

30/100

10

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

**INDEX**

O.A/T.A No. 09/2000

R.A/C.P No.....

E.P/M.A No.....

1. Orders Sheet..... Pg..... 1 ..... to..... 3 .....
2. Judgment/Order dtd. 09/05/2001..... Pg..... 1 ..... to..... 4 ..... allowed
3. Judgment & Order dtd..... Received from H.C/Supreme Court
4. O.A..... 09/2000..... Pg..... 1 ..... to..... 23 .....
5. E.P/M.P..... NIL..... Pg..... to.....
6. R.A/C.P..... NIL..... Pg..... to.....
7. W.S..... Pg..... 1 ..... to..... 29 .....
8. Rejoinder..... Pg..... 1 ..... to..... 14 .....
9. Reply..... Pg..... to.....
10. Any other Papers..... Pg..... to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Jud1.)

5  
FORM NO. 4

(See Rule 42)

## In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

## ORDER SHEET

APPLICATION NO. 9/2000

OF 199

Applicant(s) Smt. Basakhati Devi

Respondent(s) Union of India and ors.

Advocate for Applicant(s) Mr. B.K. Sharma, Mr. S. Sarma  
Mr. U.K. Gooaari

Advocate for Respondent(s)

K.V.S.

Notes of the Registry	Date	Order of the Tribunal
forfeiture of Rs. 50/- deposited vide PROT. NO. 654618 Date 6/1/2000 12 — 1 — 2000	11.1.2000 11/1/2000	Present: Hon'ble Mr. Justice D.N. Baruah, Vice-Chairman and Hon'ble Mr. G.L. Sanglyine Administrative Member Heard Mr. B.K. Sharma learned counsel for the applicant and Mr. Todi learned counsel for the respondents. Application is admitted. Issue notice on the respondents by registered post. Returnable by 4 weeks. List on 11.2.2000. for orders. Mr. B.K. Sharma prays for suspension of the impugned order. Dr. Todi has no instructions in this regard. Issue notice to show cause as to why interim prayer shall not be granted as prayed for. Meanwhile the operation of the Annexure 4 order shall remain suspended until further orders.
Service of notices prepared and sent to D. Section 301 issuing of the same to the respondents through road post with A.D.	12 — 1 — 2000 11/1/2000	 Member

  
Vice-Chairman

29  
12-1-2000 Date of 12-1-2000  
11/1/2000

(2)

OLA. 9/2000

Notes of the Registry	Date	Order of the Tribunal
10 - 2 - 00 Service Reports are awaited	11.2.2000 pg	Two weeks time allowed for filing of written statement on the prayer of Dr B.P.Todi, learned standing counsel for KVS. List on 28.2.2000 for order.
Notice duly served on R.No- 3. 22.2.2000	28.2.2000	There is a adjourned adjourned 1-3-3-a.
25-2-00 w/ Standing to be not be filed	3.3.2000 LM	On the prayer of Dr.B.P.Todi, learned counsel for the KVS two weeks time is allowed for filing of written statement. List on 21.3.2000 for filing of written statement and further orders.
2-3-00 w/ Standing to be not be filed	21.3.2000 None present for either side. List on 5.4.2000 for written statement and further orders.	Member (J) Member (A)
4-4-00 w/ Standing to be not be filed	5.4.00 1m	Written statement has been submitted. Mr.S. Sarma learned counsel for the applicant prays for time to file rejoinder. List on 14.6. 00 for filing of rejoinder.
16-6-00 No Rejoinder has been filed.	16-6-00 1m	There is no D.B. Adm to 31-8-00.
31-8-00 No Rejoinder has been filed.	31-8-00 5-1-2001	There is no Bemu adm M.D.B. Adm referred to 30/9/2001 b. B.M.D.

3/N

04/9/2000

B

Notes of the Registry	Date	Order of the Tribunal
No. Rejoinder has been filed.	20/3.	Due to want of time, the case is adjourned to 26/4/2001. M/s. A. L. Jay 20/3.
<u>25/4/01</u>	26.4.01	We have heard Mr S. Sarma, learned counsel for the applicant at length. None appears for the respondent. The case is adjourned to 9.5.2001 to enable the respondents to represent their case.
		<u>K C U Shadur</u> Member
		<u>Vice-Chairman</u>
	pg	
	9.5.01	Heard counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets. The application is allowed in terms of the order. No order as to costs.
<u>25.5.2001</u>	pg	<u>K C U Shadur</u> Member
<u>Copies of the Judgment</u> was been sent to the Office. for ready the same to the applicant as well as to the L/HQ for the Respondents		<u>Vice-Chairman</u>
<u>K.L.</u>		

Notes of the Registry	Date	Order of the Tribunal

CENTRAL ADMINISTRATIVE TRIBUNAL ::  
GUWAHATI BENCH.

O.A./X.X. NO. . . . . 9/2000 and 31/2000.  
of

DATE OF DECISION 9-5-2001.

Smt Prabhawati Devi & Pradip Kumar Saikia

APPLICANT(S)

S/ Shri B.K. Sharma, M.Chanda.

ADVOCATE FOR THE APPLICANT(S)

- VERSUS -

Union of India & Ors.

RESPONDENT(S)

Mrs P. Barua for KVS standing counsel. ADVOCATE FOR THE  
RESPONDENTS.

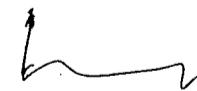
THE HON'BLE MR JUSTICE D.N.CHOWDHURY, VICE CHAIRMAN.

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

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

5.

Judgment delivered by Hon'ble Vice-Chairman.



10

**CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.**

Date of Order : This the 9th Day of May, 2001.

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

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

Original Application No. 9 of 2000.

Smt Prabhawati Devi,  
Wife of Shri K.K.Tiwari,  
No. 115, Helicopter Unit,  
Air Force, Tezpur

... Applicant

By Advocate Shri B.K.Sharma.

- Versus -

Union of India & Ors.

... Respondents.

