Lucknow-A-1 city to Calcutta - A-1 city, with a view to indulging in the deterioration of functioning of R.O. Calcutta in one hand as well as to putting a block for my due transfer to Calcutta on the other. Otherwise, he would have certainly been transferred to NER as was done in other cases by KVS.

As a matter of fact, from June'95 to till date no one has been allowed to work at R.O. Calcutta by

a) blocking the vacancy intentionally by posting Sri P. S. Sharma for almost two years from 1995 to 1997.
b) not posting any one thereafter till Feb,2000.
c) blocking the vacancy again from Feb, 2000 to till date/sine die by posting Sri P. S. Sharma, the same delinquent official repeatedly at Calcutta, as if no other better and efficient employee in the post of Assistant is on record of the J.C.(Adm) or available or due for transfer to post at Calcutta in the interest of public service or development in the functioning of KVS RO Calcutta.

Such posting of Sri P. S. Sharma repeatedly at Calcutta (knowing fully well about his traits and activities as well) done by the J.C.(Adm) was out of malice and certainly not in the interest of KVS/public service but just to put a block for my due transfer to Calcutta on completion of TENURE IN NER with the sole intention to putting me into further hardship.

(9) As per guidelines for transfer for 2000, TENURE FOR ALL EMPLOYEES IN NER IS FOR THREE YEARS. On completion of TENURE the employees shall be transferred to their choice place and in order to accommodate such employees to their choice place, vacancies have to be created by transferring employees working for five years or more in that station. Moreso, surplus employees have to be adjusted to their choice place.

(10) As a result of closure/merger of KVs- Doyang & AFS Dinjan, at present there are 38 KVs under Silchar Region and one post of Assistant is SURPLUS in R.O. Silchar, in terms of rules/norms(KVs upto 39- one Assistant and for KVs 40 and above- 2 Assistants are sanctioned in each R.O.)Under rules the employees with longest stay in station will be declared SURPLUS and transferred to his choice place/station. Being seniormost in station I am SURPLUS w.e.f.01.4.2000 and entitled for transfer to R.O. Calcutta.

(11) It is very clear that rules formulated by KVS have been blatantly disregarded by the higher officer of KVS and injustices have been done on me till date to a great extent without any lapse on my part causing thereby inexplicable and irreparable sufferings to me only out of sheer biasness although my services were found excellent although which will be evident from my ACRs.

(12) Services of the employees in NER are invited by Govt./KVS based on specific terms that on completion of TENURE/cut-off period they shall be posted to their choice place/home station. Disobeying the rules means disobeying the AUTHORITY OF THE PRESIDENT OF INDIA/B.O.G. which, under no circumstances, can be done by any officer in KVS out of personal whims and biasness or on any pretext of public interest only in a single case, that too, in Gr. 'C' category.

(13) As a result of periodical injustices done on me from 1988 I have already been forced

(a) to undergo financial loss to the tune of Rs.3 Lakhs

(i) for denial of promotion in due time and posting at Calcutta as well as supersession in promotion;

(ii) for maintenance of separate establishments in Calcutta and Silchar since October,95;

(b) not to render filial services to my family and look after my son in his adolescent stage studying in Class XI in St. Xaviers' Institution, Sodepur, Calcutta whose future career is likely to be bleak without any fault of him/us;

(c) to bear unnecessary mental/physical strain/torture which was inflicted on me/members of family during last twelve years that made me a patient of ~~BP~~ Hypertension & Cardiac disorder and members of family mentally retarded out of persisting panic/helplessness.

In view of the periodical injustices, oppression, unethical action, high handedness, violation of statutory rules and policies of KVS/Orders of the President of India/BOG/Appex Court & other Courts and exploitation of human resources/values indulging in degradation of morale of the employees at lower level as well as inflicting pecuniary hardship to the employees and members of family without any cogent reason, which is against the PRINCIPLES OF HUMAN RIGHTS COMMISSION, I appeal to your kind honour to

(a) look into the matter personally and settle the long pending grievances calling files from KVS(H.Qtrs) as all previous correspondences/recommendations from the office of HRDM have been dumped in file with negative biased approach/decision on the pleas of CREATED NO VACANCY OR OTHER FALSE/WRONG PRETEXT..

contd. P/4

(b) issue instruction for release of my transfer order from KVS R.O. Silchar to R.O. Calcutta either by creating vacancy as Sri S. Chakraborty, Assistant, has been working in same office/station since last 16/22 years respectively in terms of rule 2(viii), 10.19 of transfer guidelines for 2000 or by modifying transfer order of Sri P. S. Sharma, Assistant to somewhere else as he would never join at Calcutta like before vide para 8 above.

(c) issue instruction to KVS to stop such repressive action, discriminating inhuman treatment on the subordinate employees for ever in future.

(d) ensure more transperency and accountability in the administration of KVS to protect HUMAN RIGHTS.

If the grievances emanated from injustices done by KVS since 1988 are not resolved by 31.8.2000, the last date for effecting transfer for 2000 vide clause 6 of transfer guidelines, I will have no other alternative but to appeal to the HUMAN RIGHTS COMMISSION for intervening into the matter as I and the members of family have the right under constitutional previleges to live and survive peacefully and work in peaceful atmosphere/enviornment in office.

A copy of my representation dtd. 17.4.2000 already submitted to you is enclosed herewith for ready reference please.

Yours faithfully,

(Tapan Kumar Chakraborty)
Assistant.
KVS, RO, Silchar.

Encls:- as stated.

Copy to:-

Sri Sumit Bose,
Jt. Secretary(P&G),
D/O Education, MHRD,
C-Wing, Shastry Bhawan, N.Delhi-1 :- With the request to look into the matter personally for redressal of grievances being continued for last twelve years due to sheer vindictiveness of the higher officers of KVS. When the Rule-makers are the Rule-breakers there is hardly any chance for getting justice from the higher officers of KVS. Hence, this appeal.

2. The Secretary, Cabinet Secretariat, G.O.I. Public Grievances, 2nd. floor, Sardar Patel Bhawan, New Delhi-110001. :-

3. The C. G. O. & D.C.(Trg), K. V. Sangathan, New Delhi-16 . :- For kind information & redressal of grievances at the earliest.

4. The Assistant Commissioner, K. V. S. R. O. Silchar. :- For information & N/a please. Advance copies are sent to the Vice-Chairman, KVS, The Jt. Secy(P&G), MHRD & the Secy, Cabinet Secretariat Public Grievances in order to avoid delay.

(Tapan Kumar Chakraborty).

ANNEXURE-4

FAX : 011-3012432 (N.B.)
011-3013142 (E.O.)
011-4624821 (L.N.B.)
011-6107962 (Trg. Div.)
011-4361230 (P.E.S.B.)

No. 9/2/2000-Welfare

भारत सरकार
GOVERNMENT OF INDIA
कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS
कार्मिक और प्रशिक्षण विभाग
DEPARTMENT OF PERSONNEL & TRAINING
नई दिल्ली
NEW DELHI

361, Lok Nayak Bhavan,
New Delhi-110 003.
26/7/2000

To

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

Subject: Non-implementation of transfer guidelines of KVS uniformly specially in TENEURE cases in NER.

...

Sir,

I am directed to forward herewith a copy of representation dt.10.7.2000 from Secretary, KVS Staff Association, Silchar Unit in r/o Sh.Tapan Kumar Chakraborty, Asstt. KVS, RO, Silchar on the subject noted above and to request to take urgent appropriate action in the matter of transfer of Sh.T.K.Chakraborty under intimation to this Department and the applicant. A similar request of Sh.Chakraborty was sent to you earlier also vide our letter of even number dt.17.7.2000.

Yours faithfully,

(J.S.BHATIA)
Under Secretary to the Govt. of India

27 JUL 2000

Copy forwarded for information to:
Secretary, KVS Staff Association, Kendriya Vidyalaya Sangathan, Regional Office, Hospital Road, Silchar-788 001.

ANNEXURE-5

Sri H.M. Cairae, I.A.S.
Commisioner, Kendriya Vidyalaya Sangathan
H-No. 101, Uttarkhand, J.N.U. Campus
New Delhi-67.

Date:-26.09.2000.

Reverred Sir,

Pronam.

In my letter dated 17.08.2000 I appealed to your kind honour soliciting your favour for my transfer to R.O. Calcutta on completion of TENURE in NER. I have not yet been favoured with your gracious consideration. The impending uncertainty about the future of my son compels me to appeal to you again directly for which I may please be excused.

I completed my TENURE in NER successfully on 30.10.98. Fifth year of my stay in NER will be over on 29.10.2k.

While all A.Cs, E.Os, Principals, A.O. and other staff of R.Os & KVs were transferred after 3months/6 months/1 year/3 years from NER during 1995 to 2000, only my case has not been considered after 3years TENURE even when a clear vacancy existed at R.O. Calcutta from 1998 to February, 2000. The vacancy of Calcutta has been kept blocked by posting Sri P. S. Sharma, Assistant, from Lucknow B-1 city to Calcutta A-1 city on administrative ground, knowing fully well of his traits and having been aware of the fact that he won't join at Calcutta like before, (Sept'95 to 1997) with the sole objective to deprive me. Even after transfer from R.O. Lucknow as per KVS order dtd. 21.2.2000 Sri P. S. Sharma has not yet joined at R.O. Calcutta. He applied for Cancellation of transfer which was not acceeded to. For his non-joining at R.O. Calcutta the post of Assistant virtually remained vacant at Calcutta from Sept'95 to 1997 and again from February 2000 to till date. From 1998 to February, 2000 the post of Assistant at R.O. Calcutta was not filled up by KVS(H.Qtrs) even though I was the only claimant for transfer to Calcutta after completion of TENURE IN NER. On the plea of non-availability of vacancy my transfer has not been considered so far.

The vacancy at R.O. Calcutta can easily be created in terms of article 81(d) of Education Code-voluntary abondonment of service as has already been done in case of Sri V. K. Chahal, A/Cs Clerk at R.O. Silchar.

As per transfer guidelines, vacancy is to be created at R.O. Calcutta by transferring Sri S. Chakraborty, Asstt., who has been working at the same station/R.O. since last 22/16 years respectively in order to accommodate me as a TENURE case in NER. But it has not yet been done in R.O. Calcutta, although many such transfers have been done from other R.Os/H.Qtrs for over stay in a station in 1999/2000.

My son is studying in St. Xaviers' Institution, Sodepur, Calcutta. You will, as a father, certainly realise the need for presence of father at this stage, specially in his adolescence period and when he is to be assisted/coached for JEE/IIT Examn. For no fault of my son, he has been deprieved of getting filial services from father from Sept'95 and even at this crucial stage by keeping me away from him even after five years stay in NER. My mother, aged about 72 years being a heart patient also needs filial services from son at the fag end of her life. My wife is a chronic gynaecological patient and remains ill mostly. She is unable to guide my son in class-II. Under these circumstances, if I am not transferred to R.O. Calcutta even after completion of TENURE for three years in 1998 and stay of five years (five years will be completed on 29.10.2k) in NER the future of my son will be bleak. My repeated requests to other officers in KVS in this regard proved futile. Since your honour is an exception, I am sure, you will never want THAT MY SON REMAINS UNCARED FOR AND GETS RUINED.

contd. P/2

Page/2

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By doing injustices at every stage e.g.

(1) denying the benefits of supersession in promotion on adhoc basis from UDC to Assistant wef June'88 and on regular basis wef 01/92 and pay anomaly arisen therefor since June'88.

(2) denying the offer of Assistant on Selection in 1992.

(3) denying the posting of Assistant at R.O. Calcutta against clear vacancy from 1988 to 1992, 1995 inspite of written commitment of Sri V. K. Gupta, the then Sr.A.O., now A.O.(Admn), whereas all postings on promotion/selection were done at the same place/station during 1988 to 1995.

(4) denying transfer to R.O. Calcutta on completion of TENURE in 1998 against clear vacancy at Calcutta during 1998 to February, 2000.

(5) denying admissible DHRA wef October,'95 to till date in HER.

(6) denying transfer to R.O. Calcutta on completion of nearly five years at HER by creating vacancy in terms of transfer guidelines, 2000 & article 81(d) of Education Code.

(7) denying deputation to Central TENURE post in the post of Jr. A.O. in Drug Control in Calcutta, W.B. in violation of instructions contained at Page-636 of Accounts Code.

The higher officers in KVS have been indulging and driving me to go to the Court for litigation. You will please appreciate that for a poor paid employee like me involvement in litigation can't be a matter of luxury or pleasure unless it is a question of survival and compelled to do so.

