

100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No..... 431 / 2000

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH:GUWAHATI, 5

ORIGINAL APPLICATION NO. 4,311,200

Mr. D. N. Conrad Applicant.

Versus

For the Applicant(s) Mr. B. K. Sonoma,
" Sr. Sonoma.

For the Respondents. *Dr. B. P. Tadi, Adv. R. K. V. S.*

NOTES OF THE REGISTRY	DATE	ORDER
Application is in form of application for interim direction.	8.12.00	Present : Hon'ble Mr. Justice D.N.Chowdhury, Vice- Chairman.
503932 24.11.2000 QW 812/2K		Mr. B.K.Sharma, learned Sr. counsel for the applicant and Dr. B.P.Todi, learned counsel for the respondents.
Case is mentioned Court.		Admit. Issue notice. Call for the records. Returnable by four weeks. List on 9.1.2001 for further orders.
Envelopes		Also heard Mr. B.K.Sharma, learned Sr. counsel for the applicant for interim direction. Dr. B.P.Todi, learned counsel for the respondents vehemently opposes the prayer and prays for sometime to file objection in writing.
W. 30 is not legible		Issue notice on the respondents as to why the impugned order No. F.7- 1(5-D) 2000-KVS. (E.III) dated -

Notice prepared and sent to
SIS for the respondent No
1 to 5 by regular by hand.
vide D.No 3177181 dated 22/12/20

17/12/00

① Service report are still available.

229
9.1.2001

trd

11/12/2000

Vice-Chairman

(2)
V
O.A. 431/2000

10.1.2001

Four weeks time allowed for filing of written statement from the prayer of Ms. B. Dutta Das on behalf of Dr B.P. Todi, learned counsel for the KVS. List it on 12.2.01 for orders.

Vice-Chairman

nkm

12.2. No S. 13. Adjudicated 14.2.2001.

Pls
A.K. 72
12.2

9.2.2001

W/S have been
filed by Respondents
Mo. 2, 3, 4 & 5.

14.2.2001

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

Vice-Chairman

nkm

9/2 Sixxxt

Written statement has been filed.

xxxtk xxxtk xxxtk xxxtk xxxtk xxxtk

xxxtk xxxtk xxxtk xxxtk xxxtk xxxtk

5.3.01

Written statement has been filed.

List on 28.3.01 to enable the applicant to file rejoinder.

No Rejoinder has been filed.

27.3.01

lm

Vice-Chairman

W.D. rejoinder has been filed. otherwise the case is ready for hearing as regards N/S.

NB
26/4/01

28.3.2001

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

Vice-Chairman

nkm

Notes of the Registry	Date	Order of the Tribunal
	1.8.01	Mr. M. Chanda learned counsel has submitted that he ^{was} also recently engaged in the matter and requires some more time. Mr. S. Sarma learned counsel for the respondents also seeks adjournments to obtain necessary instructions. List ^{again} on 24.8.01 for hearing.
	1m	Vice-Chairman
	24.8.01	List on 30/8/01 as prayed for learned counsel for the applicant for hearing.
	mb	Vice-Chairman
	30.8.01	List on 26/9/01 to enable the respondents to obtain necessary instructions.
17-9-2001 Rejoined him Admit. Don't mind.	mb	Vice-Chairman
	26.9.01	Admit. Call for the records. The respondents are ordered to file written statement within one month. List on 21.11.01 for written statement and further order.
	pg	Vice-Chairman
	26.9.01	Prayer has been made on behalf of the respondents by Mrs N.D. Goswami for adjournment. Mr S. Sarma, learned counsel for the applicant has no objection. List on 5.10.01 for hearing.
	pg	Vice-Chairman

(3)

Notes of the Registry

Date

Order of the Tribunal

25.4.01

Three weeks time allowed to the applicant to file rejoinder to the written statement filed by the respondents.

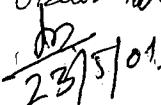
List on 18.5.01 for further order.


Vice-Chairman

trd

18.5.01

Written Statement already filed vide office note.
dd. 9/2/2001 on behalf of Respondent No. 2,3,485.
at page No. 35 to 39. at order sheet page No 2.


23/5/01

Written statement has been filed. Mr S. Sarma, learned counsel for the applicant prays for two weeks time to file rejoinder. The written statement is not in the record. Office to place it on record.

List on 1.6.01 for rejoinder and further order.


Member

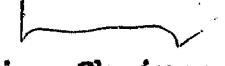
pg

1.6.2001

The case is ready as regards pleading though time was granted to the applicant for filing of rejoinder.

List the case for hearing on

25-7-2001.

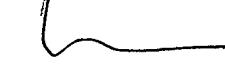

Vice-Chairman

bb

25.07.01

Stand over on the prayer of the learned counsel for the applicant.

List on 01-08-2001 for hearing.


Vice-Chairman

pg

Notes of the Registry	Date	Order of the Tribunal
Pl. com. of 8/10/01.	5.10.10	Mr. S. Sarma learned counsel for the Respondents submits that this is the transfer matter and there is some developments in the matter. Mr. S. Sarma learned counsel prays for adjournment. List on 16.10.01. The interim order dated 8.12.10 shall continue.
Pl. com. of 20/11/01	12.10.2001	Request has been made on behalf of the respondents for adjournment. Prayer accepted. List on 21.11.2001 for hearing.
Pl. com. of 20/11/01	23.11.01	On the prayer of Mr. B. K. Sharma learned counsel for the respondents case is adjourned to 28.11.01 for hearing.
Pl. com. of 20/11/01	21.11.2001	Office to show the name of Mr. M. Chanda in place of Dr. B. P. Todi as the learned counsel for the respondents. List the matter for hearing on 23.11.01.
Pl. com. of 20/11/01	23.11.01	On the prayer of Mr. B. K. Sharma learned counsel for the respondents case is adjourned to 28.11.01 for hearing.
Pl. com. of 20/11/01	1m	

(5)

O.A. 431/2000

Notes of the Registry

Date

Order of the Tribunal

28.11.01

Mr S.Sarma, learned counsel for the applicant prays for a short adjournment for personal reasons. Mr M.Chanda, learned counsel for the respondents has no objection. Prayer allowed.

List on 11.12.2001 for hearing.

I C U Sharm

Member

pg

11.12.2001

None is present for the applicant.

List the case again for hearing on 16.1.2002.

21
15.1.02.

bb

16.1.2002

Heard learned counsel for the parties.

Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is disposed of in terms of the order. No order as to costs.

Received
by post
30/1/02
F.N.S.

vice-Chairman

12.2.2002

pg

21/01/02

Copy of the L.D. has been sent to the office from today 15/1/02 to the Appellate by post.

S

B/1

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 431 of 2000.

Date of Decision. 16.1.2002.

Sri Doodh Nath prasad

Petitioner(S)

Sri U.K.Nair

Advocate for the
Petitioner(s)

Versus-

Union of India & Ors.

Respondent(s)

Sri M.Chanda

Advocate for the
Respondent(s)

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 ?

Judgment delivered by Hon'ble : Vice-Chairman.

No

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 431 of 2000.

Date of Order : This the 16th Day of January, 2002.

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

Sri Doodh Nath Prasad,
son of late Sarjoo Prasad,
Post Graduate Teacher in Hindi,
Kendriya Vidyalaya, Narengi,
Guwahati-27 (Assam).

... Applicant

By Advocate Sri U.K.Nair.

- Versus -

1. Union of India,
represented through the Secretary,
Department of Education under Ministry
of Human Resources Development,
Govt. of India, Shastri Bhawan,
New Delhi-1.
2. The Kendriya Vidyalaya Sangathan,
represented by its Deputy Commissioner,
and Secretary, 18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi-16.
3. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Guwahati Region, Maligaon,
Guwahati-12.
4. The Education Officer,
Kendriya Vidyalaya Sangathan(HQ),
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi-16.
5. The Principal,
Kendriya Vidyalaya,
Narengi, P.O. Satgaon,
Guwahati-27.

... Respondents.

By Advocate Sri M.Chanda.