Original Application No. 31 of 2000.

Shri Pradip Kumar Saikia  
Village Bongalgaon,  
P.O. Bongalgaon,  
Via Dergaon,  
Dist. Golaghat (Assam)  
Pin # 785614

... Applicant

By Advocate Sri M.Chanda

- Versus -

Union of India & Ors.

... Respondents.

By Advocate Smt P.Barua on behalf of  
Dr. B.P.Todi, Standing counsel for KVS,  
in both the cases.

**O R D E R**

**CHOWDHURY J. (V.C)**

Both the O.As are taken up together for consideration since it pertains to termination order of like nature.

the  
2. Both applicants were working as Trained Graduate Teacher on ad hoc basis in Kendriya Vidyalaya. Both the applicants were engaged in a number of litigations pertaining to their service conditions before the High Court. In O.A.9/2000 the applicant first approached the High Court

by way of Civil Rule No. 646/92 apprehending an order of termination. An interim order was passed in the said Civil Rule by the High Court on 22.8.96 whereby the Single Bench of the High Court ordered upon the respondents not to oust the applicant from the service. The interim order dated 22.8.96 was made absolute and the application was disposed of. It was stated by Mr B.K.Sharma, learned Sr.counsel for the applicant that against the aforementioned order the respondents preferred an appeal before the High Court in Writ Appeal No.581/96. At one point of time the respondents were favoured with an interim order passed by the High Court. The said Writ Appeal was finally dismissed on 31.3.2000 for non prosecution. Both the applicants earlier moved the High Court by way of Writ petitions assailing the order of their termination. The applicant in O.A.9/2000 was a party in Civil Rule No.5207/94. The applicant in O.A.31/2000 was the petitioner in Civil Rule No.66/94. The High Court by its judgment and order dated 15.9.98 disposed of the Writ Petitions by one Common Judgment and order directing the respondents to consider the case of the petitioners and allow them to appear in the interview that may be held for future appointments. The applicants also applied for the post advertised pursuant to the High Court order. But according to the respondents they were not found qualified since they did not score 45% marks in aggregate. By a cryptic order the services of the applicants were terminated by order dated 7.1.2000 as per a telephonic instruction of the Assistant Commissioner. Hence this application assailing the legitimacy of the action of the respondents.

2. The respondents filed its written statement and stated that they were terminated by the Principal as was

directed by the Assistant Commissioner to terminate their services. The respondents stated in the written statement that all teachers working on ad hoc/part time basis including the applicants were given reasonable opportunity to submit their applications as per guidelines approved by the Gauhati High Court against the advertisement. Though the applicants also submitted their applications pursuant to the advertisement but since they did not fulfil the conditions stipulated thereon they were not called for interview and accordingly the services were terminated. The respondents stated and asserted that throughout they acted as per directions of the High Court as well as of the scheme that was approved by the High Court. Since the applicant did not fulfil the minimum requirements/eligible criteria their services were terminated.

4. Heard Mr B.K.Sharma, learned Sr.counsel for the applicant in O.A.9/2000 and Mr M.Chanda, learned counsel for the applicant in O.A.31/2000 at length.

5. We have given our anxious consideration on the matter. Admittedly, these two applicants were working on ad hoc basis for 10 years. Their services have not yet been regularised. Earlier they approached the High Court and the High Court directed the respondents to consider their cases. The respondents did not consider their cases solely on the ground that they did not possess 45% marks in Degree examination, which was one of the essential qualifications for the post. According to the respondents the applicant in O.A.9/2000 only possessed 44% marks in B.A part III and the applicant in O.A.31/2000 did not possess the minimum 45% marks in the examination. According to Mr M.Chanda,

learned counsel for the applicant the applicant in O.A. 31/2000 possessed 45% marks in Geography subject. Be that as it may, since these applicants are working by virtue of the orders of the High Court as well as the orders of the Tribunal in the Kendriya Vidyalayas in our view their cases need <sup>though</sup> to be considered sympathetically. The applicants/ may not possess 45% of marks in B.A. Part III since they were successfully rendering services to the institutions as Trained Graduate Teacher in the respective subjects, in our view it is a case in which their qualifications for that regard is required to be relaxed on the peculiar facts and circumstances of the case. Similarly in the spirit of the order of the High Court and also as per the legal policy it is a case in which we feel that the respondents should consider the case of these applicants against the regular posts as <sup>arises</sup> when ~~and when~~ vacancy/for their regularisation in the respective subjects and for that purpose by relaxing their age as well as the bench marks prescribed. The impugned orders of termination are accordingly set aside and the respondents are directed to complete the aforesaid exercise at the earliest. It is made clear that in the event the applicant cannot be absorbed as Trained Graduate Teacher for any reason in that case the respondents shall consider the case of these two applicants for Primary Teacher (P.T) on the basis of their qualifications and the counsel for the applicants conceded for this direction.

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

K. K. Sharma  
( K. K. SHARMA )  
ADMINISTRATIVE MEMBER

  
( D.N. CHOWDHURY )  
VICE CHAIRMAN

Central Administrative Tribunal  
Guwahati Bench

25/11 JAN 2000

গুৱাহাটী অধিবৰ্ষী  
Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Title of the case : O.A. No. 9 of 2000

Between

Smti Prabhawati Devi. ....Applicant.

AND

Union of India & Ors. ....Respondent.

I N D E X

Sl. No.	Particulars	Page No.
1.	Application	1 to 12
2.	Verification	13
3.	Annexure-i	14
4.	Annexure-2	15 & 16
5.	Annexure-3	17 to 22
6.	Annexure-4	23

Filed by :  
the applicant  
through Utkalaswami  
Advocate.

Filed by  
the applicant  
through  
Uk Goswami

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH

D.A. No. 9 of 2000

BETWEEN

Smti Prabhawati Devi

W/O Shri K.K. Tiwari, No.115  
Helicopter Unit, Air Force, Tezpur.