Sir, please do not take me to amiss. I had not the fortune to work under you directly. But I have heard from so many persons at Silchar that you never did injustice to any employee at the bottom end. With the expectation that your kind honour will be a succourer to me and the members of my family, specially to my son, I appeal to you to please do justice to me by transferring me to R.O. Calcutta and redressing other grievances stated above at the earliest. For this I shall owe you for ever.

With profound regards.

Yours faithfully,

(Tapan Kumar Chakraborty)
Assistant
K.V.S. R.O. Silchar.

Sri H. M. Cairae, I.A.S.
Commissioner,
Kendriya Vidyalaya Sangathan,
H.No.101, Uttarakhand,
J.N.U. Campus,
New Delhi-110067.

Annexure-6

KENDRIYA VIDYALAYA SANGATHAN
18, INSTITUTIONAL AREA
SHAHID JEET SINGH MARG
NEW DELHI-110016

F.NO.11-6/99-KVS(Estt-1) Date :13/11/2000

OFFICE ORDER

The following Assistants in Kendriya Vidyalaya Sangathan Regional Offices are hereby transferred with immediate effect in Public Interest :-

S.No.	Name	From R.O.	To R.O.
1.	Shri R.K.Rastogi	Delhi	Calcutta
2.	Shri Subrata Chakraborty	Calcutta	Chennai
3.	Shri Tapan kumar Chakraborty	Silchar	Delhi

They will be relieved from their respective office immediately to join their new place of posting.

Not in public interest

(K.N.Singh)
Sr.Admn.Officer(Estt.1)
for Commissioner

Distribution :-

1. Individual concerned.
2. The AC, KVS(RO) Delhi/Calcutta/Chennai/Silchar.
3. Personal files.
4. Gaurd file.

1998

Cal
Pat
Del(HQ)

Not Region 97"

1997 Cal
2000 Cal.

Certified to be true copy
Sujit Ghosh
Advocate

To

The Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Saheed Jeet Singh Marg,
New Delhi-110016.

Attn.:- Sri H. M. Cairae, IAS,
(Through proper channel)

Sub:- Appeal for modification of Transfer Order No.F.11-6/99-KVS(Estt-I) dated 13.11.2000 and posting of Tapan Kumar Chakraborty, Asstt. from R.O. Silchar to R.O. Calcutta on completion of TENURE in NER, in terms of article 10(1) of guidelines for transfer, 2000, and On Surplus ground and redressal of grievances regarding injustices done in the matter of non-payment of DHRA admissible under rules and pay anomaly arisen due to supersession on promotion wef. June '88.

[non-payment of financial benefit for

Reverred Sir,

With reference to the subject cited above with due deference and humble submission I beg to submit my humble submission here-in-below for your kind perusal and consideration please.

1. That I have been applying for my posting on promotion/selection to the post of Assistant at R.O. Calcutta w.e.f. 1988.

2. Vacancy existed at R.O. Calcutta as follows.

Sl.No.	Period	No. of vacant post at RO Calcutta	Remarks
a)	Augt.'88 to Dec'92.	Two	Promotion was due in 1988 on adhoc basis but the same was denied to me by KVS without any cogent reason. My Seniority No. as UDC was 126. All my juniors from Seniority No.127 to 157 were allowed to supersede me on promotion. All the promotees in terms of rules / transfer guidelines were posted to their choice place/station. Posting on selection through departmental examination as Asstt. at R.O. Calcutta was again denied in 1992. My panel position was sl.no.2 & my junior Sri J.K.Gupta at sl. no. 3 in panel was offered local posting at H.Qtrs, thus allowed to supersede me further without any convincing reason.
b)	~~Septt95~~ June'95 to 15.9.95.	One	Vacancy was created due to transfer of Sri D.Ghadai, Asstt to R.O. BBSR vide order No.

appointment with

Contd. P/2.

		F.11-1/95-KVS(E-I) dtd.23.6.95.My posting at R.O. Calcutta was again denied without any reason.
c) Sept'95 to 1997.	One.	Though Shri P. S. Sharma,Asstt.,on reversion from S.O., was posted to RO, Calcutta he refused to join at Calcutta and applied for posting to his choice place at RO, Lucknow, which was acceeded to by KVS. He was transferred to R.O. Lucknow, thus got reward.
d) From 1998 to February, 2K.	One.	Clear cut vacancy was kept unfilled at R.O. Calcutta denying my due claim even after completion of TENURE IN NER on 30.10.98.
e) February, 2k to 12.11.2K.	One.	Sri P.S. Sharma,Asstt, was again rewarded by transferring on administrative ground to R.O. Calcutta/in February, 2k from Lucknow, B-1 city, even after his nil contribution to KVS. Till date he did not join at R.O. Calcutta. He has again applied for cancellation of his transfer order and reposting to some where else. Vacancy remained virtually unfilled. In terms of KVS circular No. F.85-2/88-KVS(E-III) dtd. 29.3.90, read with circular No.F.20-65/77-KVS(SS) dtd. 06.10.77 such vacancy should be treated as clear cut vacancy. The A.C. Calcutta vide his letter dated 18.10.2000 has already requested to fill up the vacancy by posting Assistant at R.O. Calcutta for smooth functioning of R.O.Calcutta.
	/A-1city	
f) from 13.11.2k onwards.	Two.	One for (e) above and another one for creating vacancy in terms of article 10(1) of transfer guidelines/in order to accommodate me only as I have completed Tenure in NER and have been working for six years at R.O. Silchar.
	/for 2000,	

g) All my officers at K.V, R.O Calcutta appreciated my sincerest, loyal, devoted, efficient services all through. Copies of certificates issued by the head of offices will reveal the truth. (Enclosed as Annexure-1 to 3.)

Considering my devotion to duty, loyalty, good conduct and efficiency the Assistant Commissioners of R.O. Calcutta had recommended for my posting to R.O. Calcutta on promotion/selection vide letter Nos.F.26-6/92-KVS(Cal)/4483,482,585,2745,1711,454,1711 dated 16.2.93 11.5.93,17.5.93,23.12.94,13.9.94,9.6.95,28.6.95 respectively and F.39-6/92-KVS(Cal)/2050 dtd.17.9.93 which would be available in file at H.Qtrs.
Recommendations of the A.Cs were ignored by the Higher officers at H.Qtrs. While all other employees were posted in same place/stn.

contd. P/3.

during the period from 1982 to 1997 my posting to R.O. Calcutta against clear vacancy was denied although no charge-sheet was served upon me or no disciplinary proceeding was pending against me during 1988 to the date of release of my promotion on 15.9.95.

From the action of the higher officers of H.Qtrs it is clearly evident that honest, sincere, loyal, efficient services have no value in KVS and the good workers will be awarded with punishment and harrassment without any cogent reason and injustices would be meted out to them only, due to high handedness of the higher officers at KVS(H.Qtrs.).

3. With a view to harassing me and putting me into hardship offer of promotion ~~xxxxxxxx~~ dated 15.9.95(Annexure-4) issued by the J.C. (Admn) was forged at KVS H.Qtrs.and another forged offer of appointment dtd. 18.9.95 (Annexure-5) was again issued. You will appreciate ** that for one post two offer of appointments are never issued to one employee for posting as Assistant on promotion from R.O. Calcutta to R.O. Silchar.

A delve into this aspect will reveal that the figure '8' of offer of appointment dtd.18.9.95 was written in two forms in the office copy of KVS H.Qtrs and the copy endorsed to R.O.Silchar (Annexure-6 & 7). It is also surprising to note that in the two offer of appointment, no endorsement was given to the A.C. R.O. Patna directing him to intimate date of joining,etc. ***

Further, based on forged offer of appointment dtd.18.9.95 -which was never issued by the J.C.(Admn)- two corrigendum orders were issued- one by Sri R. N. Sharma, Sr. A.O. at H.Qtrs and another by Sri S. K. Talapatra, A.O. Calcutta, now posted to R.O. BBSR.Both the corrigendum were dated 25.9.95, the context of two corrigendum were different in nature. While reference of offer of appointment dtd.18.9.95 was given in the corrigendum dtd.25.9.95 issued by Sr.A.O. KVS,(H.Qtrs), in the corrigendum dtd.25.9.95 served upon me duly attested by Sri S.K. Talapatra, A.O. Calcutta on 29.9.95, reference of offer of appointment dated 15.9.95 was given. Copies of two corrigendum are enclosed. ~~xxxxxxxxxx~~ (Annexure-8 & 9).

/dtd.18.9.95 Since no offer of appointment was at allissued from KVS and offer of appointment dtd.15.9.95 actually issued by the J.C.(Admn) was not withdrawan, the corrigendum dtd.25.9.95 issued by Sr.A.O. at H.Qtrs and A.O. at R.O. Calcutta were not only false, forged documents which were issued out of connivance against me but stand void ~~ab~~ abinitio also.

Defying the orders of the J.C.(Admn), I was forced to go to R.O. Patna in flagrant violation of office procedure, rules and I was directed to proceed to R.O. Silchar to join as Assistant 29.9.95 from R.O. Patna based on forged offer of appointment dtd.18.9.95 and corrigendum dtd.25.9.95 ,imported by the A.O.,Calcutta,because Corrigendum dtd.25.9.95 issued by Sr.A.O. H.Qtrs was actually received at R.O. Calcutta on 9.10.95. Letter dtd.29.9.95 of KVS, RO, Calcutta is enclosed.(Annexure-10). This has not only

contd. P/4

*** Signature of Sri R.N. Sharma, Sr.AO, on the upper portion of office copy of offer of appointment dtd. 18.9.95 appears to be different from the signature at the bottom of office copy. If it is felt necessary, my presumption may please be confirmed by making a suitable reference to the Bureau of Finger Prints, G.O.S.

resulted financial loss to KVS for transfer TA/Joining time etc, caused but also unnecessary loss of DHRA admissible to me in terms of special facilities extended to the employees posted in NER as my family stays at Calcutta. Inspite of repeated appeal preferred to KVS, the rightful claim of DHRA admissible to me wef Oct'95 has been denied so far. Due to connivance and forged documents imported by the higher officers I have been put to financial hardship wef. Oct'95.

4. Due to non-settlement of the issue of supersession in promotion wef. June'88, even after awarding me the benefit of seniority, my juniors have been drawing more salary to the tune of Rs.2000/- permonth. Inspite of clear orders issued by the KVS, GOI, orders of the various courts in this regard and submission of my appeal from 1988 and the orders of the Director, D.O.P.T., Min. of Personnel, Grievances & Pension, due to some unknown reason, the financial benefit admissible under rules has not yet been given to me. I have beenforced to undergo financial sufferings wef. June'88 unreasonably.

5. From 30.10.95 I have been working at R.O. Silchar with full satisfaction ofmy officers at all levels. During last five years my ACRs were "Very Good" for three years and "Excellent" for two years.

6. I have been applying for my transfer from 1996 in every year for posting to R.O. Calcutta. Considering the genuineness of my case and the sufferings undergone by me due to loss of DHRA and Pay anomaly as a result of supersession in promotion all A.Cs recommended for my transfer to R.O. Calcutta.

7. As per transfer guidelines from 1989-90 to 1999, on completion of cut off period of one year, many employees in Gr.'C' & 'D'were transferred to their choice place. But my transfer to R.O. Calcutta against the clear vacancy was denied.

8. From 06.11.95 to 26.9.2000 I have submitted twenty three representations to various authorities of KVS with the request to
   a) transfer me to R.O. Calcutta against clear vacancies occured at different times.
   b) grant DHRA admissible to me under rules.
   c) grant the financial benefits of pay anomaly arisen due to supersession in promotion on adhoc basis wef. June,1988 and regular basis wef.29.1.92.

9. Till date no representations have been disposed by KVS negating the claims which clearly establishes that my genuine grievances have already been admitted in KVS. But due to some unkbown and inexplicable reason the grievances have not yet been redressed. Representations submitted to the C.G.O.,KVS have also been proved futile.

10. During 1995 to 2000, transfer of Principals , on completion of three years TENURE IN NER, were done by KVS to their choice place, ON REQUEST .

11. In terms of article 10(1) & 10(3) of transfer guidelines for 2000, hundreds of employees who have completed three years TENURE in NER have been transferred to their choice place ON REQUEST by creating vacancies at the choice place of the employees working in N.E.R.

Contd: P/5

12. During the period from 1991 to 1999 the following employees of R.O. Silchar were transferred from NER to their choice place ON REQUEST.