O R D E R

CHOWDHURY J.(V.C)

In accordance with the provisions contained in paragraph 10(1) and 10(3) of the Transfer Guidelines the Kendriya Vidyalaya authority transferred a number of post Graduate Teachers (Hindi) on request with immediate effect. In the list the name of the applicant also appears

indicating his transfer from Narengi to Varanasi Cantonment. In the application the applicant stated that he made a request for his transfer as per the guidelines to Varanasi. As per the transfer guideline in normal course annual transfer is to be made during the summer vacation. The transfer order did not take effect in summer vacation and accordingly the applicant made a request to the Commissioner, Kendriya Vidyalaya Sangathan for cancellation of transfer order dated 30.11.2000 vide application dated 6.11.2000. In that application it was mentioned that he was expecting the transfer order in the summer vacation 2000 but till the date of application the same was not materialised. In the meanwhile his daughter was undergoing studies of B.A. Part II under Gauhati University and his son was a student of Class X of Kendriya Vidyalaya Narengi and if the transfer effects in the mid academic session it would effect the studies of his children and accordingly prayed for cancellation of the transfer order. The order of transfer is now assailed in the application as arbitrary and violative of the transfer guidelines. In the application the applicant also prayed for a direction on the respondents for granting him the benefit of D.A for extended period or in the alternative the salary of the post of Principal, KV, Kimin and for a further direction for release of the salary for the periods from 30.10.99 to 18.11.99 and 4.1.2000 to 15.1.2000. It may be mentioned here that the applicant was temporarily deputed to Kendriya Vidyalaya, Kimin, Arunachal Pradesh to act as a Principal vide order dated 28.9.99 for a period of six months or till a regular Principal joins whichever was earlier with all benefits of T.A and D.A. The applicant submitted representation to the KVS authorities for cancellation of the said order

on personal ground. The KVS authorities did not acceded to it. The applicant moved this Tribunal by way of O.A.370/99. By order dated 18.11.99 the said application was disposed of allowing the applicant to remain in his present place till 3.1.2000 and in the said order the applicant was directed to join in his new place of posting by 3.1.2000. The applicant did not however join within the time specified. Instead ^{he} preferred another O.A. which was registered and numbered as O.A.434/99. By order dated 10.1.2000 the said O.A. was disposed of directing the applicant to carry out the order of transfer within 7 days from the date of passing of the order. It was stated that the applicant accordingly joined his post on 16.1.2000. The deputation period of the applicant as in-charge Principal was extended until further orders and he was ordered to be relieved from the said post only on 30.10.2000. The applicant contended that he was entitled for the benefit of D.A for the extended period or otherwise the salary for the post held by the Principal attached to the said post in terms of the Government policy. The applicant contended that he was not paid his salary from 30.10.99 to 18.11.99 though he was entitled for the same.

2. Mr M.Chanda, learned counsel appearing for the respondents contested the claim of the applicant and contended that the applicant was transferred on his own request. The applicant since did not withdraw his application his request was acceded to as per the policy decision. The transfer was made as per his own choice.

3. Mr U.K.Nair, learned counsel appearing for the applicant assailing the order of transfer submitted that in the instant case the respondents authority committed an illegality by transferring the applicant in an unexpected ^{and} odd

time contrary to its professed norms. No transfer as per the accepted standard were to be made after 31st August so that the educational careers were not affected. Citing paragraph 6 of the transfer policy the learned counsel submitted that excepting the reasons mentioned in para 6, no other transfers were permissible and therefore the request transfer on the face of the policy was not sustainable in law. Mr Chanda, learned counsel for the respondents further submitted that the respondents authority acted bonafide and given precedence as per the request made by the teachers and accordingly the transfer order was issued. Paragraph 6 of the transfer guideline are only guidelines and required to be followed as far as possible. He also submitted that the temporary transfer is meant for 180 days or less. D.A is admissible only upto 6 months of the order and it is not admissible after 6 months of the transfer order. Similarly, no illegality was committed by the respondents in not paying the salary for the period from 30.10.99 to 18.11.99 and from 4.1.2000 to 15.1.2000 in the absence of any leave application. The applicant since did not attend to his duties there was no obligation on the part of the respondents to pay the salary to the applicant. In normal course an employee is entitled to salary and in the instant case the applicant was allowed time to join by the Tribunal itself. In the circumstances it cannot be said that the applicant was not at all entitled for the salary.

4. Considering the facts and circumstances of the case, I however leave the entire matter to be decided by the authorities to regularise the absence, if necessary by taking aid of the leave rules. So also the ground assigned by the applicant for withdrawal of his transfer application cannot be said to be absurd. The applicant required some time for completion of the education of his children.

In my view it would be appropriate for the applicant to make a detail representation before the authority narrating his case for continuance in the present place of posting till completion of education of his children and if such representation is made the authority shall consider the same in the right perspective and as per law. The applicant in his representation may also raise those grievances as to the benefit of granting D.A for the extended period or in alternative the salary of the post of Principal attached to the said post and the salary for the period from 30.10.99 to 18.11.99 and from 4.1.2000 to 15.1.2000. If such representation is made narrating all the grievances the respondents are directed to consider the same as expeditiously as possible. The applicant is directed to make representation within 4 weeks from today and the respondents are also directed to consider the same and pass necessary order preferably within 3 months from the date of receipt of the representation. Till completion of the aforesaid exercise the transfer order dated 30.11.2000 shall not be given effect to.

With these the application stands disposed of.

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

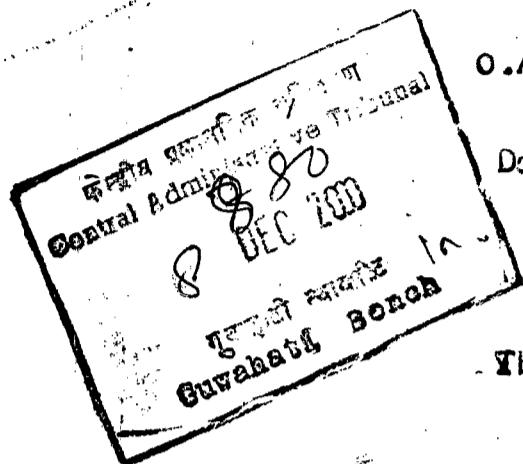
(D.N.CHOWDHURY)
ADMIRALTY TRUST COMPANY

(D.N.CHOWDHURY)
VICE CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

(An application under Section 19 of the
Administrative Tribunal Act, 1984)



O.A. NO. 431/2000.

Doodh Nath Prasad.

..... Applicant.

-Vs-

The Union of India and ors. (K.V.S.)

..... Respondents.

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Filed By,

S. Sharma
Advocate.

(S. Sharma)

Filed by:
Doodh Nath Prasad
(Applicant)
for
S. Sharma
Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

O.A.No. 431/2000.

BETWEEN:-

Sri. Doodh Nath Prasad,

S/o. (late) Sarjoo Prasad,

Post Graduate Teacher(P.G.T.)in Hindi,
resident of Kendriya Vidyalaya,Narangi,
Guwahati - 27(Assam) and at present
working as I/C. Principal, in Kendriya
Vidyalaya, KIMIN (Arunachal Pradesh).

..... Applicant.

- Vs -

1. The Union of India,

Represented through the Secretary,
Department of Education under Ministry
of Human Resources and Development
(M.H.R.D.), Govt. of India,
Shastri Bawan, New Delhi - 1.

2. The Kendriya Vidyalaya Sangathan,

Represented by its Deputy Commissioner,
and Secretary, 18, Institutional Area,
Shaheed Jeet Singh Marg, New Delhi-16.

3. The Assistant Commissioner,

Kendriya Vidyalaya Sangathan,

Gauhati Region, Maligaon, Gauhati - 12.

4. The Education Officer,

Kendriya Vidyalaya Sangathan, (H.Q.),
18, Institutional Area, Shaheed Jeet
Singh Marg, New Delhi - 16.

Doodh Nath Prasad

5. The Principal,

Kendriya Vidyalaya, Narangi,

P.O.:- Satgaon, Gauhati - 27.

(Assam).

.... Respondents.

Doodh Nath Prasad

DETAILS OF APPLICATION:-

1. Particulars of the Order against which the Application is made:-

Transfer Order No.F.7-1(5-D)2000 - KVS(E.III)
dated 30.11.2000 issued by the Education Officer, Kendriya
Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh
Marg, New Delhi - 16, whereby transferred the applicant (serial
No.38) from Kendriya Vidyalaya, Narangi, Gauhati to Kendriya
Vidyalaya, Cantt., Varansi (U.P.).

2. Jurisdiction of the Tribunal:-

The applicant declares that the subject matter of the
order against which he wants redressal is within the jurisdiction
of the Tribunal.

3. Limitation:-

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

4. Facts of the Case:-

4.1) That the applicant is a citizen of India and at present
a resident of the above said locality and as such he is
entitled for all the rights and protections guaranteed by the
Constitution of India and other laws of the land.

4.2 That the applicant entered into the services of Kendriya Vidyalaya Sangathan (IN short KVS) in the year 1969. His initial posting was at Kendriya Vidyalaya, Ambarnath (Bombay). Thereafter, he was transferred to many places including the hard station at Port Blair. He was transferred to North-East Region (in short N.E.R.) in the year 1984. Presently the applicant is holding the post of Post Graduate Teacher (in short P.G.T.) in Hindi at K.V, Narangi.