... Applicant

AND

1. The Union Of India, represented  
by the Secretary to the Govt of  
India, Ministry Of Human  
Resources Development, New  
Delhi.

2. Kendriya Vidyalaya Sangathan,  
through the Commissioner, KVS,  
18, Institutional Area, Saheed  
Jeet Singh Marg, New Delhi.

3. The Assistant Commissioner,  
Kendriya Vidyalaya Sangathan,  
Guwahati Region, Maligaon  
Chariali, Guwahati-12.

4. The Principal, Kendriya  
Vidyalaya No:2 Air force,  
Tezpur.

P. Devi

.... Respondents

DETAILS OF APPLICATION

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

This application is made against the order issued under No. F.7-P/PD-ADHOC/KV-2/99-2000/587-1 dated 7.1.2000 by the Principal Kendriya Vidyalaya No. 2 Air Force, Tezpur, terminating the service of the Applicant with effect from 7th January 2000 as per the Telephonic instruction received from Asstt. Commissioner KVS on 7.1.2000. This application is also directed against the action of the Respondents in not regularising the service of the Applicant considering her mode of appointment as well as past service.

2. JURISDICTION OF THE TRIBUNAL :

The applicant declares that the subject matter of the instant application for which she wants redressal is well within the jurisdiction of the Hon'ble Tribunal.

3. LIMITATION :

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

4. FACTS OF THE CASE :

P. Devi

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

4.2 That the applicant was appointed as a Trained Graduate Teacher (TGT) in Hindi in the K.V. Sangathan (KVS) way back on August, 1991 and by now she has completed about 9 years of service. Her educational qualification is M.A., B.Ed. Now by the impugned order her such service is sought to be terminated by the Principal of the School in which she has been working, who is admittedly not the appointing authority, on the basis of purported telephonic instruction given by the Asstt. Commissioner KVS, Guwahati Region on 7.1.2000. It is under this situation the O.A. have been filed seeking urgent and immediate relief.

4.3 That the Applicant was appointed as a Trained Graduate Teacher (TGT) Hindi in the Kendriya Vidyalaya Sangathan (KVS) (KV No.2 Air Force Station, Tezpur), by an order dated 26.8.91. Eversince her such appointment she has been continuing in the said post without any interruption and to the satisfaction of all concerned. Her such appointment although was stated to be on Adhoc basis but she has been holding and continuing in the said post on substantive basis as a regular employee.

Instead of annexing the copies of all the

P. Devi

extension order's only the copy of order of initial appointment is annexed as Annexure-1 and the Applicant craves leave of the Hon'ble Tribunal produce the extensions order if and when necessary.

4.4 That the Applicant states that although she was stated to be appointed on Adhoc basis, her such appointment was pursuant to competitive selection conducted by the Respondents. As already stated above the education qualification of the Applicant is M.A., B.Ed. and she is qualified even to hold the post of Post Graduate Teacher (PGT). It will be pertinent to mention here that although she was appointed as TGT and she has been performing the duties of a TGT and at times even as PGT she is being paid her salary in the grade scale of pay meant for Primary Teacher (PRT). Her representation for removal of such a disparity, has not evoked any response till date.

4.5 That your Applicant states that she possesses the required qualification to be appointed/regularised not only as TGT but also as PGT. In the year 1992 being apprehensive of termination of her services, the Applicant alongwith some others filed a Writ Petition in the Hon'ble Guwahati High Court which was registered and numbered as CR. 646/92, the Hon'ble High Court was pleased to pass interim order protecting the service of the Applicant and the same interim order was eventually made absolute while disposing of the Writ

P. Devi

Petition by an order dated 22.8.96. The Respondents did not contest the case, by filing any affidavit and accordingly the Hon'ble Court was constrained to hold that the statements made in the Writ Petition were true.

A copy of the said order dated 22.8.96 is annexed herewith and marked as Annexure-2

4.6 That in the aforesaid Writ Petition it was the contention of the Applicant that the appointment in the KVS was preceeded by regular process of selection; by duly constituted Selection Committee as per the recruitment Rules. The applicant was appointed by the authorities on being satisfied about her qualification, training and competence. However, inspite of such a position the Respondents appointed the Applicant on Adhoc basis keeping open the scope of adopting the hire and fire policy.

4.7 That in the mean time, number of Writ Petitions were filed making grievance against non-consideration of candidature of the teachers by the KVS authorities, which are since been disposed off with a direction to afford opportunity in future to the Writ Petitioners. In the mean time, the Hon'ble Guwahati High Court dealing with a similar case as reported in 1994 1(GLR)187(KVS -vs- Smti Latifa Khatun) issued direction for formulation of a scheme towards the regularisation of the services of Adhoc appointees both

P. Devi

teaching and non-teaching staff of KVS. Following that decision number of Writ Appeals were disposed of by the Hon'ble Court by Judgment and order dated 13.9.94 incorporating therein the scheme formulated by the KVS and endorsing the same.

A copy of the said judgment is annexed as Annexure-3

4.8 That the Applicant states that even leaving aside her case she had agitated in C.R. No. 646/92, her case is fully covered by the said judgment and there is no impediment towards regularisation of her service. Be it stated here that Writ Appeal No. 581/96 has been preferred by the KVS against the judgment dated 22.8.96 and to the best of her knowledge of the Applicant the same is yet to be admitted.

4.9 That the Applicant states that even otherwise also leaving aside the judgment dated 22.8.96 passed in C.R. No. 646/92, she is entitled to be regularised in her services as TGT in terms of the scheme prepared by the KVS pursuant to direction of the Hon'ble High Court. She fulfilled all the conditions enumerated in the scheme. Accordingly she ought to have been invited for the special selection conducted towards regularisation of services of the Adhoc teachers, but unfortunately the KVS authorities in violation of the said judgments of the Hon'ble Guwahati High Court have not regularised of the services of the Applicant. On

P. Devi

the other hand the services of other similarly situated teachers have been regularised leaving aside the case of the Applicant. Adding insult to the injury, the Applicant is also deprived of her due salary and she is being paid the salary of Primary Teachers, although she was appointed as TGT and even she has been performing the duties of PGT. This smacks malafide, arbitrary and colourable exercise of power. Even after the formulation of the scheme, same is being flouted and the benefit of the said scheme has been extended on pick and chose basis in violation of Article 14 and 16 of the Constitution of India.