SL.No.	Name	Designation	Joined RO On	AT	Transferred On	AT RO	Remarks
1.	Sh. D. Babu.	A/Asstt.	31.7.84	Silchar	30.9.88	Bhubaneswar.	Choice place.
2.	" R.M.Sharma.	-do-	17.11.86.	-do-	8.2.99.	Jaipur.	-do-
3.	" V.K.Pandey.	-do-	3.9.85.	-do-	15.5.92.	Ahmedabad.	-do-
4.	" S. Raju.	-do-	24.4.90.	-do-	27.8.93.	Bhubaneswar.	-do-
5.	" Balaji Rao.	Supdt(Admn)	26.6.91.	-do-	27.8.93.	Bangalore.	-do-
6.	" S.B.Chaturvedi.	A.C.	27.2.92.	-do-	05/95.	Jabalpur.	-do-
7.	" Prem Kumar.	A/Asstt.	12.4.94.	-do-	23.2.96.	Guwahati.	-do-
8.	" G. D. Sharma.	A.C.	07/95.	-do-	4.4.96.	Bhopal.	-do-
9.	" S. S. Sharma.	A.O.	14.2.94.	-do-	3.11.98.	Ahmedabad.	-do-
10.	" Manoranjan Kr.	LDC.	7.3.94.	-do-	9.6.99.	Patna.	-do-

13. From 1995 to 2000, I have been applying/requesting for my transfer to R.O. Calcutta only, from NER. While on completion of TENURE for three years in NER and more than five years yeomen's service in NER, I am the only claimant for posting to R.O. Calcutta And the post was created accordingly, in terms of art. 10(1) of transfer guidelines for 2000, my claim has again been denied and I have been transferred to R.O. Delhi on the plea of PUBLIC INTEREST, in flagrant violation of rules.

14. In terms of article 10(1) of transfer guidelines, vacancy is to be created only to accommodate employees working in NER on completion of their TENURE in NER. I had applied for my transfer to R.O. Calcutta only. (Annexure-11). Denying the due claim of employee working in NER, no other employee can be transferred to such vacancy/post specially created.

15. But surprisingly, Sri R. K. Rastogi, Asstt. of RO Delhi has been transferred to R.O. Calcutta in Public Interest with a view to denying due claim of mine. This is another solitary proof of denial of NATURAL JUSTICE.

16. In terms of KVS circular No.F.13-6/87-KVS(E&I) dtd.08.4.87 and F.23-1/87-KVS(Admn-I) dtd.20.3.87, for K.Vs 40 and above, two Assistant and one LDC are sanctioned in each R.O. in terms of norms for sanction of staff. The Region, where K.Vs strength is less than 40, is not entitled for any Assistant and one LDC. According to this norms, the post of Assistants were not sanctioned for R.O. Silchar, Ahmedabad & Calcutta vide order dtd.8.4.87. No order ammending the norms to this effect has yet been circulated by KVS to ROs in this matter.

From 01.4.2K, there are 39 KVs under R.O. Silchar, In terms of rules, two post of Assistants at R.O. Silchar are SURPLUS. Being seniormost in station I am naturally SURPLUS W.E.F. 01.04.2K.

17. In terms of guidelines for transfer,
(a) Surplus employees get preference over other cases of transfer.
(b) Tenure cases get preference for posting to their choice place in terms of art. 10(1) of guidelines for transfer.

18. Due to my excellent services rendered in R.O. Silchar all the regular Assistant Commissioners were pleased to recommend for my posting at R.O. Calcutta. No complaint from 1995 to till date

contd. P/6.

has ever been made by the A.C., Silchar regarding my service and conduct that may cause my transfer on administrative ground on the plea of Public Interest. Moreso, I have never been communicated about any complaint against me by any of the officer of KVS.

*** 19. Due to my transfer to R.O. Silchar and Patna in violation of transfer guidelines prevalent during the period from 1987-88 to 1999 and the conspiracy plotted by the higher officers as enumerated in the foregoing paragraph I have already been forced unreasonably and inhumanely to

(1) undergo financial loss for more than Rs.4 lakhs for

(a) non-payment of DHRA for more than Rs.80000/- wef. Oct'95 to November,2000.

(b) non-payment of financial benefit of more than Rs. 1,25,000/- towards pay anomaly due to supersession in promotion wef. June'88 to Nov'2K.

(c) forcing me to incur expenditure for Rs.1,86,000/- @Rs.3000/- per month, for ~~xxxxxxxxx~~ maintenance of separate establishment at Silchar from October'95 to November'2K.

(d) additional transportation cost for Rs.10000/- involved for visiting the family for rendering filial services being duty bound as head of the family which is over and above the LTC facilities admissible. Such expenditure would not be required had I not been transferred to Patna & Silchar in violation of transfer guidelines prevalent during 1987-88 to 1995-96.

(2) undergo mental tension during last twelve years that made me a serious patient of Hypertension with cardiac problems that caused serious accident on 11.10.2K and I had to get four stitches on my forehead. Irreparable damage has already been inflicted upon my health ~~by~~ due to persisting injustices done by the Higher officers of KVS out of sheer vindictiveness.

20. The long separation from family and the son, studying in class-XI at St. Xaviers' Institution at Sodepur, Calcutta, has made our life miserable. The education of son has been forced to be jeopardised to a great extent. Further separation will make his future career bleak and his promising future will be end in catastrophe. During the period from 1995 to till date I have been forced not to look after the family staying at Calcutta.

21. On completion of Tenure in NER successfully by rendering unblemished services to KVS at Silchar, I, being the only claimant for transfer from R.O. in NER, certainly deserve posting to R.O. Calcutta, in terms of article 10(1) of transfer guidelines, 2000 and rules for posting on SURPLUS GROUND.

22. In view of the ~~foregoing~~ above, I appeal to your kind honour to reconsider your decision and in order to meet the end of NATURAL JUSTICE please issue necessary orders to

(1) modify the transfer order No.F.11-6/99-KVS(Estt-I) dtd. 13.11.2000.

(2) transfer me to R.O. Calcutta in terms of art.10(1) of guidelines ~~for transfer~~ and rules for transfer on Surplus ground, against the vacancy created as per article 10(1), or against the vacancy virtually lying unfilled from Feb'2K at R.O. Calcutta due to non-joining of Shri P. S. Sharma as well as recommendation of the A.C. Calcutta on 18.10.2000 for posting of Asstt. for smooth

contd. P/7.

functioning of R.O. Calcutta, or

by creating supernumerary post at R.O. Calcutta since my due claim under rules has been denied unreasonably wef. 1988 to November, 2000.

(3) make payment of admissible DHRA to me wef. Oct'95 to November, 2000.

(4) make payment of financial benefit towards pay anomaly arisen as a result of supersession in promotion wef June, 1988.

(5) conduct thorough probe into the forgery done by the higher officers of KVS through a high power committee, preferably by the members from Human Rights Commission, so that the higher officers of KVS cannot influence the Inquiry Committee,

at the earliest.

In this regard representation to the Vice-Chairman, KVS, being the head of the Committee for finalisation of transfer under article 10(1) of transfer guidelines, is being sent separately.

Yours faithfully,

(Tapan Kr. Chakraborty)
Assistant
KVS, R.O. Silchar.

Encls:- as stated above.

Copy to:- The Assistant Commissioner,
K.V. Sangathan, R.O. Silchar:- With the request to forward the appeal to the Commissioner, KVS and not to relieve me /please/ until the disposal of representation is received from the Commissioner and the Vice-Chairman, KVS.

(Tapan Kr. Chakraborty).

Dated: 17.11.2000.

ANNEXURE-8

S. O. S.

Date:- 21.11.2000.

To

The Vice-Chairman,
Kendriya Vidyalaya Sangathan,
Shastri Bhawan,
New Delhi-110001.

SPEED POST

(Attention:- Mr. K. S. Sarma, IAS,
Additional Secretary,
H. R. D. G. O. I.)

Subject:- Appeal for modification of Transfer Order No. F.11-6/99-KVS(Estt-I) dated 13.11.2000 issued by the Commissioner, KVS, in violation of guidelines for transfer, 2000 and request for posting of Tapan Kr. Chakraborty, Asstt., from R.O. Silchar to R.O. Calcutta on COMPLETION OF TENURE IN NER, in terms of article 10(1) of guidelines for transfer 2000. and on SURPLUS GROUND and REDRESSAL OF GRIEVANCES regarding injustices done in the matter of non-payment of DHRA admissible under rules and Non-payment of financial benefit for pay anomaly arisen due to supersession in promotion wef. June, 1988.

Reverred Sir,

With reference to the subject cited above with due deference I beg to submit my submission here-in-below for your kind personal attention, perusal, consideration and appropriate orders please.

1. That I have been applying for my posting on promotion/selection to the post of Assistant at R.O. Calcutta wef. 1988.

2. Vacancy existed at R.O. Calcutta as follows.

SlNo.	Period	No. of vacant post at R.O. Calcutta	Remarks
a)	August, 1988 to Dec'92.	Two.	Promotion was due in 1988 on adhoc basis but the same was denied to me by KVS without any cogent reason. My seniority No. as UDC was 126. All juniors from Seniority No. 127 to 157 were allowed to supersede me on promotion. All the promotees in terms of rules/transfer guidelines were posted to their choice place/same station. Posting on selection through departmental examination as Assistant at R.O. Calcutta was again denied in 1992. My panel position was sl.no.2 and Junior Sri J. K. Gupta at Sl.No.3 in panel was offered appointment with local posting at H.Qtrs., thus allowed to supersede me further without any convincing reason.
b)	June'95 to 15.9.95.	One.	Vacancy was occured/created due to transfer of Shri D. Ghadai, Asstt, to R.O. Bhubaneswar vide order No. F.11-1/95-KVS(E-1) dated 23.6.95. My posting to R.O. Calcutta was again denied without any reason.

contd. P/2.

c)	Sept'95 to 1997.	One.	Though Shri P.S.Sharma, Asstt., on reversion of S.O., was posted to R.O. Calcutta, he refused to join at R.O. Calcutta and had applied for posting to his choice place at R.O. Lucknow, which was acceeded to by KVS. He was transferred to R.O.Lucknow, thus got reward, for disobeying the authority.
d)	From 1993 to February,2K.	One.	Clear cut vacancy was kept unfilled at RO Calcutta denying my due claim even after completion of Tenure in NER on 30.10.98.
e)	February,2K to Till date.	One.	Sri P.S. Sharma, Asstt., was again rewarded by transferring him on administraground to R.O. Calcutta, A-1 city in Feb'2K from Lucknow,B-1 city, even after his nil contribution to KVS. Till date he did not join at R.O. Calcutta. He has again disobeyed the order and requested for posting to some where else and cancellation of orders. Vacancy virtually remained at Calcutta from September'95 to till date.
****			In terms of KVS Circular No.F.85-2/88-KVS(E-III) dtd. 29.3.90, read with circular No. F.20-65/77-KVS(SS) dtd.06.10.77 such vacancy should be treated as clear cut vacancy. The A.C. Calcutta, vide his letter dated 18.10.2000, has already requested to fill up the vacancy by posting Assistant at R.O. Calcutta for smooth functioning of R.O. Calcutta.
**** f)	from 13.11.2K onwards.	TWO.	One for (e) above and another one for creating vacancy in terms of article 10(1) of transfer guidelines for 2000, in order to accommodate me only as I have completed my TENURE IN NER and have been working for six years at R.O. Silchar.

**** g) All my officers at K.V, R.O. Calcutta althrough appreciated my sincerest, loyal, devoted, efficient services . Copies of certificates issued by the Head of offices will reveal the truth.(Enclosed as Annexure-1 to 3).

**** Considering my devotion to duty, loyalty, good conduct and efficiency the Assistant Commissioners of R.O. Calcutta had recommended for my posting to R.O. Calcutta on promotion/selection vide letter Nos.F.26-6/92-KVS(Cal)/4483,482,585,2745,1711,454,1711 dated 16.2.93, 11.5.93, 17.5.93, 23.12.94, 13.9.94, 9.6.95,28.6.95 respectively and F.39-6/92-KVS(Cal)/2059 dtd.17.9.93 which would be available in file at H.Qtrs.

Recommendations of the A.Cs, Head of Office, were ignored by the "Higher Officers " at H.Qtrs. while all other employees were posted in same place /station during the period from 1982 to 1997 by posting to R.O. Calcutta against clear vacancy was denied althrough although no charge-sheet was served upon me for any misconduct or No disciplinary proceeding was pending against me during 1988 to

contd. P/3.

to the date of release of my promotion on 15.9.95.

**** From the action of the higher officers at H.Qtrs it is clearly evident that honest, sincere, loyal, efficient services have no value in KVS and the good workers , due to their boldness and excellence, will be awarded with punishment and harrassment without any cogent reason and injustices would be meted out to them only, owing to high handedness of the higher officers at KVS(H.Qtrs).