Doodh Nath Prasad

4.3 That the applicant vide Office Order No.F.10-4/96-KVS (GR)/5921 - 26 dtd. 28.9.99 was temporarily deputed to Kendriya Vidyalaya, KIMIN (Arunachal Pradesh) to act as Principal, Grade - II/ I/C. For a period of six month or till a regular, Principal Grade - II joins whichever is earlier with all benefits of T.B./D.A. Since, it was not a regular Posting as Principal and the applicant has got family problems like, Education of his Son and Daughter and thus he made representations to the K.V.S. authorities for cancellation of the said Order which was not acceded to. On being aggrieved, the applicant moved the Hon'ble Tribunal appearing in Person by way of O.A. 370/99. The Hon'ble Tribunal was pleased to pass an order on the said O.A. allowing the applicant to stay at K.V. Narangi till 3.1.2000. The O.A. was disposed of with the said order dtd. 18.11.99 and the same was not decided on merits. Since the matter was not decided on the merits and the applicant was not aware of the legal niceties, he once again approached this Hon'ble Tribunal by filing O.A. 434/99 on which notice was issued by an order dated 21 Dec'99. However the O.A. was dismissed by an order dated 10.1.2000 with the direction that the applicant must carry out the earlier order within 7 (Seven) days.

The copies of the office orders dated 28.9.99, 18.11.99, 21.12.99 and 10.1.2000 are annexed as Annexures 1, 2, 3 and 4 respectively.

Dorjolh Nath Prasad

4.4. That after the aforesaid order, the applicant reported for his duty at Kendriya Vidyalaya, KIMIN (Arunachal Pradesh) and submitted a joining report on 16.1.2000 to the Chairman, Vidyalaya Management Committee (in short V.M.C.). While he was working as a I/C. Principal K.V. Kimin, his deputation was extended until further order by an office order dated 5/6.7.2000. Thus, as against the initial period of six months, on the strength it was argued was before the Hon'ble Tribunal that the applicant should carry out the Annexure - 1 order dated 28.9.99, same being only for the period of six months. But curiously enough the period of deputation of the applicant was extended until further order vide order dated 5/6.7.2000. Thus the applicant was put to hard ship.

The copy of the joining report 16.1.2000 and order dated 5/6.7.2000 are annexed as Annexures 5 and 6 respectively.

4.5 That the applicant states although he is posted at K.V. Kimin in Arunachal Pradesh but he has been receiving his salary at K.V. Narangi. Be it further stated that he has been allotted with an official accommodation at K.V. Narangi wherein his family members reside. His only son is a student of Class X in K.V. Narangi and his daughter is a student of B.A. Part (I) under the Gauhati University. B.A. course is a three years degree course (T.D.C.) of which B.A. part (I) is two years duration. The said daughter of the applicant will be appearing

in her part-I final Examination, March/April,2001. Similarly, his son would be appearing in class X,C.B.S.E. Board Examination to be commenced from 7.3.2001. Because of the posting of the applicant at K.V.Kimin,there had already been disruption in the family life of the applicant and his son and daughter have already suffered setback in the studies in absence of their father.

Dorothy Math Prasad

4.6 That there is a system of making request for transfer and accordingly the applicant by his application dtd.30.12.99 made a request for his transfer to Varansi at K.V.,B.H.U. and K.V, D.L.W. . The applicant had made this request in anticipation of his transfer before summer vacationas per policy decision of K.V.S.. Be it stated here, that the summer vacation of K.V.S. startes from first week of May and comes to end by the last weekof June . The applicant was prepared to bear the one year loss in education to be suffered by his daughter in case of acceding to his request of transfer. However, the applicant was not tranferred during summer vacation and instead was sent to Kimin as narrated above. By now, his daughter has entered into the 2nd year of B.A. part-I and the B.A.part-I and the examination is scheduled to be held in March/April'2001 and she will be completing her B.A. degree Examination in March/April 2002 . Thus, his stay in Gauhati is very much essential . So that interest of Education of his daughter and son does not suffer. This situation has been created by the K.V.S. authorities themselves by not acceding to the request of the applicant before or during summer vacation.

4.7 That as per the transfer policy formulated by the K.V.S. and circulated by its letter dated 26.5.99,no transfer shall be made after 31st August and the annual transfer are required

to be made during summer vacation . In this connection, clause-7 of the transfer guidelines is quoted below.

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

- i) On organisational reasons, administrative grounds, including transfers made as per clause .6.
- 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 or son/daughter.
- iii) Mutual transfers as provided in clause-9 ,which runs as-

Mutual transfers may be permitted in cases of hardship 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."

The copy of the transfer guidelines dtd.26.5.99 is annexed as Annexure 7.

4.8 That the applicant having been deputed as I/C.Principal at K.V,Kimin, he is entitled to D.A. at the rate of Rs.185/- per day. He has been paid his D.A. for the initial period of six months but he has not been paid his D.A. for the extended period. He has also been denied his D.A. for the period of about 15 days when he had gone to New Delhi from K.V,Kimin itself to ~~not~~ appear in the selection for Principal post comprising of written test and interview held on 20.2.2000 and 31.3.2000 respectively. Thus, he has neither been paid D.A. nor the salary of Principal for the extended period beyond six months including the aforesaid 15 days. It will be pertinent

Drook Nath Prasad

to mention herein that the post of the Principal, K.V., Kemin has since been upgraded from Grade-II to Grade - I w.e.f. 10.4.2000. The request of the applicant for his D.A. beyond the period of six months has been rejected by the Principal, K.V. Narangi. (respondent No.5) who is the drawing and disbursing officer (D.D.O.) of the applicant.

The copy of the letter for D.A. advance dtd.17.7.2000 and the rejection endorsed there on is annexed as Annexure -8.

4.9 That the applicant has been reverted from K.V,Kimin to K.V,Narangi vice an office order dtd. 24/30.10.2000 issued by the respondent No.3. However, the applicant has not been released by the Chairman,V.M.C.,K.V,Kimin and has written to the Commissioner ,K.V.S.,New Delhi, that until a reliever of the applicant is posted, the applicant would not be released from K.V,Kimin.

The copy of the order dated 24/30.10.2000
is annexed as Annexure - 9.

4.10 That when the matter rests thus , the applicant is now surprised to come across the impugned transfer order dtd.30.11.2000 on 6.12.2000 in the office of the Assistant Commissioner,K.V.S., Gauhati. The copy of the said order is yet to be endorsed to the applicant .By the said order at serial No-38, the applicant has been transferred to K.V,Varansi Cantt. as against his request and option for K.V, B.H.U. and K.V.D.L.W.

A copy of the said order dtd.30.11.2000
is annexed as annexure - 10.

4.11. That it appears that the K.V.S. authorities did not

22
Doroth Heath Based

take into consideration their own adopted policy/guidelines (Annexure -7) regarding transfer and also did not consider the representation sent by the applicant on 6.11.2000 making a request to cancell his earlier request for transfer to Varansi. In the said representation, the applicant pointed out his prime consideration for his son and daughter's education. He does also pointed out that as against his expectations for his transfer during summer vacation no transfer was forth coming. Thus, he had to withdraw his option under compelling circumstances before his earlier request for transfer was acted upon.

The copy of representation for cancellation dated 6.11.2000 is annexed as Annexure -11.

4.12 That the impugned transfer order has been order by the same authority who had earlier rejected the representation of the applicant for cancellation of his deputation to K.V,Kimin.

The applicant craves leave to produce the copy of the rejection if and when required.

4.13 That in terms of the impugned order ,the applicant will be relieved after 10 days from the date of the receipt of the transfer order. Thus, the applicant is now eminent need of being released .Hence, the O.A. seeking urgent and immediate relief.

4.14 That adding insult to the injury the applicant has not been paid his salary for the periods from 30.10.99 to 18.11.99 and from 4.1.2000 to 15.1.2000 during which period he was on the roll of K.V,Narangi. His O.A.370/99 and 434/99 were subjudiced before this Hon'ble Tribunal.

4.15 That if the applicant is forced to carry out his transfer to Varansi, same will seriously tell upon the Education of the son and daughter ,more particularly his daughter who will be loosing two years of her valuable educational career. Further, the option excercised by the applicant vide his letter dated 30.12.99 having been withdrawn by him vide his letter dated 6.11.2000, his earlier option could not have been acted upon towards issuance of the impugned order dated 30.11.2000(Annexure 10). Moreover,by the impugned order the applicant has also not been given his choice posting.

4.16 That the applicant demanded justice which had been denied to him .

4.17 That there is no alternative and efficacious remedy except this application before the Hon'ble Tribunal.

5. Grounds for relief with legal provisions:-

5.1 For that the order of transfer dtd. 30.11.2000 having been passed without following the policy/guidelines of transfer and as such is liable to be set aside and quashed.

5.2 For that the order dated 30.11.2000 passed by Education Officer is in clear violation of the provisions of clause-7 of circular dated 25/5/2000 and as such the same is unconstitutional ,arbitrary and is liable to be set aside and quashed.