4.10 That the Applicant all along was under the legitimate expectation that her services would be regularised in terms of the aforesaid order of the Hon'ble Court. Contrary to her such legitimate expectation founded on legal sanction, the Respondents were contemplating to terminate the services of the Applicant which the Applicant was not at all aware of till 7.1.2000 on which date the office of the school handed over her a letter in a closed envelope without specifying as what did it contain. On opening of the same, to her utter shock and dismay, the Appellant found that contrary to her all expectation, it was a letter by which her service has been sought to be terminated. Till opening of the close envelope it was her legitimate expectation that the said envelope might contain invitation letter for interview to be conducted

P. Devi

as per the aforesaid scheme towards regularisation of her services.

A copy of this said letter dated 7.1.2000 is annexed as Annexure-4.

4.11 That a bare perusal of the aforesaid impugned order reveals that the same has been issued purportedly as per telephonic instruction of the Asstt. Commissioner KVS, Guwahati Region, given on the same date. The Principal of the school being not the appointing authority of the Applicant could not have terminated her services of his own. On the other hand the termination order has been issued as per telephonic instruction of the Asstt. Commissioner without any written order to that effect. Further no reason has been assigned as to why suddenly such a drastic course has been adopted even by defying the orders of the Hon'ble Court. This being the position, the impugned order is void ab-initio, non-est and cannot stand the scrutiny of law.

4.12 That the Applicant was served with the impugned order in such a manner and at such a time, so that the Applicant could not approach this Hon'ble Tribunal, both 8.1.2000 and 9.1.2000 being holidays. The Applicant on perusal of the impugned order naturally became perturbed and disturbed and as per advice of her friends came down to Guwahati leaving her family members on 9.1.2000 and met her lawyer. As per the advice of her lawyer the present O.A. is filed at the

P. Devi

earliest opportunity. The circumstances are so that the Applicant is not in a position to prefer any appeal against the order of termination and the O.I.A. has been filed on extraordinary situation seeking urgent and immediate relief.

4.13 That the Applicant states that her service has not been terminated for any good and sufficient reasons but the same has been done with an oblique motive with the sole purpose of appointing persons on Adhoc basis to the likings of the Respondents. It is not a case in which even after affording chance to the Applicant to appear in a selection and thereafter consideration of her case as per the aforesaid schemes and her failure to come out successful in such a selection. It is also not the case that her service is required to be terminated in view of availability of any selected candidate. On the other hand she is a regularly selected candidate and her service is protected by the aforesaid orders of the Hon'ble High Court. In any case the services of the Applicant cannot be terminated by a stroke of pen only on the basis of telephonic message without disclosing any reasons. The post being held by the Applicant has not been filled up and the Applicant has not handed over charge of her post to any one. It is a fit case to pass an interim order and has been prayed for.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

P. Devi

5.1 For that prima facie the impugned order is not legally sustainable.

5.2 For that nine years of service could not have been terminated on telephonic instruction and that too defying the orders of the Hon'ble High Court.

5.3 For that the case of the Applicant being covered by the orders of Hon'ble High Court her services could not have been terminated by the impugned order without first considering her case under the scheme.

5.4 For that the Applicant possess the requisite qualification and her case being fully covered under the scheme, the Respondents are duty bound to regularise her services in terms of the said scheme even if the order dated 22.8.96 passed in C.R. 646/92 is not taken into consideration.

5.5 For that the termination order could not have been issued by an authority lower in rank than the appointing authority.

5.6 For that non-payment of salary to the Applicant as TGT has resulted in violation of principle of equal pay for equal work, inasmuch as apart from her appointment being as TGT she has also been rendering her services as TGT and at times has rendered her services even as PGT.

5.7 For that in any view of the matter the impugned order is not sustainable and the same is liable to be

P. Devi

set aside and quashed.

The Applicant craves leave of this Hon'ble Tribunal to advance more grounds both factual and legal at the time of hearing of the case.

**6. DETAILS OF REMEDIES EXHAUSTED :**

That the Applicant states that she has no other alternative efficacious remedy except by way of approaching this Hon'ble Tribunal.

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

The Applicant further declares that she has not filed any application, Writ Petition or suit challenging the impugned order dated 7.1.2000 before any other Court, authority or any other Bench of this Hon'ble Tribunal nor any such application, Writ Petition or suit is pending before any of them.

**8. RELIEFS SOUGHT FOR :**

In view of the facts and circumstances stated above, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to admit the instant application, call for the records of the case and upon hearing the parties on the cause or causes that may be shown and on perusal of the records, be pleased to grant the following reliefs :

**8.1 To set aside and quash the order dated 7.1.2000 (Annexure-4)**

P. Devi

8.2 To direct the Respondents to regularise the services of the Applicant as TGT(Hindi) with retrospective effect with all consequential benefits of due salary etc.

8.3 Any other order/orders that may be deemed fit and proper by this Hon'ble Tribunal.

9. INTERIM ORDER PRAYED FOR :

Pending disposal of the O.A. it is most respectfully prayed that the Hon'ble Tribunal may be pleased to suspend the effect and operation of the impugned order at annexure 4 dated 7.1.2000 with a further direction to the Respondents to allow the Applicant to continue in her services till disposal of the O.A.

10. ....

The Application is filed through Advocate

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

(i) I.P.O. No. : OG 454618

(ii) Date : 6.12.99

(iii) Payable at : Guwahati

12. LIST OF ENCLOSURES :

As stated in the Index.

Verification...