3. Due to some unknown reason and connivance of higher Officers- Sri Puran Chand, the then DC(Admn),now J.C(Acad) and Sri V. K. Gupta, the then Sr. A.O., now A.C.(Admn)- at H.Qtrs., my due promotion on Ad-hoc basis with effect from June'88 and regular basis w.e.f.29.1.92 with posting at R.O. Calcutta was denied, my rightful claim for posting as Assistant on Selection at RO Calcutta was ignored, sealed cover procedure was adopted illegally about my promotion in violation of orders of G.O.I., the Supreme Court and other Courts/Tribunals in the country. All my juniors were allowed to supersede me and draw more salaries than me wef. June'88. The recommendations of the A.Cs for my posting to R.O. Calcutta have not been considered based on extraneous consideration.

4. Sri V. K. Gupta, Sr. A.O., now A.C(Admn), promised in writing vide his latter No. F.9-2/94-KVS(RP-I) dtd.04.10.94 that
**** offer of appointment/promotion to the post of Assistant will be given to me at R.O. Calcutta, if vacancy exists at the time of offering promotion,subject to exoneration of charges on the disciplinary case pending against me and all benefits will be given to me with retrospective effect.

* The statement of disciplinary proceedings pending against me was a white lie and a preplanned connivance because no charge-sheet was issued to me at all. As such question of exoneration of charges did not arise at all.This is a solitary proof of connivance made by Sri V. K. Gupta, Sr.A.O, and Sri Puran Chand, D.C.(Admn), who were actually responsible for the lapse committed in decision making process and according approval of the draft text of advertisement for recruitment of UDCs in K.Vs under Calcutta Region in 1987-88. In order to save their skin they wanted to make me a scape-goat and had gone whole hog to harass me out of vindictiveness and in a pre-planned connivance

a) got an inquiry conducted by the then D.C.(Finance) in camera, and got a vigilance report prepared in their favour pin pointing the sole lapse on me, a dealing hand, who was only responsible to put up the proposal in terms of rules at the very initial stage.

b) withheld my promotion wef. June'88 to the post of Asstt. on Adhoc basis.& posting at Calcutta.

c) Transferred me to R.O. Patna on 5.1.90 in violation of guidelines for transfer on the plea of Public Interest. Copy of transfer order endorsed to me was sent to the A.C. Patna on 5.1.90 intentionally so that no opportunity could be availed to take recourse to redressal of grievances.(Annexure- 4).

d) kept the promotion in sealed cover in violation of rules, in violation of standing orders of the Hon'ble Court/GOI decision,etc.

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As per orders of the Hon'ble Court

**** (i) " Sealed cover procedure can't be adopted when charge-sheet has not been framed and served upon. "

**** (ii) " Promotion of the employee can't be withheld if no charge-sheet has been issued and served upon him and the employee is entitled for promotion with financial benefit with retrospective effect."

**** (iii) " Mere calling for explanation on vigilance report does not amount to initiation of departmental proceedings- with holding of benefits of the employee ,therefore, is untenable in law and without justification. "

Even then, a group consisting of higher officers holding the charge of ACRs, Vigilance section, DPC

a) did not give clearance from vigilance for promotion/ issuing offer of appointment on selection during 1988 to 1995. August

**** b) did not consider promotion in 1988 although I was under zone of consideration under rules for adhoc promotion and in violation of rules and orders of the Supreme Court that "Reservation rules donot apply for adhoc promotion", my juniors were promoted.

Did not consider for my promotion again in January, 1992 due to non-availability of ACRs, maintained at H.Qtrs. ACRs were issued from R.O. Calcutta in same bunch and based on which Sri S.Chakraborty,UDC, was promoted, but surprisingly, my ACRs were reportedly found missing and not available.

**** e) Indulged in violating the orders of the Hon'ble High Court, Calcutta staying the illegal transfer orders and inspite of orders from the J.C.(Admn) to implement the orders of the Hon'ble Court in true spirit vide Office Order No.P.2-58/88-KVS(L&C) dtd.19/21.7.89 enclosed. (Annexure-5).

**** f) Misled the court by furnishing the false information that invited repeated contempt against KVS.

**** g) Misspent as many as 40000/- from Govt. Fund to cover up their own lapses towards fees of three ~~xxx~~ Advocates including Senior Advocates against norms of expenditure, transportation cost, etc, with a view to punishing me and harassing me in various ways.

**** h) forced me and the members of family to starve almost, for eight months from 09.1.90 to 15.8.90 by withholding my salary/HRA, etc. As a result of withholding of HRA, I had to incur financial loss of Rs.10000/- due to escalation cost of materials.

i) Forced me to undergo financial sufferings, drove me unnecessarily to litigation for my survival. Otherwise, the Conspirators at H.Qtrs/R.Os would have terminated my service by this time.

5. Inspite of instructions from D.C.(Admn) vide letter No.F.7-13/81-KVS(VOM) dtd. 7.9.82 (Annexure-6) to settle the personal problems/claims/grievances promptly and effectively, the officers of KVS inflicted

contd. P/5

pecuniary sufferings on me and did innumerable injustices to me.

6. On 03.8.95 I appealed to the then Hon'ble Chairman for

a) withdrawal of orders dated 05.1.90 for transfer as UDC to R.O. Patna.
b) release of my promotion as Assistant with posting at R.O. Calcutta w.e.f. 01.0.88.

**** 7. On 15.9.95 offer of promotion to the post of Assistant was issued by the J.C.(Admn). Treating me as UDC of R.O. Calcutta, I was offered posting of Assistant at R.O. Silchar.(Annexure- 7).
As such, it is very clear that my transfer order for UDC at Patna was withdrawn and as a result of withdrawal of my transfer to Patna, I was treated as UDC of RO, Calcutta by the J.C.(Admn).

My posting to R.O. Silchar inspite of clear vacancy at R.O. Calcutta is against the written committment of Sri V. K. Gupta,Sr.A.O. vide his letter dtd.04.10.94, which is squarely covered by a case of PROMISSORY ESTOPPEL.(Annexure-8)

***** In the case of S.S.Chandanwala(Smt.) Vs UOI & others, ,10/96 SwamyNews 850,(Bombay) dt. of judgement 5.12.95- OA No.1077 of 1995 it was held by the Hon'ble Court that "Govt. or Administrative Authority cannot ignore its promise on some unidentified or undisclosed grounds of necessity."- (Annexure-09)(Nine) .

8. On 25.9.95 I resumed my duty with medical fitness certificate and worked at R.O. Calcutta for four days till 29.9.95. On 27.9.95, I opted for joining at R.O. Silchar (Annexure-10) and applied for Transfer TA for joining at R.O. Silchar(Annexure-11).

***** 9. Again the conniyance was started against me to do further harm to me by Sri S. K. Talapatra,A.O.R.O. Calcutta and Sri R. N. Sharma, Sr. A.O. at H.Qtrs.

Over phone on 25.9.95 Sri Talapatra,A.O. now posted to R.O. Bhubaneswar, talked to Sri R.N.Sharma,Sr.A.O. and connived to get me out from Calcutta and reposted to R.O. Patna as UDC again , even after issuance of offer of promotion on 15.9.95 by the J.C.(Admn) and withdrawal of transfer order for Patna as UDC.

On 29.9.95 Sri A. B. Sarkar Offg. A.C.,Calcutta, issued a Memorandum No.F.26-6/94-KVS(Cal)/1309 (Annexure-12) enclosing therewith a fake corrigendum No.F.2-17/95-KVS(F-I) dtd.25.9.95 (Annexure-13) duly attested by Sri S. K. Talapatra,A.O.,Calcutta in which my place of posting was shown as R.O. Patna in place of R.O. Calcutta. This was issued with reference to offer of appointment dtd.15.9.95(Annexure-7) . The said corrigendum purportedly signed by Sri R. N. Sharma, Sr. A.O. was attested by Sri Talapatra,A.O. This was a forged document imported by A.O. Calcutta which was not at all issued by KVS H.Qtrs and had no bearing on with the corrigendum dtd. 25.9.95 actually issued by Sri R.N.Sharma, Sr.A.O.(Annexure-14),because the context/format,

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of two corrigendum and date of offer of appointment (-dated 18.9.95) referred therein are different in two memorandum. It is quite obvious that two corrigendum refering dates of two offer of appointment from KVS H.Qtrs were never issued.

*****

If the corrigendum attested by Sri S. K. Talapatra, A.O., that resulted issuance of Memorandum dtd.29.9.95 by Offg. A.C., Calcutta, was actually issued by Sr.A.O., there was no further need to issue another corrigendumon 25.9.95-the same date- having different context/format, reference of offer of appointment dtd.18.9.95.

Corrigendum dated 25.9.95 issed by Sri R. N. Sharma, Sr.A.O., refers offer of appointment dtd.18.9.95 ~~xxxxxxx~~ issued to me for the post of Assistant. THIS IS ANOTHER FORGERY DONE AT KVS H.QTRS IN THE OFFER OF APPOINTMENT(Annexure-15). No offer of appointment/was ever issued to me. TWO OFFER OF APPOINTMENT ON ~~xx~~ 15.9.95 and 18.9.95 CAN NEVER BE ISSUED TO ONE PERSON FOR ONE POST GIVING POSTING FROM RO CALCUTTA TO SILCHAR. In fact, offer of appointment dtd.18.9.95 was a forged document based on which corrigendum was issued by Sr.A.O. on 25.9.95 changing my place of posting at RO Patna instead of RO Calcutta.

*****

/dtd.18.9.95

A delve into this aspect will reveal that the figure '8' of offer of appointment dtd.18.9.95 was written in two forms in the office copy of KVS H.Qtrs and the copy endorsed to R.O. Silchar.(Annexure-15 & 16). It is also surprising to note that in the two offer of appointment, no endorsement was given to A.C. R.O. Patna directing him to intimate date of joining, etc. as is normally done in all other case.

Signature of Sri R. N. Sharma, Sr.A.O., on the upper portion of the office copy of offer of appointment dtd.18.9.95 appears to be done in two different pen/ink and appears to be different from the signature at the bottom of office copy. If it is felt necessary, my presumption may please be confirmed by making a suitable reference to the Bureau of Finger Print, C.O.I.

It appears that without knowledge of the J.C.(Admn) forgery had been done in the office copy of offer of appointment actually issued on 15.9.95, in E-1 Section. Surreptitiously 15.9.95 was forged as 18.9.95 in order to establish that it was issued by the J.C.(Admn).

Corrigendum dtd.25.9.95 issued by Sri R.N. Sharma, Sr.A.O. was received at Calcutta on 09.10.95. Before receiving the corrigendum issued by KVS(H.Qtrs), based on a fake and forged corrigendum prepared and attested by Sri S. K. Tala-Patra, A.O. I was directed to report to R.O. Patna and relieved on 29.9.95 after paying transfer T.A. advance instead of Silchar, vide letter dtd. 29.9.95.(Annexure-17). The statement made by him at para-2 of letter is completely false and bereft of truth.

Sri Talapatra was so much vindictive that he dared to submit false Affidavit even after taking oath in Calcutta High Court ~~xxxxx~~ that/C.B.I. case against me, although there was no C.B.I. case against me since my appointment in KVS. This false statement compelled me to bring the charge of perjury against him in Hon'ble High Court, Calcutta which is still pending.

/there was

Contd. P/7

Besides, violating the orders of the J.C.(Admn) I was denied continuing at R.O. Calcutta before joining at R.O. Silchar as Assistant on promotion in terms of offer of appointment dated 15.9.95. issued by the J.C.(Admn). I was forced to go to Patna in violation of office procedure /rules/decency and decorum through colourful exercise of powers unauthorisedly by Sri A. B. Sarkar,offg. A.C.Calcutta with a view to

a) getting rid of me at Calcutta R.O. by hook or by crook.
b) denying me DHRA admissible at Silchar owing to my last place of posting at RO Patna and putting me and the members of family into further financial hardship.

***** A.C. being the head of office of R.O. and having greater position/status in hierarchy than A.O./Sr.A.O., is governed by the orders of his next superior/competent authority i.e.D.C./J.C./Commissioner.As such,A.O./Sr.A.O. have no locus standi to issue orders directly on their own ,specially on appointment/corrigendum of appointment/transfer etc,for implementation by their superior officer, i.e. A.C., as was done in my case.

Besides, A.O. has no authority to attest any official documents since he is not having gazetted power in Autonomous Body.Therefore, any attestion made by A.O. on his own made fake corrigendum order dtd.25.9.95, which was not at all issed from KVS & received at R.O. Calcutta, can't be accepted by the higher authority for implementation.

Issuing order on 29.9.95 vide letter No.F.26-6/94-KVS(Cal)1309 (Annexure- 12) by the A.C. Calcutta,therefore, stands unauthoritative, illegal and void ab-initio.