5.3 For that the authority has not considered the genuine problems of Education of the children while passing the impugned order and as such the same is against the principle of natural justice and thus is liable to be set aside and quashed.

Contd. to
Rhee

bca 10.1
10.3.

Am / M

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Doodh Nath Bhand

AN
Doddh Nath Prasad

5.4 For that the impugned order dated 30.11.2000 is also in clear violation of rule of law and principle of natural justice by way of materialising the transfer in the mid of the session and as such the same is illegal, unreasonable and will not sustain in the eye of law and is liable to be set aside and quashed.

5.5 For that the Education Officer is not the competent authority to pass, the impugned order dtd.30.11.2000 for P.G.T.'s and as such the same is illegal, malafide and arbitrary and is liable to be set aside and quashed.

5.6 For that the illegality is apparent from the face of the record (Transfer order) and no transfer can be made in the month of December by keeping in view the ~~class X~~ ~~Examinations~~ Boards exam in the months of February and March, 2001 and as such the same is against the principle of natural justice and liable to be set aside and quashed.

5.7 For that the impugned order has not been passed before and/or during summer vacation and as such the same is liable to be set aside and quashed.

6. Details of the remedies exhausted:-

That the applicant states that he has filed representation (Annexure 11) but the same has not been considered and is still pending. The applicant has not any other remedy except approaching this Hon'ble Tribunal seeking immediate and urgent remedy, as because he has availed of all the remedies available to him.

7. Matters not previously filed or pending with any other Court :-

The applicant further declares that he has previously

25

KENDRIYA VIDYALAYA SANGATHAN
Regional Office
Chayaram Bhawan, Maligaon Chorali
Guwahati : 12.

TEL : 571798
571799

Shall issue present

No. F. 10-1/2000/KVS (GR)/9627

Dated : 31/1/2000

To,

IMMEDIATE

The Principal of
all Kendriya Vidyalayas,
Under Guwahati Region.

Subject : Annual Request Transfers in respect of Teaching and
Non-teaching staff of Kendriya Vidyalaya for the year
2000-2001.

Sir/Madam,

As instructed by KVS (Hqrs) vide letter No.1-1/99-KVS
(Esstt.III), dated 25/1/2000 I am to forward herewith copies
of Transfer Guidelines for your information and necessary action.

It may kindly be ensured that the filled in forms
of staff of your Vidyalaya are forwarded to this office by
20.02.2000 as instructed vide Deputy Commissioner (Acad) letter
No.1-1/2000/KVS/Esstt.III), dated 30/12/99.

Yours faithfully,

D. K. SAINI
(D. K. SAINI)
ASSISTANT COMMISSIONER

3/1/00

1. 2/2/2000
F. 2/2/2000
1/1/2000
D. 1/2/2000
Mr. A. Ali & his Box
Pl. take a clean
filing papers

Prakash

Kendriya Vidyalaya Sangathan
Guwahati, Pin-781027

(17)

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.

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.

(3)

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)

(b) Performance

RATING OF PERFORMANCE

Outstanding

Very Good

Cloud

Average

Unsatisfactory

(ii) Needs denoted by the following reasons shall be assigned entitlement points as given against each
 (a) 0 for each year
 (b) -10 for each year

ENTITLEMENT POINTS

10 for each year

6 for each year

4 for each year

0 for each year

1-10 for each year

144

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REASONS/GROUNDS

ENTITLEMENT POINTS

19

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.

B - SPOUSE CASES

(i) Where spouse is a Sangathan employee

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(ii)	Where spouse is a Central Government employee	18
(iii)	Where spouse is an employee of autonomous body or PSC under Central Government	15
(iv)	Where spouse is an employee of State Government or its autonomous body or PSC	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.

10(1) Where transfer is sought by a teacher under para 8 of the guidelines after continuous stay of 3 years in NL & 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(27) of Education Code

"No teacher shall represent his grievance, if any, except through proper channel, nor will he convey 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

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.

8. Reliefs sought :-

Under the facts and circumstances stated above the applicant most respectfully praised that the Hon'ble Tribunal would be pleased to admit this O.A., call for the records of the case and upon hearing the parties and on perusal of the records be pleased to grant the following relief(s) :-

- (i) to set aside and quash the Annexure-10, transfer order dtd. 30.11.2000 so far as the applicant is concerned at serial No.38.
- (ii) to direct the respondents to grant the benefit of D.A. for the extended period and/or the salary of the post of Principal attached to the said post of the Principal, K.V, Kimin.
- (iii) to direct the respondents to release the salary for the periods from 30.11.99 to 18.11.99 and 4.1.2000 to 15.1.2000.
- (iv) Cost of the application.
- (v) any other relief(s) to which the applicant is entitled to and as may be deemed fit and proper by the Hon'ble Tribunal.

Doroth Math Basat

9. Interim Relief Prayed for:-

Pending disposal of O.A. the applicant prays for an interim relief by way of suspension / stay of the impugned order dated 30.11.2000(Annexure 10) for as the applicant is concerned at serial No.38.

10. That this application is filed through Advocate.

11. Particulars of the I.P.O... 26- 503937

12. List of Enclosures:-

As stated above.

VERIFICATION

I, Doodh Nath Prasad, S/o.(late) Sarjoo Prasad aged about 55 years and resident of K.V,Narangp campus do hereby verify that the contents of paras 4.3., 4.4, 4.7, 4.8, 4.9, 4.10, 4.11..... are true to my personal knowledge and paras 4.1, 4.2, 4.5, 4.6, 4.12. to 4.17..... believed to be true on legal advise and that I have not suppressed any material fact.

Date:- 8/12/2K

Place:- Ganhati

Doodh Nath Prasad

Signature of the applicant

(13)

KENDRIYA VIDYALAYA GRANTHAKARI
REGIONAL OFFICE
CHINARAKHETANAH : GANJGARH CHHATIALI
GUJARAT : 12.

No.F.10-4/96-KV.G.(RR)/5921-26

Dated : 20.09.99

OFFICE ORDER

Shri D.N. Prasad, PGT (Hindi) Kendriya Vidyalaya, Narangi is hereby temporarily deputed to Kendriya Vidyalaya, Kilon to act as Principal Grade-II/1/Q for a period of six months or till a regular, Principal Grade-II joins whichever is earlier. He is directed to report at Kendriya Vidyalaya, Kilon immediately.

He is entitled to TA/DA as per KVS Rules.

To,

Shri D.N. Prasad,
PGT (Hindi),
Kendriya Vidyalaya,
Narangi.

Asstt. Secy.
(Mr. LALIT KUMHRE)
ASSISTANT COMMISSIONER

Copy for Information and necessary action to :-

1. The Principal, Kendriya Vidyalaya, Narangi. He is requested to relieve Mr. Prasad, PGT (Hindi) of his Vidyalaya immediately under intimation to this office.
2. The Chairman, V.C., Kendriya Vidyalaya, Kilon. He is requested to intimate to this office the date of reporting of Mr. Prasad.
3. The Asstt. Commissioner (Purv.), D/o (Dsp.) Hora Dholi for information.
4. Staff file.
5. Supt. of Accounts.

ASSISTANT COMMISSIONER.

Attested
Sh

(16) FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER-SHEET

APPLICATION NO. 370/99

OF 199

Applicant(s) Sri Doodhi Nath pressed.

Respondent(s) Union of India and others.

Advocate for Applicant(s) At. Dr. Person.

Advocate for Respondent(s) Mr K.N.Choudhury, Standing counsel for
K V. S.

Doodhi Nath Basad

Notes of the Registry	Date	Order of the Tribunal
	18.11.99	<p>Present : Hon'ble Mr Justice D.N.Baruah, Vice-Chairman and Hon'ble Mr G.L.Sanglyine, Administrative Member.</p> <p>This application has been filed by the applicant praying for set aside and quash the Annexure-4 transfer order dated 28.9.1999. The main ground is that his daughter's marriage ceremony is to be solemnised on 29.11.1999 and thereafter also he is to perform some rituals and it may take another month.</p> <p>We have heard the applicant in person and Mr K.N.Choudhury, learned standing counsel for Kendriya Vidyalaya. Mr Choudhury does not object if the applicant is allowed to stay the present place till 3.1.2000 and the applicant also agrees to the same proposal. Considering the entire matter we dispose of</p>

Attested
D.P.

37

Notes of the Registry	Date	Order of the Tribunal
	18.11.99	<p>this application without going into the merits of this case with direction to the respondents to allow the applicant to remain in his present place till 3.1.2000. The applicant shall join in his new place of posting on transfer on 3.1.2000.</p> <p>The application is disposed of. No order as to costs.</p> <p>Sd/-Vice Chairman Sd/Member (A)</p> <p>TRUE COPY प्राप्ति प्रमाणि</p> <p>AM 19/11/99 Deposit Regd. No. 01 Central Administrative Tribunal Government of India 19/11/99</p>

(16)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 434/99

GL
OF 199

Applicant(s)

2 code will present.