P. Devi

VERIFICATION

I, Ms. Prabhawati Devi, W/o Sri K.K. Tiwari, aged about 42 years, NO. 115 Helicopter Unit Air Force, Tezpur, do hereby solemnly affirms and verify that the statements made in the accompanying application in paragraphs 1 to 3, 4 to 45, 46, 48, 49, 411 to 413, 5 to 12 are true to my knowledge & those made in paragraphs 45, 47, 410 being matters of records are true to my information derived therefrom and the rest are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this the 11 day of January 2000 at Guwahati.

Prabhawati Devi  
Deponent

KENDRIYA VIDYALAYA NO. II.  
AIR FORCE STATION TEZPUR.

No. 27/KVAFT/91-92/ 310

P.O. Salonibari  
Dist, Sonitpur (Assam)  
Dated: 26/7/91

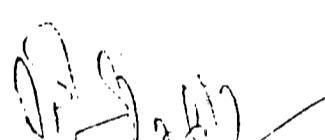
MEMORANDUM

Sub:- Offer of appointment to the post of TGT(Science/Hindi) on Ad-hoc basis.

With reference to her application/interview dated 22/7/91 ~~Mr. P. R. Bhattacharya, I.A.S.~~ is informed that she has been selected for the post of TGT(Science/Hindi) in the scale of Rs. 1200/- + other allowance purely on temporary and ad-hoc basis for six(6) months from the date of joining or till regular incumbent joins whichever is earlier and can be terminated any time without notice. The post will in any case stand automatically terminated on 31st January '92 both in the case of teachers and other staff. Her ad-hoc appointment in the post of TGT(Science/Hindi) will not bestow upon her any right/claim for regular appointment/seniority/ confirmation, etc. The ad-hoc appointment is further subject to her being declared medically fit by the civil surgeon.

2. No TA will be admissible for joining this post.

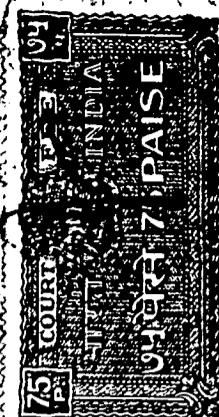
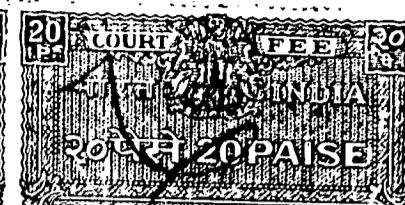
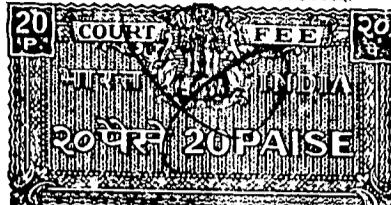
3. Her acceptance to the offer of ad-hoc appointment should reach the undersigned the Principal, Kendriya Vidyalaya No. II, AF, Tezpur where she is directed to report for duty on 01st August '91.

  
FOR ASSTT. COMMISSIONER

Principal  
Kendriya Vidyalaya No. 2.  
Air Force, Tezpur.

To

Smt. P. R. Bhattacharya, I.A.S.  
C/o K. K. Tiwari  
C/o 93 APO



Date of application for the copy.	Date fixed for notifying the requisite number of stamps and balios.	Date of delivery of the requisite stamps and balios.	Date on which the copy was ready for delivery.	Date of making over the copy to the applicant.
4/9/96	10/9/96	10/9/96	11/9/96	11/9/96

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

CIVIL RULE NO. 646/92.

Smti. Prabhawati Devi & Ors. ... petitioners.

-vs-

Union of India & Ors. ... respondents.

PRESENT

HON'BLE MR.JUSTICE S.L.SARAF.

For the petitioner :- Mr.T.C. Khetri.

Smti.S.Borthakur, Advs.

For the respondent :- C.G.S.C.

Date

22.8.96

Order

The petitioners have been working with the respondents for over a period of five years and their services were intended to be terminated, they moved this court and the Division Bench of this court was pleased to pass an order directing the respondents not to oust the petitioners from

Contd...2.

•2•



services. In spite of the same no affidavits have been filed by the respondents so far. As such, the statements made in the petition are taken to be true and the order dated 2.4.92 is made absolute. There will be no order as to costs.

Sd/- S.L.SARAF.

JUDGE

Typed by	Rathna	11/9/96
Read by	H.M.	
Compared by		

11/9/96

Certified to be true Copy
<i>Janak Lalita</i>
11/9/96
Superintendent (Copying)
GAUHATI HIGH COURT
Authorised U/S 78 Act. 1 of 1878

11/9/96

1. Date fixed for notifying the requisite number of stamps and folios.

2. Date of delivery of the requisite stamps and folios.

3. Date on which the application was ready for delivery.

4. Date of filing over the copy in the application.

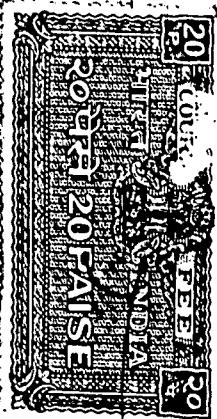
8.11.94

8.11.94

8.11.94

9.11.94

9.11.94



THE GAUHATI HIGH COURT  
(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura,  
Mizoram & Arunachal Pradesh)

WRIT APPEAL NO. 109/94, Civil Rule Nos 1675/93  
168/93, 517/92, 995/93, 732/92, 516/92,  
341/92, 374/92, 118/92, 775/92, 506/92,  
3613/93, 1953/93, 1702/93, 3702/93, 653/92,  
4955/91, 1579/94, 293/94, 1761/93, 770/94,  
3398/93, 3397/93, 3390/93, 696/93, 3387/93,  
3389/93, 664/92, 846/93, 3530/93, 862/93,  
857/93, 858/93, 859/93, 860/93, 861/93,  
863/93, 2851/93, 2849/93, 127/93, 870/93,  
871/93, 126/93, 1455/93, 1455/93, 697/93,  
398/93, 952/94, 2834/93 & 339/94.