***** All these irregular, forged and illegal activities were done by the ~~xxx~~ higher officers of R.O. & KVS(H.Qtrs) appears to be under the influence of the then Sr. A.O., now A.C.(Admn), the then D.C.(Admn), now J.C.(Acad), as their all out efforts and connivance to harras me and the members of family failed as a result of release of promotion to me, withdrawal of transfer order dtd.5.4.90 for Patna by the J.C.(Admn) under instructions from the Chairman,KVS.

Connivance of the higher officers of KVS(H.Qtrs) & R.O.Calcutta against me is unequivocally substantiated.Otherwise, they, being all class-I officers having responsible posts, would have certainly not dared to

a) disobey the orders of the J.C.(Admn) and refuse the order for promotion and disallow me to continue at R.O. Calcutta before joining to R.O. Silchar. (Annexure- 18).
b) issue forged offer of promotion dtd.18.9.95.
c) Issue two offer of promotion dtd.15.9.95 and 18.9.95 for one post to the same person giving posting from R.O. Calcutta to R.O. Silchar.
d) issue two corrigendum on 25.9.95 without any authority and of different context/format.
e) issue order dtd.25.9.95 & 29.9.95 from R.O.Calcutta with distorted/fabricated information.
f) issue order to relieve me in haste on 29.9.95 based on fake and forged corrigendum order dtd. 25.9.95, while order for corrigendum dtd.25.9.95 issued by KVS based on a forged offer of appointment

contd.P/8.

dtd.18.9.95 was actually received at R.O.Calcutta on 9.10.95.

f) make payment for transfer TA advance for R.O. Patna, while T.T.A. for Silchar was applied for.,

violating the order of the J.C.(Admn) in hierarchy, who, having gone through the records of illegal transfer done by KVS on 5.1.90 in utter violation of transfer guidelines for 1989-90 & powers delegated, by BOG, withdrew the transfer order and treating me as UDC of R.O. Calcutta, posted me to R.O. Silchar on promotion through offer of appointment order dtd.15.9.95.

Offer of appointment dtd. 18.9.95, both the Corrigendum dtd.25.9.95, being illegal in nature, follow up orders issued by A.O. & A.C. Calcutta are unlawful and stand void ab-initio.

Since offer of appointment dtd.15.9.95 was issued by the competent authority treating me as UDC of R.O. Calcutta and posting me to R.O. Silchar, I am entitled for benefit of D.H.R.A.admissible to the employees posted in NER as my family was never shifted from Calcutta. Only for twenty days stay at R.O.Patna I was further relieved to join at Silchar based on offer of appointment dtd.15.9.95. For this short duration question for shifting family did not arise because in terms of rules within six months family can be shifted to Silchar.

The illegal, unauthoritative action of the higher officer has not only resulted financial loss to KVS for transfer TA but also caused unnecessary loss of DHRA admissible to me under rules. Inspite of repeated appeal preferred to KVS, the rightful claim of DHRA admissible to me wef October '95 has been denied by KVS, and I have been put to financial hardship wef, Oct'95.

As a loyal employee I was duty bound to carry out the orders of the A.C & H.Qtrs because it was not revealed earlier before joining at Patna & Silchar that a deep rooted conspiracy was plotted in a pre-planned manner by the higher Officers against me to do further harm to me.

My repeated representations to grant DHRA submitted to the KVS authorities were turned down by Shri J. S. Talwar, Sr. Accounts Officer & the D.C. (Finance) as detailed below.

Sl No.	Ref. No. & dt.	Orders issued by	Grounds
1.	F.8-3/97/KVS/ Audit/372	Sh.J.S.Talwar,Sr. A/cs Officer.	Last place of posting is Patna, family resides at Calcutta as the condition laid down is not fulfilled.
2.	-do-/618	-do-	case is not covered under rules.

Whereas vide letter No.F.8-11/2000/KVS/Audit/346 dated 26.6.2000 it was clarified by the Sr. A/cs Officer that

contd. P/9.

***** " the employee who was in occupation of Govt. accommodation at the last place of posting and was not drawing HRA in the last station of posting immediately before posting to NER will not be entitled to draw Double HRA, even if the Govt. employee has kept his family member at a rented house at the last station of posting or any other place."

***** In terms of the said clarification as I did not avail govt. accommodation at Patna, did not shift family within six months under the circumstances cited on the foregoing paras, drew HRA at Calcutta and Patna before joining to Silchar, and I was not at all posted to Patna from Calcutta by the Competent Authority in terms of offer of appointment dtd.15.9.95, denial of my rightful claim for getting DHRA wef.October'95 to till date by Shri J.S. Talwar without considering the case in right perspective even after direction issued by the Director, and communicated by the Under Secy, Deptt. of Personnel & Training, Min. of Personnel, Public Grievances & Pension , to take appropriate action regarding DHRA , vide letter No.F.9/2/2000-Welfare dtd.17.7.2000 (Annexure-19) is another case of deep rooted connivance against me and injustice was done out of vindictiveness by the officers at H.Qtrs based on extraneous consideration.

10. From 30.10.95 I have been working at R.O. Silchar with full satisfaction of my officers at all levels. During last five years my ACRs were reportedly "Very good" for three years and "Excellent" for two years.

*****11. I have been applying for my transfer from 1996 in every year for posting to R.O. Calcutta. Considering the genuineness of my case and the sufferings undergone by me due to loss of DHRA and Pay anomaly arisen as a result of supersession in promotion ~~in promotion~~ all A.Cs recommended for my transfer to R.O. Calcutta.

***** 12. As per transfer guidelines from 1989-90 to 1999, on completion of cut off period of one year, many employees in Gr.'C' & 'D' category were transferred to their choice place.But my transfer to R.O. Calcutta against the clear vacancy was denied.

***** 13. From 06.11.95 to 26.9.2000 I have submitted twenty three representations to various authorities with the request to

a) transfer me to R.O. Calcutta against clear vacancies occured at different times.
b) grant DHRA admissible to me under rules.
c) grant the financial benefits of pay anomaly arisen due to supersession in promotion on adhoc basis wef. June'88 and regular basis wef.29.1.92.

***** 14. The direction issued by the Director, D.O.P.T,Min. of Personnel & Public Grievances& Pension, to take appropriate action on the issues pending for last 12 years and take urgent appropriate action regarding my transfer to Calcutta ,vide letters dtd.17.7.2000 & 26.7.2000 (Annexure-19 & 20) have also been ~~ignored~~ ignored by KVS.

***** 15. Till date no representations have been disposed by KVS negating the claims which clearly establishes that my genuine grievances and claims have been admitted in KVS.But

contd. P/10.

due to some unknown and inexplicable reason the grievances/ CLAIMS have not yet been redressed/settled. Representations submitted to the C.O.O., KVS have also been proved futile.

16. During 1995 to 2000, transfer of Principals, on completion of three years TENURE IN NER, were done by KVS to their choice place, on request.

17. In terms of article 10(1) & 10(3) of transfer guidelines for 2000, hundreds of employees who have completed three years TENURE IN NER have been transferred to their choice place ON REQUEST by creating vacancies at the choice place of the employees working in NER.

18. During the period from 1991 to 1999 the following employees of RO Silchar were transferred from NER to their choice place On REQUEST

Sl. No.	Name	Designation	Joined Ro On	At	Transferred On	AT	Remarks
1.	Sh. D. Babu.	A/Asstt.	31.7.84	Silchar	30.9.88	BBSR	Choice place.
2.	" R.M.Sharma.	-do-	17.11.86.	-do-	8.2.99	Jaipur.	-do-
3.	" V.K.Pandey.	-do-	3.9.85.	-do-	15.5.92.	Ahmedabad	-do-
4.	" S. Raju.	-do-	24.4.90.	-do-	27.8.93.	Bangalore	-do-
5.	" Balaji Rao.	Supdt(Admn)	26.6.91.	-do-	27-8-93.	BBSR	
6.	" S.B.Chaturvedi	A.C.	27.2.92.	-do-	05/95	Bangalore	-do-
7.	" Prem Kumar.	A/Asstt.	12.4.94.	-do-	23.2.96.	Jabalpur.	-do-
8.	" G. D. Sharma.	A.C.	07/95.	-do-	4.4.96.	Guwahati.	-do-
9.	" S. S. Sharma.	A.O.	14.2.94.	-do-	3.11.98.	Bhopal.	-do-
10.	" Manoranjan Kr.	LDC.	7.3.94.	-do-	9.6.99.	Ahmedabad.	-do-
						Patna.	-do-

19. From 1995 to 2000, I have been applying/requesting for my transfer to R.O. Calcutta only, from NER. While on completion of TENURE for three years in NER and more than five years yeomen's service in NER, I am the only claimant for posting to R.O. Calcutta and the post was created accordingly, in terms of art.10(1) of transfer guidelines for 2000, my claim has again been denied and I have been transferred to R.O. Delhi on the plea of PUBLIC INTEREST, in flagrent violation of rules. The term Public Interest, used in this case capriciously, just to exploit the official powers vested in the administration, is not only fictitious but mere a phraseology used is of empty meaning.

Annexure-20(1)

Due to my excellent services rendered in R.O. Silchar all the regular A.Cs were pleased to recommend for my posting at R.O. Calcutta. No Complaint from 1995 to till date has ever been made by the regular A.C. Silchar regarding my services, conduct that may cause my transfer on administrative ground on the plea of PUBLIC INTEREST. Moreso, I have never been communicated about any complaint against me by any of the officer of KVS.

20. I was the office bearer -PRESIDENT- of All India Kendriya Vidyalaya Sangathan, Regional Unit Calcutta. Presently, I am the Secretary of AIKVSSA, Regional Unit, Silchar. Possibly, for my being the Office bearer, out of vengeance just to victimize me and harrass me repeatedly I have been transferred- from Calcutta to Patna, Patna to Silchar and again from Silchar to Delhi, on the plea of Public Interest, against my choice and in violation of transfer guidelines, and against the order of the Chairman, KVS not to harass the Office Bearer

(Staff Association)

CONTD.P/11

unnecessarily. Order issued by KVS in this regard is enclosed. (Annexure- 21).

***** 21. In terms of article 10(1) of transfer guidelines,2000, vacancy is to be created,only to accommodate employees working in NER on completion of TENURE IN NER. I had applied for my transfer to R.O. Calcutta only.(Annexure-22). Denying the due claim of employee working in NER, no other employee can be transferred to such vacancy/post ,specially created.

***** 22. But surprisingly, Sri R. K. Rastogi,Asstt, of RO Delhi has been transferred to R.O. Calcutta in PUBLIC INTEREST with a view to denying the claim of mine out of vindictiveness. This is another solitary proof of DENIAL OF NATURAL JUSTICE. The ~~xx~~ discreet inquiry is required to ascertain such capricious application of the term 'Public Interest'

***** 23. In terms of KVS circular No.F.13-6/87-KVS(E-1) dtd.8.4.87 and F.23-1/87-KVS(Admn-I) dtd.20.3.87, for KVs 40 and above, two Assistants and one LDC are sanctioned in each R.O. in terms of norms ~~of~~ for sanction of staff.The Region,where K.Vs strength is less than 40, is not entitled for any Assistant and one LDC. According to this norms, the post of Assistants were not sanctioned for R.O. Silchar,Ahmedabad and Calcutta vide order dtd.8.4.87. No order ammending the norms to this effect has yet been circulated by KVS to ROs in this regard.

From 1.4.2K, there are 39 K.Vs under R.O. Silchar.In terms of rules, two posts of Assistants at R.O. Silchar are SURPLUS due to reduction of vidyalaya strength.Being seniormost in station I am naturally SURPLUS at RO Silchar w.e.f. 01.4.2K.

***** 24. In terms of guidelines for transfer
a) Surplus employees get preference over other cases of transfer.
b) Tenure cases get preference for posting to their choice place in terms of art.10(1) of guidelines for transfer.

***** 25. Due to my transfer to R.O. Silchar & Patna in violation of transfer guidelines prevalent during the period from 1987-88 to 1999 and the conspiracy plotted by the higher officers as enumerated in the foregoing paragraphs I have already been forced unreasonably and inhumanely to

(1) undergo financial loss for more than 4 Lakhs for
a) Non-payment of DHRA for more that 80000/- wef.Oct'95 to November,2000.
b) Non-payment of financial benefit for more than Rs. 1,25,000/- towards pay anomaly arisen due to supersession in promotion wef. June'88 to November,2000.
c) forcing me to incur expenditure for Rs.1,86,000/- @ Rs.3000/- per month, for maintenance of separate establishment at Silchar from October'95 to Nov,2000.
d) additional transportation cost for Rs.10000/- involved for visiting the family for rendering filial services being duty bound as head of the family which is over and above the LTC facilities admissible. Such expenditure

contd. P/12

would not be required had I not been transferred to Patna & Silchar in violation of transfer guidelines prevalent during 1987-88 to 1995-96.