Respondent(s)

Union of India and others.

Advocate for Applicant(s)

Dr. J. K. Deka

Advocate for Respondent(s)

K. V. S.

Notes of the Registry	Date	Order of the Tribunal
	21.12.99	Issue notice notice to show cause as to why the application shall not be admitted. Returnable on 20.1.2000.

Sd/- VICECHAIRMAN
Sd/MEMBER (A)

Certified to be true Copy

প্রমাণিত প্রতিক্রিয়া

22/12/1999

Section Officer (S)

Central Administrative Tribunal
Guwahati BenchGuwahati
Assam
IndiaAttested
10/12/1999J. K. Deka
12/12/1999

Central Administrative Tribunal
DISMISSED BENCH - 11 MAY 2011

ORDER SHEET
APPLICATION NO. 6-164-2 OF 19

and Second will not allow
Respondent(s) to use any of
Advocate for Applicant(s) or any
Advocate for Respondent(s)

ANNEXURE. 6

39

Q.A. 434 QF 99

Notes of the Registry	Date	Order of the Tribunal
	10.1.2000	<p>The present application has been filed by the applicant challenging the Annexure-I transfer order on some grounds. Earlier also the applicant challenged the transfer order by filing O.A.No.370 of 99. His contention before this Tribunal is that case was that his daughter's marriage was to be solemnised on 29.11.99 and thereafter he had to perform some rituals.</p> <p>Heard the applicant and learned counsel Mr.B.P.Tari, for K.V.S. by order dated 18.11.99 in O.A.No.370 of 99, we allowed the applicant to stay at the present place up to 2nd January 2000 and thereafter to join in his new place of posting on 3rd January, 2000. The said O.A. was accordingly disposed of. Some point is now raised on some other grounds in this O.A. We are not inclined to entertain the present application. In view of the concrete order passed by this Tribunal in O.A.No.370 of '99 he ought to have joined, as agreed upon, on 3rd January 2000. but he failed to discharge his duty. On the other hand he has filed the present application on some grounds, which were not pursued in the earlier application. Even after expiry of about two weeks he did not carry out the order passed by this Tribunal. He must carry out the order within 7 days from to-day. If he does not carry out the order of transfer the respondents shall take steps as per law. Application is dismissed. no order as to costs.</p>

certified to be true Copy

प्रगाणित प्रतिक्रिया

13/11/2002

Section ৩১(৩)

ନାମ କଥିଲେ । ନାମିର ଗାସା

rat Administrativa Tilsum

କାନ୍ତିର ପ୍ରାଚୀନ ନିର୍ମାଣ
ଅତିକଳ କରାଯାଇଥାଏ ।

— small Boxes. (Wheeler.)

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Attested
of

112.



पत्रांक :

No. F : 10-4/96-KVS(GR)/5677-79

१८

दूरभाष/Phone : 571797, 571798
Fax : 571799

केन्द्रीय विद्यालय संगठन Annexure-5

KENDRIYA VIDYALAYA SANGATHAN

केन्द्रीय कार्यालय
मालीगाँव चारियाली
गुवाहाटी : 781 012

Regional Office
Maligaon Chariali
Guwahati : 781 012

दिनांक :

Dated : 5/7/2000

O F F I C E O R D E R

The Deputation of Shri D. N. Prasad, PGT(Hin.), Kendriya Vidyalaya, Narangi to KV, Kimin as Incharge Principal is hereby extended till further order.

Distribution to:-

D. K. Saini
(D. K. SAINI) 5/7
ASSISTANT COMMISSIONER

- (1) Sh. D. N. Prasad,
I/C Principal, KV, Kimin.
- (2) Principal, KV, Narangi for information.
- (3) The Chairman, VMC, KV, Kimin.

Attested
DP

Doodh Seeth Basu

✓ The Hon'ble Chairman
Kendriya Vidyalaya
Kimin, 9 Assam Rifles
Arunachal Pradesh

(19)

From : D.N. Prasad
D.N. Prasad
I/C Principal
K.V. Kimin (A.P.)
Date : 16th January 2000

Subject : Reporting on duties as I/C Principal.

Ref. No. : i) Vide a letter No. F.2-4/KVK/94-95/942-46 dated 3.1.2000.
ii) Vide Hon'ble Central Administrative Tribunal, Guwahati order dated 10.01.2000.

R/Sir,

With reference to the aforesaid letters and particularly in pursuance with the Hon'ble C.A.T. Guwahati, order dated 10.01.2000 passed in O.A. No. 434/99. I have been directed to carry out the order of the Hon'ble C.A.T. Guwahati within seven (07) days w.e.f. 10.01.2000 and in compliance with the same. I do hereby report to your goodself in the afternoon of 16th January 2000.

It is for your kind information and necessary action please.

Thanking you.

Shri D N Prasad has reported to
the KV, Kimin on 16 Jan 2000
and permitted to join KV, Kimin.

Yours faithfully,

(D.N. Prasad)
I/C Principal
K.V. Kimin, 9 AR(A.P.).

CHENDRIYA VIDYALAYA KMIN
ARUNACHAL PRADESH

Copy to:- Chairman

1. The Assistant Commissioner, KV, Kimin

2. The Hon'ble Vice-Chairman, Kendriya Vidyalaya Management Committee (GR), Guwahati - for kind information.

(D.N. Prasad)
I/C Principal
K.V. Kimin, 9 AR(A.P.).

Enclosures: As stated above.

Attested

(20)

Anupatre-Fax



TELEPHONE 011-4112

TELEFAX 011-4112

TELEGRAM KEVISANG

मोबाइल 098900 098901 098902

केन्द्रीय विद्यालय संगठन

KENDRIYA VIDYALAYA SANGATHAN

18 शताब्दी नगर यादोगिरी दिल्ली 110 016

18 Institutional Area, Shaheed Jeet Singh Marg

New Delhi 110 016

7/6.

E.I-3/98-KVS(Estt.III)

26.05.1998 Dated

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

Subject: Circulation of revised transfer guidelines.

Sir/Madam,

I am to enclose herewith the transfer guidelines duly approved by the Chairman, Kendriya Vidyalaya Sangathan for adoption during the year 1999-2000 for effecting inter-region as well as intra-regional transfers for your information and necessary action.

Yours faithfully,

(Dr. P.K. Tiwari)
Dy. Commissioner(Admin.)

Enc. As above.

Attested
D.P.

(21)

43

AMENDED TRANSFER GUIDELINES AS APPROVED
BY THE CHAIRMAN, KENDRIYA VIDYALAYA SANGATHAN.

In supersession of existing guidelines/orders on the subject, it has been decided that transfers in 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 who has been duly authorised by competent authority to exercise all or any of the powers and functions of the Commissioner;
- (ii) Sangathan means Kendriya Vidyalaya Sangathan;
- (iii) Service means the period during which a person has been holding charge of the post in the Sangathan on a regular basis;
- (iv) Station means any place or a group of places within an urban agglomeration;
- (v) Stay means service at a station excluding the period or periods of continuous absence from duties exceeding 15 calendar days or a stretch other than on Maternity Leave, Training or vacation;
- (vi) Teacher means all categories of teachers in the employment of Sangathan and includes Vice Principals and Principals but does not include Education Officer and above;
- (vii) Year means a period of 12 months commencing on 1st April.

3. 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.

Contd....p/2

Attested
R.P.

M
Jyotsna Nath Basu

- 2 -

4. The transfers shall be effected keeping in view 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 realisation of objectives as spelt out earlier. Transfers cannot be claimed as of right by those making request nor do these guidelines intend to confer such right.

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

6. Apart from others, the following would be transfer on administrative grounds.

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

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

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

i) On Organisational reasons, administrative grounds including transfers made as per clause 6.

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 or son/daughter.

iii) Mutual Transfers as provided in Clause 9.

8. Subject to availability of vacancy, transfers will be effected by observing the following priorities:-

a) Transfer on account of organisational reasons and administrative grounds including as per clause 6.