Kendriya Vidyalaya Sangathan & ors ... Appellants  
in WA 109/94

- versus -

Ms Shabnam Parween & ors

... Respondents

- PRESENT -

THE HON'BLE CHIEF JUSTICE MR VK KHANNA

THE HON'BLE MR JUSTICE SN PHUKAN

For the appellant  
Kendriya Vidyalaya

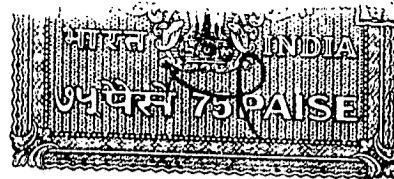
- Mr KN Choudhury,  
Mr SK Chand Mohammad  
Mr AH Saikia  
Mr KP Sarma  
Mr RP Kakati,  
Central Govt. Standing  
Counsel

For the respondents/  
writ petitioners

- Mr DN Choudhury, Mr P Prasad,  
Mr TC Khetri, Mr DC Mahanta,  
Mr HN Sarma, Mr AS Choudhury,  
Mr RP Sarma, Mr BP Kataky,  
Mr BC Pathak, Mr SC Deb Roy,  
Mr TN Srinivasan, Mr S Dutta,  
Mr AK Roy, Mr HK Baishya,  
Mr P Biswas, Ms S Barthakur  
Mr DS Bhattacharjee,  
Mr MZ Ahmed, Ms B Dutta,  
Mr S Kataki, Mr DK Das,  
Mr BD Goswami, Ms K Barua

contd...

JK



- 2 -

Date of hearing  
& Judgment : 13.9.94

JUDGMENT & ORDER  
(oral)

Khanna, CJ -

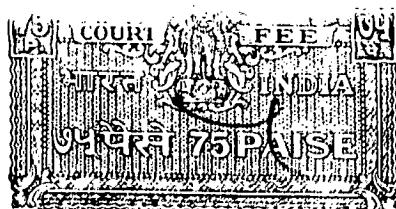
By this common judgment, we dispose of the afore-mentioned Writ Appeal and Civil Rules as the questions and points involved are the same.

2. The present dispute is regarding regularisation of ad hoc/part-time teachers of Kendriya Vidyalaya Sangathan. The grievance of the writ petitioners in the above-referred Civil Rules is that though they are working for a long period of time, they have not been given regular appointment.

3. We have heard Mr P Prasad, Mr RP Sarma, Mr AS Choudhury, Mr DC Mahanta, Mr BP Kataky, Mr KP Pathak, Mr MZ Ahmed, Mr S Kataky, Mr HN Sarma, Mr DN Choudhury for the writ petitioners and Mr Sheikh Chand Mohammad, Mr K. N. Choudhury and Mr AH Saikia, counsel appearing for the Union of India - Kendriya Vidyalaya Sangathan.

4. We may refer the decision of the Division Bench of Gauhati High Court in Kendriya Vidyalaya Sangathan vs Smti Latifa Khatun, (1994) GLR 187. The Division Bench considered the questions raised and ultimately directed the Kendriya Vidyalaya Sangathan to formulate a Scheme for this purpose. We quote the operative part of the Judgment which runs as follows :

contd...



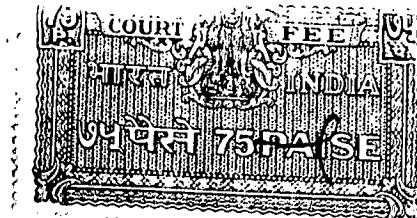
- 3 -

"In the result, we set aside the judgment of the learned single Judge and instead dispose of the writ petition by directing the respondents to formulate within three months from today a legitimate scheme for regularisation of ad hoc appointees among teaching and non-teaching staff subject to such reasonable conditions as may be incorporated in the scheme and conferring power on the regional authority to pass orders of regularisation under the scheme. Respondents are further directed to publicise the scheme in news papers and through notice boards in all the schools in the region. On the formulation of such a scheme it is open to the petitioner to apply for regularisation and on such application being submitted, respondents shall consider the same in the light of the provisions of the scheme and pass appropriate orders without delay."

5. In view of the above directions, a scheme has been formulated by the Kendriya Vidyalaya Sangathan, New Delhi and it has been sent to the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Guwahati with a request that it may be submitted before this Court after getting vetted by the learned Senior Central Government Standing Counsel. Accordingly, Mr KN Choudhury has produced the scheme before us. The Scheme for regularisation of the ad hoc/part-time teachers of Kendriya Vidyalaya Sangathan as stated above is quoted below :

- i) The candidate should have the requisite educational qualification and experience as per Recruitment Rules.
- ii) Should have served at least for six months in an academic session at the time of approaching the Court.
- iii) The candidate who fulfils the above conditions will be called for interview by the Selection Committee and their services will be regularised if they are found fit for the post they have worked on ad hoc/part-time before approaching Hon'ble High Court and recommended for regular appointment by the Selection Committee.

contd...

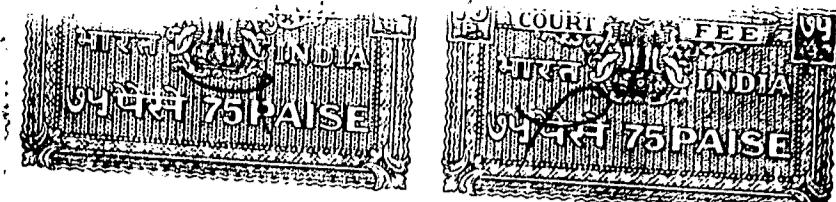


- 4 -

- iv) The above scheme is applicable in case of those candidates who are working on ad hoc/part-time basis in Kendriya Vidyalaya by virtue of Court's order and will be a one time action.
- v) These cases will not be clubbed with general advertisement published in Employment News dated May 28 - June 3, 1994.
- vi) The candidates will be informed about the scheme by its publication in News Papers and through Notice boards of the schools.
- vii) Those ad hoc/part-time teachers who under the directions of Hon'ble High Court obtained stay and were subsequently interviewed for regularisation of their services by the Central/Regional Selection Committee during the Session 1993-94 and were found not suitable will not be considered for this scheme.
- viii) Those ad hoc/part-time teachers who voluntarily left/not served the services of the KVS but did not withdraw their appeal submitted before the Hon'ble High Court will also be not given benefit of this scheme.
- ix) All the ad hoc/part-time teachers who were otherwise qualified should be called for interview and KVS may consider by giving them some weightage for the period they have served in KVS by way of age relaxation to the extent of ad hoc/part-time service only.