****** (2) undergo mental tension during last twelve years that made me a serious patient of Hypertension with cardiac problems that caused serious accident on 11.10.2K and I had to get four stitches on my forehead. Irreparable damage has already been inflicted upon my health due to persisting injustices done by the higher officers of KVS out of sheer vindictiveness.

..... 26. The long separation from family and the son, studying in class-XI in St.Xaviers' Institution at Sodepur, Calcutta, has made our life miserable. The education of son has been forced to be jeopardised to a great extent. Further separation will make his future career bleak and his promising future will be end in catastrophe. During the period from 1995 to till date I have been forced not to look after the family and only son staying at Calcutta.

27. My sincerest endeavour to stand by the family at Calcutta by joining the post of Jr. Administrative Officer in Drug Control, GOI, at Calcutta on deputation has also been denied by Sri K.N.Singh, Sr.A.O, (Establishment) by not forwarding my application in flagrant violation of instructions of the KVS & GOI contained in Accounts Code-Special facilities for employees posted in NER. As a result I have been deprieved of getting the pay scale benefit of Rs. 6500-10500/-. More so, intentionally, no communication has been made to me/A.C. Silchar who forwarded the case to H.Qtrs. Instead, the case has been sent to A.C.Bhubaneswar with a view to not making me aware of the outcome. (Annexure-23).

28. In view of the persisting conspiracy of the higher officers at H.Qtrs it is very difficult to work in Delhi under their clutch.

29. Since all out efforts of the higher officers at H.Qtrs to punish me during last twelve years, by hook or by crook, have failed as a result of orders passed by the Hon'ble High Court, Guwahati on 17.8.98 directing upon KVS to initiate common disciplinary proceedings against the higher officers who were responsible for decision making process and according approval of the draft Text for advertisement for recruitment of UDCs of KVs under Calcutta Region in 1987-88, it is apprehended that out of connivance transferring me to Delhi they want to cause severe harm to my service and life. I am afraid my life may be in danger if I am forced to join at Delhi.

In view of the above, I appeal to your kind honour, as the head of the committee for finalising transfer under Art. 10(1) & 10(3) of transfer guidelines, to intervene into the issues referred on S.O.S. basis and in order to meet the end of NATURAL JUSTICE

contd.P/13.

kindly issue necessary orders to

1) cancel my posting to R.O.Delhi/~~xxQtxx~~ modify the transfer order No.F.11-6/99-KVS(Estt-I) dtd.13.11.2000.

2) transfer me to R.O. Calcutta in terms of art.10(1) of transfer guidelines for 2000, or

against the vacancy lying unfilled from Feb'2K at R.O. Calcutta due to non-joining of Shri P.S. Sharma as well as recommendation of the A.C. Calcutta on 18.10.2000 for posting of Assistant for smooth functioning of R.O. Calcutta, or

by creating supernumerary post at R.O. Calcutta since my due claim under rules has been denied unreasonably wef. 1988 to November,2000.

3) make payment of admissible DHRA to me wef.Oct'95 to November,2000.

4) make payment of financial benefit towards pay anomaly arisen as a result of supersession in promotion wef June'1988.

5) ensure stopping of victimisation by the Officers of KVS(H.Qtrs) unnecessarily to the Office Bearer of the Association without any reason/on frivolous grounds.

6) conduct thorough probe into the forgery and injustices done by the Officers/officials at H.Qtrs/R.Os,as referred above, through a high power committee, preferably by the members of Human Rights Commission, so that the higher officers of KVS can't influence the Inquiry Committee,

at the earliest.

Since the connivance has been continuing against me during last twelve years in a pre-planned manner by KVS one after another and Higher Officers at H.Qtrs have been patronising the wrong Doers at H.Qtrs/R.Os, I appeal to your honour to look into the matter personally and settle the issues at your end only, if required, in consultation with the Director,D.O.P.T, Otherwise, there is no hope for getting justice from KVS any more.

Yours faithfully,

(Tapan Kr. Chakraborty)
Assistant
KVS, R.O. Silchar.

Encls:- As stated.

Secretary,
K.V.S.S.A-Regd
Unit- Silchar

Cal

Filed by Advocate P. Pawar 30/3/2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:GUWAHATI BENCH:

AT GUWAHATI

ORIGINAL APPLICATION NO.423/2001

Shri Tapan Kumar Chakraborty

...Applicant

-vs-

Union of India & ors

...Respondents

The Respondent Nos 2,3,4 and 5 above named beg to file their written statement 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 of the application the answering respondent beg to state that the averment of the applicant that transferring him from Kendriya Vidyalaya Sangathan(in short KVS),Regional Office, Silchar to KVS,Regional Office Delhi is total violation of transfer and posting guidelines is not correct.

contd....2

Transfer cannot be claimed as a right by those making request nor do guidelines intend to confer such right. The KVS being an All India Organisation, its employees are ,liable for transfer throughout the country. The transfer are inter alia effected on request and compassionate grounds as per transfer guidelines of K V S and also on the grounds of administrative exigencies and organisational reasons.

3. That with regard to statements made in paragraph 2 and 3 of the application the answering respondents have no comments.

4. That with regard to statements made in paragraph 4.1 and 4.2 of the application the answering respondents have no comment.

5. That with regard to the statements made in paragraph 4.3 of the application the answering respondents beg to state that the averments made by the applicant is not correct. Clause 19 of the Transfer Guidelines as circulated vide letter No.F.1-1/2000-KVS(Est-III) dtd 30.12.99 clearly stipulates that these guidelines shall mutatis mutandis apply to non-teaching staff to the extent applicable.

Copy of letter No.F.1-1/99-KVS(Estt III) dtd 25.1.2000 is annexed herewith and marked as Annexure-1.

contd....

6. That with regard to statements made in paragraph 4.4 of the application the answering respondents beg to state that regarding the provisions of transfer guidelines it is already explained in paragraph 1.

7. That with regard to statements made in paragraph 4.5 and 4.7 of the application the answering respondents beg to state that in 1995 the applicant was posted ~~i~~ as the Assistant at K.Vs Regional Office ,Silchar where he joined duty on 30.10.95.

Disciplinary proceedings have been initiated against the applicant under Rule 14 of CCS(CCA)Rules,1965 as extended to the employees of KVS vide Memorandum No. 4-1/89-KVS(Vig)dtd.17.9.97 for the alleged serious irregularities committed by him in the matter of recruitment while he was posted at KVS, R.O. Calcutta. The enquiry has not progressed due to interim stay obtained from the Hon'ble High Court,Guwahati by the applicant.

The applicant could not be considered for transfer to KVS, R O Calcutta from KVS, R.O Silchar because of the aforesaid enquiry under rule 14 of CCS(CCA) Rules 1965 for the alleged irregularities committed by him while he was posted in R.O Silchar.

8. That with regard to statements made in paragraph 4.6 of the application the answering respondents beg to state that the applicant could not be considered for transfer to KVS,R.O ,Calcutta from KVS,R.O Silchar for

contd...

the pending aforesaid enquiry under Rule 14 of CCS(CCA) Rules,1965 for the alleged irregularities committed by him while posted at KVS RO Calcutta.

9. That with regard to statements made in paragraph 4.8 of the application the answering respondents have no comments.

10. That with regard to statements made in paragraph 4.9 of the application the answering respondents beg to state that the contents of this paragraph is misleading. The applicant was transferred to KVS,RO Silchar on promotion (Departmental examination) to the post of Assistant where he joined on 30.10.95. As per the existing transfer guidelines for transfer, the applicant qualifies for his tranfer from R.O Silchar. Therefore the was transferred from KVS R O Silchar to KVS ,R O Delhi. However, he does not meet the conditions for his transfer to KVS,R O , Calcutta in terms of para 18(d) of the transfer guidelines and the facts stated in paragraph 4.5 above.

11. That with regard to statements made in paragraph 4.10 of the application the answering respondents beg to state that the representation dtd.21.11.2000 raising various issues in respect of Sri Tapan Kumar Chakraborty has been disposed off and the same has been communicated to the applicant vide office memorandum No.6-20/84-KVS (Estt-1) dtd.29.1.2001.

contd...5

Copy of the memorandum dated 29.1.2001 is annexed herewith and marked as Annexure-2.

12. That with regard to the statements made in paragraph 4.11 of the application the answering respondents beg to state that the circumstances under which the applicant cannot be transferred to K.V.S., R O Calcutta has already been explained in the preceding paragraphs.

13. That with regard to the statements made in paragraphs 4.12 of the application the answering respondents beg to state that the averments made in paragraph are not correct.

14. That with regard to the statements made in paragraph 4.13 and 4.14 of the application the answering respondents beg to state that the submiss ons are already made in the preceeding paras.

15. That with regard to statements made in paragraph 4.15 and 4.16 of the application the answering respondents beg to state that the matter stated in this paragraph has no relevance with his case as the transfer of other employees are made on their separate merit in accordance with the transfer guidelines.

16. That with regard to statements made in paragraph 4.17 of the application the answering respondents beg to

contd...

state that the circumstances under which the applicant could not be transferred to KVS,R O,Calcutta has already been explained in paragraph 4.9 above. However, as the applicant Sri Tapan Kumar chakraborty was pressing hard for his transfer from North East Regional,he has been transferred to KVS,R O Delhi vide office order No.F.11-6/99-KVS(East-1)dtd 13.11.2000.

17. That with regard to the statements made in paragraph 4.18 of the applicat on the answering respondents have no comments.

18. That under the facts and circumstances stated above , it is respectfully submitted that the application is devoid of any merit and hence liable to be dismissed.

-VERIFICATION-

I, Sri D K Saini, son of Sri C.L. Saini, aged about 51 years, presently working as the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Maligaon, Guwahati Region do hereby verify that the statements made in the above paragraphs are true to my knowledge and believe based on records. And I ~~sign~~ and authorised to sign this verification.

Place : Guwahati

Date : 28.3.2001

DEPONENT

-8-

Annexure - 1

Annexure-1

KENDRIYA VIDYALAYA SANGATHAN
18, INSTITUTIONAL AREA
SHAHEED JEET SINGH MARG,
NEW DELHI-110016.

No. F.1-1/99-KVS(ESTT.III)

Dated: 25.1.2000

To,

The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
All Regional Offices.

Sub:- Annual Transfer applications in respect of Kendriya Vidyalaya employees for 2000-2001.

****

Sir/Madam,

In continuation to the zerox copied Draft Annual Request Transfer application (2000-2001) set already sent to you, I am to forward herewith 2 sets of printed application sets for information and necessary action.

All the Vidyalayas have been supplied with 3sets of transfer application sets without transfer guidelines. You are requested to send zerox copies of Transfer Guidelines sets to all the Kendriya Vidyalayas for wider publicity among the staff.

It may kindly ensured that the filled in forms are forwarded to Kendriya Vidyalaya Sangathan(HQ), New Delhi by 29.2.2000.

Yours faithfully,

(S.B. CHATURVEDI)
DEPUTY COMMISSIONER (ACAD.)

F.41/99-KVS(SR)/
Ax Ax

Dated 1-07.02-00.

To

All Principals, Kendriya Vidyalayas (Gauhati Region)

Sub:- Forwarding Transfer Guide-lines.

Sir/Madam, Ax

A copy of transfer guidelines is enclosed herewith for your information, guidance & necessary action.

Encl:- As stated.

Yours faithfully,

ADMINISTRATIVE OFFICER.

TRANSFER GUIDELINES

In supersession of existing guidelines/orders on the subject, it has been decided that transfers in the Kendriya Vidyalaya Sangathan will hereafter be made as far as practicable in accordance with the guidelines indicated below:

2. In these guidelines unless the context otherwise requires:

i) "Commissioner" means Commissioner, Kendriya Vidyalaya Sangathan including any officer thereof who has been authorised or delegated to exercise all or any of the powers and functions of the Commissioner;

ii) "Performance" means

a) Where the Annual Confidential Report(s) is/are available in the concerned Regional office, the assessment of teacher as reflected in the Annual Confidential Report for the last three years preceding the year in which transfers are taken up;

b) Where the Annual Confidential Report(s) for last three years or any of the last three years is/are not available in the concerned Regional Office for whatever reason, the assessment by the Assistant Commissioner of the Region from where transfer is being sought on the work and conduct of the teacher for the year(s) in respect of which the ACR(s) is/are not available.

iii) "Sangathan" means the Kendriya Vidyalaya Sangathan.

iv) "Service" means the period during which a person has been holding charge of the post in the Sangathan on a regular basis

v) "Station" means any place or a group of places within an urban agglomeration.

vi) "Stay" means service at a station excluding the period or periods of continuous absence from duties exceeding 30 days (45 days in case of N.E. Region, Sikkim and A&N Islands) at a stretch other than on training or vacation.

vii) "Teacher" means all categories of teachers in the employment of Sangathan and includes Vice-Principals and Principals but does not include Education Officers and above.

viii) "Tenure" means a continuous stay of three years in North Eastern Region, Sikkim, A&N Islands and listed hard stations. (Note: While calculating the aforesaid stay of three years, the period or periods of continuous absence from duties exceeding thirty days (45 days in case of N.E.Region, Sikkim and A&N Islands) at a stretch other than on maternity leave, training or vacation shall be excluded.

ix) "Year" means a period of 12 months commencing on 1st April.