Contd....p/3

30/12/99

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b) Transfer on request:

i) Death of Spouse provided the death occurred after the teacher joined the station and an application for transfer on such ground was/is made by him within a year of such death.

ii) Teachers with less than two years to retire.

iii) Such of serious illnesses of teacher himself or his spouse or son/daughter as may be prescribed and subject to production of such documents and fulfilment of such terms and conditions as the Commissioner may notify from time to time.

iv) Transfers of (a) PGTs and above from NE Region, A & N Islands, Sikkim and (b) all categories of teachers including PGTs from declared hard stations, on completion of such period of stay as may be laid down by the Sangathan.

v) Transfer of blind and orthopaedically handicapped teachers provided they fulfil the following conditions.

a) Blind teacher having vision less than 3/60 or field vision less than 10° in both eyes, as certified by the Head of the Ophthalmological Department of a Government Civil Hospital.

b) Orthopaedically Handicapped teacher who has a minimum of 40% permanent partial disability of either upper or lower limbs or 50% permanent partial disability of both upper and lower limbs together, as certified by the Head of Orthopaedics Department of a Government Civil Hospital according to the standards contained in the Manual for Orthopaedic Surgeon in Evaluating Permanent Physical Impairment brought out by the American Academy of Orthopaedic Surgeons, USA, and published by Artificial Limbs Manufacturing Corporation of India, Konpur.

vi) SPOUSE CASES

(a) Spouse is a Sangathan employee

(b) Spouse is a Central Govt. employee

(c) Spouse is an employee of autonomous body or Public Sector Undertaking of Central Govt.

Contd.....p/4

Attested
D.P.

19

(d) Spouse is an employee of State Govt. or its autonomous body or public sector undertaking.

(e) Other spouse cases

Note for 'Spouse Cases' :

The clause is applicable only where the teacher seeks transfer to a station.

(a) other than the one where he/she is posted and nearby.

vii) Transfer to a place of choice where his spouse being a Defence, Para Military Forces or CG employee is posted at a non-family station.

viii) Unmarried /divorced/judicially separated/widowed ladies.

ix) General cases on completion of a stay of three years.

9. Mutual transfers may be permitted in cases of hardship 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.

10. Intra & inter regional transfers may, as far as practicable, be made simultaneously.

11. Upon promotion or direct recruitment as Education Officer/Assistant Commissioner, an officer shall necessarily be posted to a 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.

12. A teacher on promotion should necessarily be posted in a different region which should be a neighbouring region to the extent possible. In the case of women teachers, region may not be necessarily changed but the new place of posting should be atleast a district or two away.

13. No transfer TA will be paid for request transfer on whatever grounds unless the teacher has completed five years in his existing place of posting (read 5 years for request transfers and 3 years for North Eastern Region and Jharkhand).

14. 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 Asstt. Commissioners shall report forthwith the case with full facts to the Commissioner for confirmation or directions as may be considered necessary by the Commissioner.

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Doodh Nath Basad

15. These guidelines will also apply to the holders of all non-teaching posts, to the extent applicable.

16. 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 6,7(i) and 8(a) 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 Vice-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 a transfer:

(i) cases of Education Officers/ Assistant and Commissioners for transfer back to the same station where they were posted immediately before their promotion to the aforesaid posts, without completing three years stay outside the State in which they were posted immediately before promotion or are domiciled;

(ii) cases where a teacher, Education Officer or Assistant Commissioner was transferred on grounds mentioned in clause 6,7(i) and 8(a) of these guidelines will not be considered for transfer back to the same station from where he was so transferred without completing 5 years stay at another place;

(iii) cases of direct recruits unless they complete three years of stay at the place of their posting. This will not, however, be applicable in cases covered by clauses 6,7(i) and 8(a) of these guidelines.

17. 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.

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

Contd...p/6

Attested
R.D.

: 6 : -

19. Rule 55(27) of the Education Code and Rule 20 of the CCS(Conduct) Rules which provide as under:

(i) As per Rule 55(27) of Education Code:

No teacher shall represent his grievances, 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.

(iii) 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.

Affixed

AP

Doodh Nath Basad

Brief description of illness which will be considered as medical grounds for the purpose of transfer, in terms of transfer guidelines is as under. Medical terms referred herein will bear meaning as given in the Butterworth's Medical Dictionary.

(i) Cancer (malignant) :

It is the presence of uncontrolled growth and spread of malignant cells. The definition 'cancer' includes leukaemia, lymphomas and Hodgkin's disease.

Exclusions :

This excludes non-invasive carcinoma(s) in-situ, localised non-invasive tumour(s) revealing early malignant changes and tumour(s) in presence of HIV infection or AIDS; any skin cancer excepting malignant melanoma(s) are also to be excluded.

(ii) Paralytic stroke:

(Cerebro-vascular accidents): Death of a portion of the brain due to vascular causes such as (a) Haemorrhage (cerebral), (b) Thrombosis (cerebral), (c) Embolism (cerebral) causing total permanent disability of two or more limbs persisting for 3 months after the illness.

Exclusions:

- (i) Transient/Ischaemic attacks.
- (ii) Stroke-like syndromes resulting from
 - (a) Head injury;
 - (b) Intracranial space occupying lesions like abscess, traumatic haemorrhage and tumour;
 - (c) Tuberculous meningitis, Pyogenic meningitis and meningococcal meningitis.

(iii) Renal failure:

It is the final renal failure stage due to chronic irreversible failure of both the kidneys. It must be well-documented. The teacher must produce evidence of undergoing regular haemodialysis and other relevant laboratory investigations and doctor's certification.

(iv) Coronary artery disease where by-pass surgery has been actually done:

The use of surgery on the advice of a consultant cardiologist to correct narrowing or blockage of one or more coronary arteries.

Exclusions:

Non-surgical techniques such as the use of either balloon or laser via a catheter introduced through the arterial system are excluded.

Other illness in other words
Certified to be true Copy
प्राप्ति इसका
11/12/2010
R.P.

Annexe-8

To
The Principal,
K.V.Narayi.

(28)

Sub: Request for payment of D.A. advance of Rs18000/- only.

Ref: Vide extension order dated 06.7.2000.

Sir,

With reference to an office order No. F.10-4/96-KVS (GR)/2677 dated 06.7.2000, I have been asked by the A.C. (GR) to continue as I/C Principal in K.V.Kimin till further order.

Therefore, in pursuance with the aforesaid order I may kindly be sanctioned the sum of amount Rs 18000/- (eighteen thousand only) against D.A. for the month of May 2000 to July 2000 as I have been deputed there with T.A./D.A.

It is for your kind information and n/a please.

Yours faithfully,

D.N.Narayi
(D.N.Narayi)
I/C Principal
K.V.Kimin
(A.P.)

Dated 17.07.2000

Attested
PN



Adm/Recd
07/11/99

29

Annexure-9

राज्य/Phone: 571707, 571708
Fax: 571709

केन्द्रीय विद्यालय संगठन
KENDRIYA VIDYALAYA SANGATHAN

केन्द्रीय कार्यालय Regional Office
मालिगांव चारियाली Maligaon Chariali
गुवाहाटी: 781 012 Guwahati: 781 012

प्राप्तक :
No. F : 10-4/96-KV.(4.)/6353-55

दिनांक : 26
Dated : 30.10.2000

OFFICE ORDER

Mr. D.L. Prasad, PGT(Hindi) Kendriya Vidyalaya, Narangi who was posted as Incharge Principal on temporary duty to Kendriya Vidyalaya, Kimgaon vice this office order of even number dated 20.09.99 is here by reported to his original post and posted to Kendriya Vidyalaya, Narangi with immediate effect. He will hand over the charge of the Vidyalaya to the senior most teacher of Vidyalaya/ Gr.II Principal post and get relieved immediately.

To,

✓ Shri D. N. Prasad,
I/C Principal,
Kendriya Vidyalaya,
Kimgaon.

C. D. K. SAINI
ASSISTANT COMMISSIONER

Copy of information & necessary action :-

1. The Principal, Kendriya Vidyalaya, Narangi.
2. The Chairman, V.I.C., Kendriya Vidyalaya, Kimgaon. He is requested to relieve Mr. Prasad, I/C Principal of his Vidyalaya immediately with the instructions to hold his duties at his parent Kendriya Vidyalaya, Narangi.