6. Mr P Prasad, counsel appearing for the writ petitioners has raised some objection regarding item No **iii**) of the above scheme on the ground that the petitioner of the case who is represented by Mr P Prasad had been working from time to time and he is also a Master Degree holder and, therefore, his case can be regularised without going through the process of appearing in interview before a Selection Committee. In reply, Mr KN Choudhury, counsel appearing for the Kendriya Vidyalaya Sangathan, has submitted that the writ petitioner appeared before the Selection Committee which was constituted only for

contd...



- 5 -

selection of candidates for ad hoc/temporary persons and as the present Selection Committee is being constituted by the Kendriya Vidyalaya Sangathan, he has to appear before the Selection Committee. That apart, learned counsel has further urged that it may amount to discrimination. We find force in the submission of Mr KN Choudhury and therefore reject the contention of Mr P Prasad.

7. Mr RP Sarma, counsel appearing for the writ petitioners submits that item No iv) of the above scheme will exclude persons who could not obtain stay order from this Court and, as such, their services were terminated. According to Mr KN Choudhury, learned Senior Central Government Standing Counsel, in view of clause ix) of the scheme, it is not the intention of KVS to exclude such persons and the above clause iv) will not exclude persons who could not obtain stay order from this Court. That apart, from clause ii) we find that persons should have served at least for six months at the time of approaching the Court and, therefore, apprehension of Mr RP Sarma is not well founded. In other words, the Scheme will also be applicable to persons who could not get stay order during the pendency of the writ petitions.

8. We find from the Scheme that no time limit has been fixed for completing the entire exercise. According to Mr KN Choudhury, counsel appearing for the Kendriya Vidyalaya Sangathan, a period of three (3) months will be sufficient to complete the entire process and to this prayer learned counsel appearing for the writ petitioners have no objection.

9...



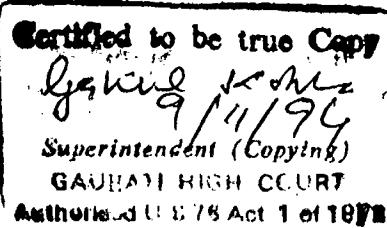
- 6 -

9. We, therefore, direct the respondents KVS to complete the entire process of regularisation by 31st December, 1994. It is expected that all the concerned persons who are qualified will get interview letter for appearing before the Selection Committee. We give liberty to any person who is aggrieved by any decision of the Selection Committee to approach this Court again, if so advised.

10. In view of this judgment dated 13th September, 1994 Writ Appeal No 109 of 1994 <sup>all</sup> and the connected Civil Rules are disposed of in terms of the observations made above. This judgment will form part of the records of all the connected Civil Rules also. Considering the facts and circumstances of the case, we make no order as to costs.

Sd/- S.N. Phukan  
Jndlr

Sd/- V.K. Khanna  
Chief Justice



- 23 -

ANNEXURE - 4

KENDRIYA VIDYALAYA NO.2, TEZPUR  
AIR FORCE STATION.

No. E.7-P/PD-ADHOC/KV-2/99-2000/587-1

P.O. Saloni Bari,  
Dist. Sonitpur (Assam).  
Dated. 7th January, 2000.

OFFICE ORDER

As per the telephonic instruction of the Assistant Commissioner, KVS, Guwahati Region on 07.01.2000, the service of Mrs. Prabhawati Devi (Tiwari), TGT(Hindi) Adhoc stands terminated w.e.f. the afternoon of 07 January 2000.

To

Mrs. Prabhawati Devi (Tiwari)  
TGT(Hindi) Adhoc,  
Kendriya Vidyalaya No.2,  
AFS, Tezpur.

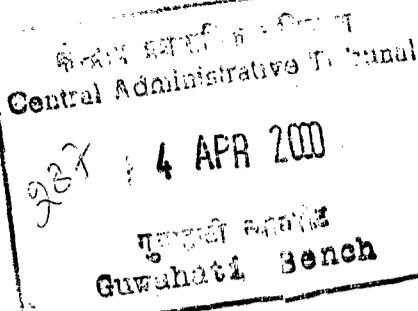
(Dr. MK Krishnamoorthy)  
Principal.  
Principa  
प्राधान्याधीक्ष  
Kendriya Vidyalaya No.2  
केन्द्रीय विद्यालय २०२  
Air Force Tezpur  
वायु सेना तेजपुर

Copy to :-

The Assistant Commissioner, KVS, Guwahati Region, Guwahati  
for information please.

(Dr. MK Krishnamoorthy),  
Principal.

Affectionately yours



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH ::  
AT GUWAHATI

ORIGINAL APPLICATION NO. 9 /2000

Smti P Devi ..... .... Applicant

-Versus-

Union of India and others

..... Respondents

The Respondents No.2,3 and 4 above named beg to file their written statement as follows :

1. That all the averments and submission made in the Original Application (hereinafter referred to as the application) are denied by the answering Respondents save and except what has been specifically admitted herein and what appears from the records of the case.
2. That with regard to statements made in paragraph 1 of the application the answering respondents beg to state that as per the judgement of the Hon'ble Court passed on 15th Sept, 1998 against CR No.1141 of 1995 and other 39 cases (including 5207/94) the Principal Kendriya Vidyalaya No.2 Tezpur who is the appointing authority of adhoc/ part time teacher was directed by the Assistant Commissioner to terminate the service of the applicant vide the office letter No.15-22/98-KVS(GR)/8982-84, dated 5.1.2000 and accordingly her adhoc services

contd...2

were terminated by the Principal, Kendriya Vidyalaya No.2, Tezpur.