Unless the context otherwise indicates:

a) words importing the singular number shall include plural number and vice-versa;

b) words importing the masculine gender shall include the feminine gender.

3. In terms of their all India transfer liability, all the employees of the KVS are liable to be transferred at any time depending upon the administrative exigencies/grounds, organisational reasons or on request, as provided in these guidelines. The dominant consideration in effecting transfers will be administrative exigencies/grounds and organisational reasons including the need to maintain continuity, uninterrupted academic schedule and quality of teaching and to that extent the individual interest/request shall be subservient. These are mere guidelines to facilitate the realization of objectives as spelt out earlier. Transfers cannot be claimed as of right by those making requests nor do these guidelines intend to confer any such right.

4. The maximum period of service at a station shall generally not exceed three years in the case of Assistant Commissioners and five years in case of Principals/Education Officers. They are, however, liable to be transferred even before completion of the aforesaid period, depending upon organisational interest or administrative exigencies, etc. Principals with outstanding record in terms of their performance as reflected in ACRs and CBSE results may be retained in a Kendriya Vidyalaya even after completion of five years as aforesaid to promote excellence in the Vidyalaya.

5. Apart from others, the following would be administrative grounds for transfers.

(i) A teacher is liable to be transferred on the recommendation of the Principal and the Chairman of the Vidyalaya Management Committee of the Kendriya Vidyalaya.

(ii) Transfer of spouse of a Principal to a Kendriya Vidyalaya at the station where the Principal is working or nearby, but not the Vidyalaya where he is a Principal.

6. As far as possible, the annual transfers may be made during summer vacations. However, no transfers, except those on the following grounds shall be made after 31st August

i. Organisational reasons, administrative grounds and cases covered by para 5;

ii. Transfers on account of death of spouse or serious illness when it is not practicable to defer the transfer till next year without causing serious danger to the life of the teacher, his/her spouse and son/daughter.

(ii)	Where spouse is a Central Government employee	18
(iii)	Where spouse is an employee of autonomous body or PSU under Central Government.	15
(iv)	Where spouse is an employee of State Government or its autonomous body or PSU	12
(v)	Other spouse cases	10

Note for 'Spouse Cases' :

The aforesaid points will be awarded only where the teacher seeks transfer to a station (a) other than the one where he/she is currently posted and (b) where his/her spouse is posted or nearby. This condition, i.e. (b) will, however, not apply in those cases where the spouse of the teacher is posted to a non-family station provided the transfer is sought to a place nearest to the station where his/her spouse is posted.

C.	Unmarried/divorced/judicially separated/widowed ladies	12
D.	General Cases which are not covered by A-C above.	10
E.	Stay at the station from where the transfer is being sought;	1 for each year of stay exceeding three years subject to a maximum of 20 points
	OR	
	Teachers who have less than 2 years to retire	20

9. For the purpose of calculation of entitlement points in respect of medical grounds as mentioned in the Proviso to para 7 of these Guidelines, such illnesses of teacher himself/herself or his/her spouse and dependent son/daughter alone as may be prescribed by the Commissioner will be considered as medical ground for transfer.

Note: A son will be deemed to be dependent till he starts earning or attains the age of 25 years, whichever is earlier or suffers from permanent disability of any kind (physical or mental) irrespective of age limit. A daughter will be deemed to be dependent till she starts earning or gets married irrespective of age limit.

iii. Mutual transfers as provided in para 12.

7 Priority for transfers on request shall follow the descending order of combined weightage to be calculated in terms of entitlement points for organisational reasons/interests as also the individual needs and request of the teachers seeking transfers in accordance with para 8 below:

Provided that transfers sought on account of death of spouse within a period of two years of death and medical grounds as per para 9 will be placed en bloc higher than others listed in para 8 of these Guidelines.

8 (i) Organisational reasons/interest shall be classified and assigned entitlement points as under:

(a) Transfer from places where tenure is involved (see para 2(viii) of these Guidelines) — 20

(b) Performance:

RATING OF PERFORMANCE	ENTITLEMENT POINTS
Outstanding	10 for each year
Very Good	6 for each year
Good	4 for each year
Average	0 for each year
Unsatisfactory	(-)10 for each year

(ii) Needs denoted by the following reasons shall be assigned entitlement points as given against each.

S.No.	REASONS/GROUND	ENTITLEMENT POINTS
	Blind and orthopaedically handicapped persons. The standards of physical handicap will be the same as prescribed by the Govt. of India for sanction of Conveyance allowance.	15
	SPOUSE CASES	
	Where spouse is a Sangathan employee	20

10(1) Where transfer is sought by a teacher under para 8 of the guidelines after continuous stay of 3 years in NE & hard stations and 5 years elsewhere at places which were not of his choice, or by teachers falling under the Proviso to para 7 of these Guidelines, or very hard cases involving human compassion, the vacancies shall be created to accommodate him by transferring teachers with longest period of stay at that station provided they have served for not less than five years at that station. Provided that Principals who have been retained under para 4 to promote excellence, would not be displaced under this clause.

) While transferring out such teachers, efforts will be made to accommodate lady teachers at nearby places / stations, to the extent possible and administratively desirable

) In cases where a vacancy cannot be created at a station of choice of a teacher under this clause because no teacher at that station has the required length of stay, the exercise will be repeated for the station which is the next choice of the teacher seeking transfer.

te: The transfers proposed under this rule shall be placed before a Committee consisting of Additional Secretary (Education) Chairman, Commissioner, Member and Joint Commissioner (Admn) KVS as the Member Secretary

In order to effect transfers in terms of para 8 and 10 of these Guidelines, two priority lists shall be prepared and operated as under:

First priority list shall list all the applications received for transfer in terms of paras 7 and 8 showing the entitlement points against each applicant. This priority list shall be operated against the vacancies available during normal course for being filled up.

Second priority list will be maintained in respect of cases of transfer in terms of para 10 of the guidelines listing all the applications as also the entitlement points of each applicant in terms of priorities given in para 8 of the guidelines. The applicants included in this priority list alone will be accommodated by transferring teachers with the longest period of stay at that station provided they have served for not less than 5 years from the date of joining at that station. For this purpose, a list of persons who have served for 5 years or more at the stations shall be prepared by the Assistant Commissioners of the respective regions and displayed

Mutual transfer may be permitted on satisfaction of the Commissioner, but such will be taken up on completion of annual transfers as per clause 8 and completed by eptember

Intra and Inter-regional transfers may, as far as practicable, be made aneously

14. Upon promotion or direct recruitment as Principals/ Education Officers/Assistant Commissioners, an officer shall necessarily be posted to a different State other than the one where he is posted or domiciled, as the case may be, subject to availability of vacancies. Subject to availability of vacancies and other administrative reasons those who are due to retire within next three years may not be posted outside their home state if their service at the same station prior to promotion does not exceed three years.

15. A teacher on promotion shall necessarily be posted out of the Region where he is currently posted. However, a lady teacher may on promotion be posted within the same Region but a district or two away from the existing place of posting, subject to availability of vacancy.

16. Transfer TA will be regulated as per orders of the Government of India on the subject.

17. Assistant Commissioner will be competent to change the headquarters of a teacher on administrative grounds to any place within the region as deemed fit and direct him to discharge his duties there. The Assistant Commissioners shall report forthwith the case with full facts to the Commissioner for confirmation or directions.

18. Notwithstanding anything contained in these guidelines,

(a) a teacher or an employee is liable to be transferred to any Kendriya Vidyalaya or office of the Sangathan at any time on short notice on grounds mentioned in clause 5 and 6 (i) of these guidelines;

(b) the Commissioner will be competent to make such departure from the guidelines as he may consider necessary with the prior approval of the Chairman;

(c) the request of a teacher may be considered for transfer to a station in respect of which no other person has made a claim or request even if such teacher has not submitted the application in the prescribed proforma at the time of annual transfer or within the time limit prescribed for the purpose;

(d) Following cases will not be considered for transfer:

(i) cases of Education Officers/Assistant Commissioners for transfer without completing three years' stay at the place to which they were posted upon promotion.

(ii) cases where a teacher, Education Officer, or Assistant Commissioner was transferred on grounds mentioned in paras 5(i), 6 and 7 of these guidelines will not be considered for transfer without completing 5 years' stay at the station to which they were so posted.

(iii) Principals, Education Officers and Assistant Commissioners will not be transferred back to the same station from where they were transferred earlier on completion of period as specified in para 4 above unless a period of three years has elapsed.

(iv) cases of field postings whether on direct recruitment or on promotion where they complete three years of stay at the place of their posting except that, in case of women teachers, the request for posting to a place of choice can be considered after stay of one year. This will not, however, be applicable in cases covered by paras 5, 6, and 7(i) of these Guidelines.

19. These Guidelines shall mutatis mutandis apply to non-teaching staff to the extent applicable.

20. If any difficulty arises in giving effect to these guidelines, the Commissioner may pass such orders as appears to him to be necessary or expedient for the purpose of removing such difficulty.

21. If any question arises as to the interpretation of these guidelines, it shall be decided by the Commissioner.

22. The attention of all the employees is invited to Rule 55(27) of the Education Code and rule 20 of the CCS(Conduct) Rules which provide as under:

(i) As per Rule 55(17) of Education Code:

"No teacher shall represent his grievance, if any, except through proper channel, nor will he canvass any non-official or outside influence or support in respect of any matter pertaining to his service in the Vidyalaya."

(ii) As per Rule 20 of CCS(Conduct) Rules:

No Govt. servant shall bring or attempt to bring any political or other outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under KVS.

If the above provisions as mentioned at (i) and (ii) above are contravened, the following actions shall follow:

(a) That the name of the applicant will be removed from the priority list and he/she will be debarred for three years from being considered for transfer without any further reference to the teacher.

(b) That the teacher will be open to disciplinary proceedings as per rules.

-16- Annexure-2

KENDRIYA VIDYALAYA SANGATHAN
18, INSTITUTIONAL AREA
SHAHID JEET SINGH MARG
NEW DELHI-110016

Dated: 29.01.2001

F.NO.6-20/84-KVS(Estt-1)

MEMORANDUM

The representation dated 21.11.2000 regarding appeal for modification of Transfer order No. F.11-6/99-KVS(Estt-I) dated 13.11.2000 and redressal of grievances regarding injustices done in the matter of non-payment of DHRA admissible under rules and Non-Payment of financial benefit for pay anomaly arisen due to supersession in promotion wef June 1998 of Shri Tapan Kumar Chakraborty, Assistant ,KVS, RO, Silchar has been considered sympathetically by the competent authority and the decision arrived at is communicated to him as under :

(1) He has been transferred from KVS,RO, Silchar to KVS,RO, Delhi in consideration of his request for transfer on completion of the prescribed tenure at KVS,RO, Silchar. His request for modification of his transfer from KVS, RO, Delhi to KVS ,RO, Calcutta could not be acceded to in view of the Para 18(d) of transfer guidelines.

(2) Necessary decision regarding non-payment of DHRA has already been communicated to him vide letter number F.8-3/97-KVS/Audit/372 dated 15.7.97.

(3) He has been extended the benefits of fixation of Pay as per rules and there is no anomaly in this case.

P.K.Agarwal
(P.K.Agarwal)
Dy.Commissioner(Fin.)
29/01/2001

Shri Tapan Kumar Chakraborty,
Assistant,
KVS,RO, Silchar.

Copy to: The Asstt.Commissioner, KVS(RO) Silchar.

P.K.Agarwal
Dy.Commissioner(Fin.)
29/01/2001

O/C

Filed by:- Swarajit Dutta Advocate 31.5.2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH ::::: GUWAHATI.

O.A. NO. 423 OF 2001

Tapan Kumar Chakraborty

..... Applicant.

- Vs-

Union of India & Ors.

..... Respondents.

- And -

In the matter of :

Rejoinder submitted by the Applicant abovenamed to the Written Statement submitted by the Respondent Nos. 2, 3, 4 and 5.