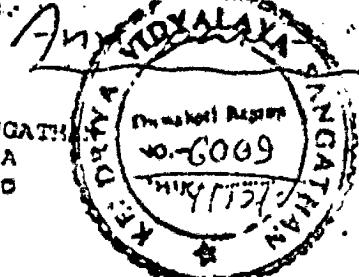
ASSISTANT COMMISSIONER

Attested
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Doodh Nath Basu

(30)

KENDRIYA VIDYALAYA SANGATH
10, INSTITUTIONAL AREA
SHAKED JEET SINGH NARO
NEW DELHI 1100 016



No. F.7-1 (S-D) 2000-KVS (E.III)

Dated: 30 NOV 2000

TRANSFER ORDER

In accordance with the provision contained in Para 10(1) & 10(3) of Transfer Guidelines, the transfer of the following ~~Non~~ Graduates Teachers (Hindi) is hereby ordered on request with immediate effect:-

Sl.No	Name	Transferred from KV	Transferred to KV
1.	2.	3.	4.
<u>Shri/Mrs./Ms</u>			
1.	Om Prakash Rorijo	ONOC Mehsana	APS Wadsar
2.	Sanjay Kr. Katole	AFS Naliya	No.1 Baroda Harni Road
3.	Ram Sinhasan Thakur	Sambastipur	Golkonda
4.	Sej Nath Gunhera	AFS Amla	No.2 AFS Dholi
5.	D.P. Nixit	AFS Kurna Larka	Binsa
6.	C.R. Singh	W.C.L. Chanderpur	No.2 Itarsi
7.	Gita Mardwal	Kirandaul	No.1 Indore
8.	Madhav Perner	No.2 Jamnagar	Ratlam
9.	D.R. Vadekar	OP Chanda	CRPF Nagpur
10.	Veena Singh	No.2 MIRC Ahmednagar	Kaliwadi Dombay
11.	O. P. Pandey	Tengavally	No.2 Dohu Road Pune
12.	Jaya Dutta Roy	Hasimara	Kankinara
13.	Ajay Kr. Mishra	No.1 Minsmari	Bareilly Takot Nagar
14.	Sangita Koval	AFS Kasauli	No.1 Haridwar
15.	Manju Bala	Joshimath	PL Meerut
16.	Roshni Prasad Shukla	Hirakpur	Kajuraha
17.	Rawonmalwar Jha	Bharkunda	Chalimar Bagh
18.	Pitamber Jha	Cooch Bihar	No.1 Delhi Cantt
19.	B.Rama Chandra Rao	Koraput	No.1 Silvijy Nagar, Vishakhapatnam
20.	Neeta Das	Ambikapur	Bhiled
21.	Prem Kr. Pandey	No.2 Trupati	Raipur (M.P.)
22.	Ram Sahai Shukla	Barkhani	Nourabad
23.	Radhey Shyam Bhartiya	Nehru Shillong	No.2 OCP Jabalpur

BLW

S.B
11/12

Attested
R.P.

6.11.2000

Dated: 30th November 2000

1.	2.	3.	4.
24.	Chetram Bharts	Avikanagar	No.3, Jaipur
25.	Danwari Lal	No.2, Surat	Rewari
26.	D.L.Ghanvari	Jawar Mines	No.1, Udaipur
27.	Ashok Kumar Sharma	No.4, Rathnashet	No.1, Amritsar Cantt.
28.	R.S. Mishra	No.2, Tezpur	old Cantt. Allahabad
29.	Priti Sharma	NSP Anupgarh	Mujahidshahar
30.	Jaiprakash Tirpathi	Unnao	No.2, Chakeri Kanpur
31.	A.K. Goswami	IOC Guwahati	PGIT Lucknow
32.	Suresh Prasad	No.1, Imphal	Manikapur ITI
33.	D.D. Srivastava	Mundigal	Nanbareilly
34.	Nishun Dyal	Balgagan	Unnao
35.	D. Rathnamma	No.1, VIT Jalahalli CRPP Pallipuram	
36.	Radhakrishna Doss	Antal	Jamalpur
37.	Dr. Ram Krishna Mishra	No.3, Dokaro	No.1, Gaya
38.	D.N. Prasad	Narangi	Paranass Cantt.
39.	Nimisha	No.1, PER	Muzaffarpur
		No.2, Gwalior	Elaco
		No.2, Jorhat	Mathatia
			No.1, Amritsar Cantt.
			Ant.
			DR. Pratap
			Parasai Cantt., Muz.
40.	Malvi Singh		
41.	Pekar Kumar		
42.	Ramji Patnaik		
43.	Chandru Singh		
44.	Shanti Kumar		
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(32)

Copy to :-

1. The teacher concerned.
2. The Principal of the Kendriya Vidyalaya from where the teacher has been transferred. In case he/she receives any intimation from his counterpart to the effect that the displaced teacher is either a female or physically handicapped, the relieving of the teacher of his vidyalaya should be deferred till further orders. KVS Hqrs./A.C. offices should be kept informed for further orders. Hence, the teacher may be relieved after 10 days from the date of receipt of the order provided no intimation has been received from the other vidyalaya.
3. The Principal of the Kendriya Vidyalaya to where the teacher has been transferred for information and necessary action.
4. The Assistant Commissioner, Kendriya Vidyalaya Sangathan, All Regional Offices/A.I.O.
5. The General Secretaries of recognised Service Associations of K.V.S.
6. O.S.D. (HRM)
7. O.S.D. (Def.)
8. All Deputy Commissioners/Assistant Commissioners/ Sr. Admn. Officers/ Audit Officers and Education Officers of K.V.S. (HQ).
9. E.A. to the Commissioner, K.V.S.
10. Copy to file No. F.7-1/2000-KVS(E.III)
11. Guard File/ Notice Board.

Edified
(Dr. E. PRABHAKAR)

EDUCATION OFFICER

22. Ram Sahit Shukla
23. Radhey Shriyam Bhartiya

Blw:

Barkha
Neha Shillen

11-2 GCP

11-2/..

S.B 11/2/12

Attested
AP

Speed Post • EE-#81869527IN
Dtd. 06/11/2000

To,

The Commissioner,

Kendriya Vidyalaya Sangathan,
18, Institution Area,
Sabeed Jeet Singh Marg,
New Delhi - 16.

From:-

D.N.Prasad,
I/C Principal,
K.V.KIMIN.
(Arunachal Pradesh)

Annexure - 11.

Subject:- Prayer for Cancellation of Transfer; Application
children. under Ref.No. F.2-4/KVN/99-2000/1127 dtd. 15.2.2K.

R/Sir,
Subject:-

1. The hon. I have honour to inform your goodself the
following points for your kind consideration and necessary
action.

1. That I have applied for my transfer to the choice
place i.e., at Varanasi under Region Code 17, Station code -
423 and K.V.Code - 765 and 767 respectively under Subject Code -
12. And I was expecting my transfer during Summer Vacation,
2000; but till date the same has not been materialized.

2. That now my daughter namely Miss Meenakshi Prasad,
is a student of B.A. Part II of T.D.C. under Gauhati University
and my ^{Son} son namely Master Anupam Kumar Singh, is a student of
Class X of K.V.Narangi and my both the children have already
suffered heavy education loss in past due to my deputation
to K.V.Kimin, for more than nine months in Arunachal Pradesh
even without my prior consent etc.

3. That, it is the climax period for proper education
guidance to be imparted to my children for building up their
future career.

Attested
DP

Contd/-

Therefore, in view of the above circumstances and fact, your goodself would be pleased to consider the instant application and would also be pleased to cancel my transfer application under reference No.F.2-4/KVN/99-2000/1127 dtd. 15.2.2K in the mid of the session .

Further, it is also prayed that I should not be disturbed till the completion of education of my aforesaid children.

Enclosure:-

1. The copy of the Transfer Application.

Yours faithfully,

(D.N. Prasad), 16/11/2000

I/C Principal,
K.V.KIMIN,
(Arunachal Pradesh).

Attested
AP

MESSAGE

IN THE CENTRAL ADMINISTRATION TRIBUNAL GUWAHATI BENCH

AT GUWAHATI

ORIGINAL APPLICATION NO.431/2000

Doodh Nath Prasad

...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 4.1,4.2,4.3,4.4 and 4.5 of the application the answering Respondents have no comments as they are matters of record.

3. That with regard to statements made in paragraph 4.6 the of the application the answering respondents beg to state that point 15 in transfer application shows that mentioning of the Vidyalaya is applicable only for transfer at the same station. But in case of intra and inter-regional transfers, choice must be given for station and not for Vidyalayas . Hence the applicant was given only his place of choice Varanasi. The General condition says that "A single cancellation of transfer is enough to up set the schedule/chain and hamper the

contd..2

the prospect of a group of needy persons getting transfer so cancellation of request owing to change in circumstances should be made within ten days of publication of priority list in the FAX No. of HQ is 011-6514179. Transfer once effected will not be cancelled. The publication of priority list has been made as per circular and the applicant has not represented for the cancellation within the stipulated time.

4. That with regard to statements made in paragraph 4.7 of the application the answering Respondents beg to state that the transfers are effected as per the circular dated 30.12.99 vide letter No. F151/2000-KVS(Estt-III) but not as per the old circular dated 26.5.99 which was misquoted by the applicant. On organisational reasons the transfer can be done after 31st August as per the clause 6(1) in the transfer guidelines.

5. That with regard to statements made in paragraph 4.8 of the application the answering Respondents beg to state that the applicant has been paid DA for the initial six months as per rules. As per G 10(2)SR 114, if a temporary transfer originally made for a period of 180 days or less is later extended beyond 180 days, the TA already drawn shall be adjusted in the transfer TA claim. But DA is admissible upto the date of issue of the revised order hence he is not entitled for DA after six months of his temporary transfer.