The applicant begs to state as under :

1. That the applicant has received a copy of the written statement submitted by the Respondent nos. 2, 3, 4 and 5 through his counsel. He has gone through the same and having understood the contents thereof, begs to submit his reply and herein contained.

2. That the contents of the written statement is generally denied save and except those specifically admitted hereinbelow and those which are borne out by the records of the case.

3. That with regard to the statements made in paragraph 1 of the written statement the applicant has no comments to make thereon.

4. That with regard to the statements made in paragraph 2 of the written statement, the applicant begs to state that whether the respondents have transferred him from KVS, R.O., Silchar to KVS, R.O. Delhi in total violation of the transfer and posting guidelines or not in the facts and circumstances of the case, is an issue required to be decided by this Hon'ble Tribunal in the instant case. It is stated that the special facilities for the employees posted in N.E. Region, as enumerated in Appendix of the Accounts Code read with the transfer and posting guidelines which are implemented in KVS on the analogy of similar orders issued by the Govt. of India, do confer a right upon the applicant to be posted to his choice place on completion of 3 years tenure in N.E. Region. It is further stated that the transfer on the ground of completion of tenure is different from other transfers. Article 2(viii), 7, 10(1) read with article 18(d)(ii) and 19 of the transfer guidelines, 2000, confer a right upon the applicant for his posting to his choice place and home town Calcutta. As per transfer guidelines, hundreds of employees have been transferred from N.E. Region to their choice station by creating vacancy in Non-Teaching/Teaching Cadre. Hence, the rule cannot be separated only for the applicant.

5. That with regard to the averments made in paragraphs 3 and 4 of the written statement, the applicant begs to offer no comments.

6. That with regard to the statements made in paragraphs 4 5 and 6 of the written statement, the applicant states that all the employees of KVS (teaching and non teaching) are governed by the same transfer guidelines and there is no

separate guidelines for non teaching staff. Be stated that the same guidelines are equally applicable to non teaching staff of KVS . For instance, it may be stated herein that on Shri Biswajit Chanda, UDC, K.V. Dholchorra has been transferred on request vide transfer order dated 4.12.2000 to K.V., Dum Dum, Calcutta, on completion of tenure in N.E. Region, in terms of Article 10(1) of Transfer Guidelines, 2000. As such, there is no earthly reason for not applying the same rule to the applicant (another non-teaching staff in the same department) in transferring him to his choice place.

7. That with regard to the statements made in paragraphs 7 and 8 of the written statement, the applicant states that in the transfer guidelines it has nowhere been provided that on completion of tenure in N.E. Region the employees would not be posted to their choice place/home town for pendency of disciplinary proceeding initiated for any ommission or commission of alleged irregularity during their earlier posting at that place. It is stated that many employees against whom disciplinary proceedings were pending, were transferred to their choice place on completion of their tenure in N.E. Region. For example, Sri S.S. Sharma, Administrative Officer, R.O., Silchar was transferred to Ahmedabad on completion of tenure. Similarly, Shri R.K. Singh, Post Graduate Teacher of K.V. , Silchar was also transferred to his choice place on completion of tenure in N.E. Region. The disciplinary proceedings are still pending against them. Hence, the plea for not considering the transfer of the applicant is untenable. The plea of pendency of disciplinary

proceeding has been used as a weapon to deny the rightful claim of the applicant for posting to Calcutta.

(a) The applicant stated that the Disciplinary proceeding initiated against him by issuing charge sheet dated 17.9.97 relates to an irregularity allegedly committed by him during the year 1987 when he was posted as UDC at Calcutta. The alleged irregularity was in the matter of preparing the draft note of an advertisement to be made for filling up certain posts of UDC. The applicant was alleged to have put up a wrong draft prescribing higher age limit and enhanced number of vacancies which resulted in issuing and publishing a wrong advertisement and led to irregular recruitment.

(b) It is stated that the applicant was in no way connected with any irregularity as alleged. In fact, he submitted the draft note rightly prescribing the upper age limit and showing the correct number of vacancies. The said draft note was routed through the senior officers, namely the Administrative Officer and the Assistant Commissioner. It was only after the Assistant Commissioner had finally approved the draft making necessary alterations, the formal advertisement was issued and published. But the authorities, fixed the entire responsibility on the applicant a person much below in the administrative hierarchy and decision making process only to shield the lapses and interests of the higher officers. It was, therefore to harass the applicant and to make him suffer for no fault of him that the disciplinary proceeding was initiated only against him after a period of ten years. And most surprisingly, the enquiry officer was appointed on 8.1.97, much before ~~the~~ issuance of the charge sheet.

(d) That applicant being highly aggrieved, approached the Hon'ble Gauhati High Court in Civil Rule No. 931/1998 against such arbitrary action of the respondent authorities whereupon the Hon'ble High Court stayed the illegal disciplinary proceeding vide order dated 17.8.98 and further directed to hold fresh inquiry and initiate disciplinary proceedings against all concerned including the officers who were responsible for taking the final decision approving the terms of advertisement. But till date, the order of the Hon'ble High Court has not been complied with by initiating common disciplinary proceedings against all concerned, with the sole intention to protect the higher officers involved and to allow them to proceed on retirement safely one by one. It is important to mention here that till date at least three persons have been allowed to go on superannuation safely due to the illegal action of the respondent authorities.

(e) The applicant states that the disciplinary proceeding being irregular and hopelessly time barred, cannot stand in the way so as to deny him the due posting at Calcutta. Moreover, the disciplinary proceeding initiated against the applicant cannot be used as a weapon inasmuch as the documents/files relating to the issue of the disciplinary proceeding have already been to transmitted to K.V.S. (Hqrs.) at New Delhi and the same have been kept under the letter's custody. Hence, there cannot be any impediment in posting the applicant at R.O., Calcutta.

The applicant begs to annex herewith the copy of the order dated 17.8.98 passed by the Hon'ble High Court in C.R. No. 931/1998 as Annexure - R1 .

8. That with regard to the statements made in paragraph 10 of the written statement, the applicant states that the para 18(d) of the transfer guidelines speaks for the cases where transfer cannot be considered. It is stated that in the paragraph under reply an attempt has been made to show that the transfer of the applicant could not be considered in view of para 18(d)(ii) of the transfer guidelines. The applicant states that para 18(d)(ii) speaks for re-transfer of an employee to his previous place of posting, if transferred from the previous place on administrative ground. Since, the applicant was posted from Calcutta to Silchar on promotion and not on Administrative ground or any other ground as mentioned in para 5, 6 and 7 of the transfer guidelines, para 18(d)(ii) is not applicable in the instant case. In this connection, the applicant states that in his disposal dated 3/6.2.2001 in the case of Sri Subodh Kr. Saha (TGT), a Group C employee of K.V. Santragachi, the respondent no.2 had admitted that para 18(d)(ii) of the transfer guidelines deal with Principals/E.O./Asstt. Commissioners and their period of stay in a station and not applicable in case of teachers/group 'C' employees. It is further stated that the other clauses of para 18(d) is also not applicable in the instant case. Hence, the contentions of the respondents are liable to be rejected.

9. That with regard to the statements made in paragraph 11 of the written statement, the applicant states that although the representation for modification of transfer order dated 13.11.2000 etc. was addressed to the Commissioner and Vice-Chairman, the same has been disposed of by the D.C. (Finance) a person much below the Commissioner and Vice Chairman in violation of the rules. It is stated that the applicant never

requested for his transfer to Regional Office, Delhi. In fact, in the year 1998 the applicant had applied for transfer in the following order of preference :

(1) Calcutta (2) K.V.S.(Hqrs) (not R.O., Delhi) and (3) Patna.

But, that request was not acceded to by the authorities for the reasons known to them. In the year 1999 and 2000, the request of the applicant was for Calcutta only. Hence, the plea of the D.C. (Finance) for issuing of the transfer order in consideration of the request of the applicant is bereft of truth. It is reiterated herein that para 18(d) of transfer guidelines is not applicable in the instant case.

10. That the applicant states that when the transfer order dated 13.11.2000 reveals that the same was issued in public interest, the disposal dated 29.1.2001 made by the D.C. (Finance) shows that the transfer, order was issued in consideration of applicants request for transfer on completion of tenure. In K.V.S. the term Public Interest is used to mean (i) Organisational Reason and/or (ii) Administrative Ground. From the disposal dated 29.1.2001, it, therefore, clearly appears that the transfer order dated 13.11.2000 was not issued in Public Interest. On this score alone, the order dated 13.11.2000 is liable to be set aside.

11. That with regard to the statements made in paragraphs 12 to 14 of the written statement, the applicant reiterates his contentions raised in the proceeding paragraphs of this rejoinder and begs to rely upon the same.

12. That with regard to the statements made in paragraphs 15, 16 and 17 of the written statement, the applicant states that the transfer guidelines are equally applicable to all employees and no discrimination is permitted. It is stated that in terms of para 10(1) of the guidelines, the following UDCs (Non teaching Staff) were transferred to accomodate tenure cases in N.E. Region.

Sl.No. Name	Transferred From K.V.	To KV	Remarks.
1. Sri Narayan Ch. Das UDC (Transferred in Public Interest)	Dum Dum	Dholcharra	Vacancy was created by transferring Sl. No. (1)
2. Sri Biswajit Chanda (Transferred on request)	Dholcharra	Dum Dum	Sl. No.(2) was transferred to his choice place on completion of tenure in NER

Therefore, the applicant ought to have been transferred to his choice place at R.O., Calcutta, on completion of his tenure in N.E.R. on request. In all other tenure cases, transfer was done on request. When the applicant had never requested for transfer to R.O., Delhi, posting him to R.O., Delhi, in violation of the existing guidelines clearly establishes the ill motives of the respondents. From the facts and circumstances of the case, it is well established that since the lapses of the higher officials have been brought to the notice of the Hon'ble High Court by the applicant and the High Court has passed direction to initiate disciplinary proceedings against all of them, they out of sheer vindictiveness-

have been harassing the applicant in blatant violation of transfer guidelines and denying his due claim for posting to R.O., Calcutta, on completion of tenure and six years service in the N.R. Region.

13. That in view of what have been stated in the foregoing paragraphs of this rejoinder, the contentions of the respondents made in the written statement are liable to be rejected and the applicant is entitled to the relief(s) prayed for and the original application deserves to be allowed with cost.

14. That this rejoinder is filed bonafide and in the interest of justice.

verification.....

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

I, Shri Tapan Kr. Chakraborty, working as Assistant in Kendriya Vidyalaya Sangathan, Regional Office, Silchar-5, applicant in the instant original application, do hereby verify that the statements made in paragraphs 1,2,3,4,5,6,7,7a,7b,9,10,11 of the rejoinder are true to my knowledge while those made in paragraphs 7c, 7d, 8 and 12 are true to my information derived from the records of the case and the rest are my humble submissions before this Hon'ble Tribunal.

Tapan Kumar Chakraborty.

Signature.

Annexure-R-1

IN THE GAUHATI HIGH COURT

(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram & Arunachal Pradesh)

CIVIL APPELLATE SIDE

Civil Rule No. 931 of 1998

Shri Tapan Kr. Chakraborty.

..... Appellant
Petitioner

- Versus -

K.V.S. & Ors.

..... Respondent
Opposite Party

Applicant For Petitioner	Mr. B.C. Das Mr. S. Dutta, Advocate,
Respondent For	C.G.S.C.
Opposite Party	Mr. K.M. Chowdhury.

Note by Office or Advocate	Serial No.	Date	Office notes, reports, orders or proceeding with signature

17-8-98

before.

Hon'ble Mr. Justice A.P. Singh.

Heard learned councel for the parties. Petitioner has approached this court for an order quashing departmental proceeding which has been initiated against him.

It appears that the petitioner was posted as U.D. Asstt. he made certain note for the benefit of perusal by his superiors. In regard to advertising certain vacancies, the said note was to be finally approved by the respondent no. 6, the Assistant Commissioner. It was after his approval that the advertisement was issued and appointments were made. As per the charge, the petitioner is said to be guilty enlarging the age limit for recruitment to the post and have also enhanceing the number of vacancies. If, what is said against the petitioner is correct then all the authorities including the respondent no.4 and 6 who were the relevant officers to finally approved should also have been roped in discharge. It also however appears that only the petitioner and another Class III Officer, namely., the Office Superintendent have been made answerable for illegality resulting in the illegal appointment. These alone would not reveal the actual role played by the officers in making illegal appointments. The respondents are therefore under obligation to hold fresh, enquiry and initiate disciplinary proceeding against all the

R4 —
R5 →
R6 — Asst Com.

persons concerned including the officers ~~the~~ who were responsible for taking the final decision according terms of the advertisement.

Till it is done, the proceeding initiated against the petitioner shall remain stayed.

Sd/- A. P. Singh
Judge