Further the applicant had gone to New Delhi to appear in the selection for Principal's post on his own interest and it is not KVS's official duty. Hence, he is

is not entitled for D.A. during his personal works for days away from Kimin. Salary will be paid as per his eligibility and as per rules.

6. That with regard to statements made in paragraph 4.9 of the application the answering Respondents have no comments as they are matters of records.

7. That with regard to statements made in paragraph 4.10 of the application the answering Respondents beg to state that in transfer involving intra and inter regional transfer choice must be indicated for station and not for Vidy Vidyalaya as stated in point 15 of Transfer application. Therefore, the applicant was given his choice place Varanasi. But unfortunately the applicant by projecting the names of schools at Varanasi is trying to mislead the Hon'ble Tribunal.

8. That with regard to statements made in paragraph 4.11 of the application the answering Respondent begs to state that the representation of the applicant dated 6.11.2000 is me null and void since it should have been made within ten day of publication of priority list in the FAX No of HQ as stated in paragraph 3 above. Hence transfer once effected will not be cancelled.

9. That with regard to statements made in paragraph 4.12 of the application the answering Respondents beg to state that the transfer order has been issued by the approval of the competent authority and signed by the Deputy Commissioner (Fin) dated 30.11.2000. The applicant very intelligently did not submit the proper photocopy of the transfer order with the sign of the Deputy Commissioner but instead submitted another letter attached with the transfer order where the forwarding copy was signed by the Education

Officer Dr E Prabhakar.

10. That with regard to statements made in paragraph 4.13 of the application the answering respondents have no comment, as these are matters of records.

11. That with regard to statements made in paragraph 4.14 of the application the answering Respondents beg to state that for the period from 30.10.99 to 18.11.99 and 4.1.2000 to 15.1.2000 the applicant has not applied for any ~~final~~ kind of leave and the Hon'ble Tribunal has not passed any order regarding salary though the matter was submitted twice earlier by the applicant.

12. That with regard to statements made in paragraph 4.15 of the application the answering Respondents beg to state that the applicant is transferred to another Kendriya Vidyalaya ~~where~~ where his son can continue his studies, without any difficulties which is the basic principle of KVS Organisation. The parent can go on transfer at any time without effecting the studies of their wards. The applicant has been given his choice place "Varanasi" and to he has not withdrawn his application in stipulated time.

13. That with regard to statements made in paragraph 4.16 and 4.17 of the application the answering respondents have no comments as they are matters of record.

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

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VERIFICATION.

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

Place: Guwahati

Date : 9.2.2001

D.K. Saini
DEPONENT 9/2/2001

17 SEP 2001

गुवाहाटी न्यायालय

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

File No. 1200
Filed 12/9/2001
Usha
Appd
12/9/2001

O.A. NO. 431/2000

BETWEEN

Shri Doodh Nath Prasad Applicant

- Vs -

Union of India Respondents.

REJOINDER

1. That all the averments and submissions made in the affidavit (written statement) filed by the respondents NO.s 2, 3 4, and 5 in connection with OA No. 431/2000 are denied by the answering deponent save and except that has been specifically admitted herein and that appears from the record of the case.
2. That the averments made by the answering respondents in para 3 of the said affidavit is totally false and misleading and as such the same is hereby denied. In this connection the deponent begs to state that point 15 in transfer application shows the "relationship of the patient with the applicant" and it is not meant for maintaining if the Vidyalaya for transfer at the same station as alleged by the answering respondents. Moreover, the deponent has been serving since last 16 years at the hardest stations like Andaman & Nicobar Island, Assam and Arunachal Pradesh etc. and it was the bounder duty of the respondents to transfer the deponent at his choice Vidyalaya not at a choice station as alleged. It is also worth mentioning here that the counterpart of the deponent is from the same Vidyalaya and as since the said cancellation of the transfer does not hamper interests of any one and it is also learnt that the said counterpart namely Mr. D.S. Tripathi has also expressed his desire to go back to his old parent station in Varanasi who was

allowed to join in KV Narengi on 19.12.2000 even after the suspension of the transfer order dated 30.11.2000 by the Hon'ble Tribunal vide order dated 8.12.2000. Further the deponent respectfully stated that he has withdrawn his option vide his representation dated 6.11.2000 before the publication of the said transfer order dated 30.11.2000 and as such the question of priority list, Fax No. and stipulated time does not arise at all. More so, if the transfer application is not in order it ought to have been summarily rejected.

3. That the averments made by the answering respondents in para 4 is partially correct in connection with the circular dated 30.12.99 but it is not correct that the old circular dated 26.5.99 is mis quoted by the applicant. The guidelines regarding the transfer mentioned in para 7 of the circular dated 26.5.99 and in para 6 of the circular dated 30.12.99 are the same. It is also pertinent to mention herein that the said transfer does not come under the purview of the transfer guidelines mentioned in clause 6(1), which runs as follows :

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

(i) Organisation 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 transfer as provided in para 12.

4. That the averments made in para 5 of the said affidavit is also not correct and therefore the same is hereby denied. In this

connection, the deponent begs to state that the applicant was not temporarily transferred rather it was the case of the ordinary deputation for a period of six months only that too of higher responsibility to act as principal i/c. in K.V. Kimin (AP) and as such the deponent deserves either D.A. or the salary along with other allowances attached to the said post, since it was a promotion (Ad-hoc).

Further the deponent also deserves D.A. etc. for the period of his stay in New Delhi in view of his appearance in the selection for principal's post as because he was a departmental employee. Therefore the stoppage of D.A. salary etc. of the deponent by the respondents are totally illegal, malafide and arbitrary and it speaks about discriminatory actions of the respondents.

5. That with regard to the statement made in para 6 and 7 of the Written Statement the applicant denies the correctness of the same and reiterates and reaffirms the statements made above as well as in the D.A.

6. That the averments made by the respondents in para 8 of the affidavit is also baseless. False and misleading and hence hereby denied. In this connection the deponent begs to state that his application dated 6.11.2000 regarding withdrawal of option is not null and void as because the same was filed before the publication of the instant transfer order dated 30.11.2000. Moreover, the respondents have neither sent the priority list of the dependent nor communicated any Fax No. of H.Q. as alleged and more so the counterpart has no objection to go to his parent department.

7. That the averments made by the respondents in para 9 of the affidavit is also not correct. In this connection the deponent

begs to state that the copy of the said transfer order dated 30.11.2000 was already given by the respondent NO. 3 to the dependent and moreover, the Deputy Commissioner (Finance) is not the competent authority to issue the transfer order rather it is matter of administrative and Dr. E. Prabhakar, Education Officer is no way connected with the transfer matter but his signature is there.

8. That the averments made in para 11 of the affidavit by the respondents is also not correct. In this connection the deponent begs to state that just after retiring for transfer on deputation, he filed a representation on 6.11.2000 to the respondent No. 3 for cancellation of the deputation and thereafter vide letter dated 4.11.99 applied to respondent NO. 5 to allow him to join in K.V. Narengi till the disposal of the representation but curiously enough it was not considered. Thereafter, on being aggrieved by the impugned order dated 28.9.99 the applicant approached to Hon'ble Tribunal, Gauhati by OA No. 370/99 and the Hon'ble Tribunal allowed the applicant to stay in K.V. Narengi till 3.1.2000 vide its order dated 10.11.99. More so, vide an order dated 10.1.2000, the Hon'ble Tribunal also pleased to direct the applicant to carry out the order within one week and consequently he complied the order and as such the question of applying for regular leave does not arise at all.

9. That the averment made by the respondents in para 12 of the affidavit is partially correct regarding son. In this connection, the deponent begs to state that the respondents have very intelligently concealed the case of the applicant's daughter who is a student of B.A. Part-I of Cotton College under Guwahati University. It is pertinent to mention here that student can not shift from one University to another University during the

course of any degree like B.A., B.Sc, B.Com, M.A., M.Sc etc. and as such the said transfer will cause an irreparable loss to the applicant's daughter and therefore under compelled situation the applicant (deponent) has withdrawn his transfer application within stipulated time before the issuance of the impugned transfer order dated 30.11.2000.

10. That the deponent begs to submit that the present affidavit of the respondent was not filed bonafide before the Hon'ble Tribunal and in the facts and circumstances stated above in the foregoing paragraphs , it is respectfully prayed that the Hon'ble Tribunal may be pleased to allow the O.A with costs.

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VERIFICATION

I, Doodh Nath Prasad, S/o Late Sarjo Prasad, aged about 56 years and resident of K.V. Narengi Campus do hereby solemnly affirm and verify that the statements made in the para 1, 4, 5, 6, 7, 9, 10 are true to my knowledge and those made in para 2, 3, 8, and matters of records which I believed to be true and rest are my humble submission before the Hon'ble Tribunal and that I have not suppressed any material facts.

And I sign this verification on this the 12th day of Sept, 2001.

Doodh Nath Prasad