Copy of the judgement dated 15-9-98 in Civil Rule No.1141 of 1995 and 39 others is annexed herewith and marked as annexure- 1.

3. That with regard to statements made in paragraph 2 and 3 the answering Respondents have no comments to offer.
4. That with regard to statements made in paragraph 4.1 of the application the answering Respondents have no comments as the same are matters of facts -
5. That with regard to statements made in paragraph 4.2 the answering Respondents beg to state that as per order passed by the Hon'ble Court dated 13.9.94 in W.A No.109/94, all teachers who were working on adhoc / ~~part~~ part time basis including the Petitioner smti Prabhawati Devi was given reasonable opportunities to submit their applications as per guidelines approved by the Hon'ble Court. Smti Prabhawati Devi also submitted her application in response to the above advertisement. Since she did not fulfil the conditions stipulated thereon, the applicant was not called for interview as she did not fulfil the minimum qualification . Accordingly her services were terminated along with other sixteen- similar cases. But apprehending termination of service smti Prabhawati Devi filed a civil Rule No. 5207/94 before the Hon'ble Gauhati High Court. As per Hon'ble Court's order dated 23.12.94 the services of smti Prabhawati Devi have not

been terminated and she was allowed to continue in service .

6. That with regard to statements made in paragraph 4.3 the answering respondent beg to state that Smti Prabhawati Devi was appointed as a Trained Graduate Teacher (♀ TGT) in Hindi in KV No.2 Air Force Station Tezpur on adhoc basis by an order dated 26.8.91. But her services were terminated on 31.1.92. Again she joined on 3.2.92. Even since she continued in service as per Court order on adhoc basis and this cannot be equated with the services of regular employees of Kendriya Vidyalaya Sangathan .

7. That with regard to statements made in paragraph 4.4. the answering Respondents beg to state that article 39 and 41 of the Education Code for Kendriya Vidyalaya gives certain delegated powers to the principal of the Kendriya Vidyalaya to appoint teachers on adhoc or part time basis purely for the limited period when regular teachers are not available from the Regional office/Central Selection committee. As per these provisions the Petitioner was appointed as TGT(Hindi) on part time/adhoc basis for the specified period. It is also mentioned that the applicant <sup>smti</sup> ~~aggregate in~~ Prabhawati Devi did not possess 45% marks in Degree Examination which is one of the most essential qualifications for the said post. The essential qualifications for the post as per recruitment rule are given below :-

- i) Second class Bachelors Degree (45% marks and above in aggregate including elective and languages

in the Degree Examination considered as equivalent)  
with University Degree/ Diploma in Education/  
Teaching .

-Or-

Four year integrated degree course of RCE of  
NCERT (with at best two KV subjects as elective)

(ii) Competence to teach through both Hindi and  
English Medium .

Smti Prabhabati Devi possesses only 44%  
marks in BA Part-III and she was selected for the  
post of TGT (Hindi) in the scale of P.R.T i.e. in the  
scale of pay of Rs.1200/- plus other allowances as  
she did not have 45% marks (which is prescribed  
qualification of TGT) in B.A.

8. That with regard to statements made in paragraphs  
4.5 the answering Respondents beg to state that whatever  
has been stated by the applicant in the original application  
is denied by the Respondents. Since she did not possess  
the requisite academic qualification with 45% marks in  
aggregate in Degree examination, her case was not considered  
for regularisation of her service on the basis of Special  
Advertisement dated 16.1.94 issued by the KVS authority  
vide order dated 13.9.94 passed by the Hon'ble Gauhati  
High Court in WA No.109/94.

The Petitioner along with some others filed a Writ  
Petition No.CR 646/92 in the Hon'ble High Court. The Hon'ble  
High Court passed order on 22.8.96 in CR No.646/92 and the  
order dated 2.4.92 is made absolute. But against the

judgement dated 22.8.96 the Respondents filed W.A. No.581/96 and as per the Hon'ble Court order dated 8.1.97 the operation of the Judgement dated 22.8.96 shall remain stayed. Therefore it was the duty of the Petitioner to inform the aforesaid decisions to the Hon'ble Court which she had hidden. Thus the Petitioner is not entitled to seek any relief from the Hon'ble Court. ✓

The Hon'ble High Court had passed an order in C.R. No.1565/97 with a direction to look into the matter if the Petitioner fulfilled the requisite criteria of the interview. But on the scrutiny of her application it is found that she is not possessing the requisite 45% aggregate marks in Degree for which she was not issued call letter for interview.

9. That with regard to statements made in paragraph 4.6 the answering respondents beg to state that the appointment of teacher on regular basis are subject to Education Code of Kendriya Vidyalaya Sangathan and subject to fulfilling the conditions laid down and special advertisement made for the purpose on 16.11.94 pursuant to Division Bench Judgement and order dated 13-9-94 in Writ Appeal No.109/94.

10. That with regard to statements made in 4.7 the answering respondents beg to state that as discussed in the foregoing paragraphs the case of the Petitioner being outside the conditions formulated in the scheme and her services was not regularised .

-6-

11. That with regard to statements made in paragraph 4.8 the answering respondents have already stated in paragraph 4.5 above.

12. That with regard to statement made in paragraph 4.9 the answering respondents beg to state that the Petitioner does not fulfil all the conditions enunciated in the scheme and in the fact she has submitted wrong information before the Hon'ble Tribunal.

13. That with regard to statements made in paragraph 4.10 the answering respondents beg to state that the Petitioner does not possess the requisite qualification prescribed for the post as per recruitment rules. Therefore she was not called for interview for regular appointment.

14. That with regard to statements made in paragraph 4.11 and 4.12 the answering respondents beg to state that the principal, Kendriya Vidyalaya No.2, Tezpur was the appointing authority of adhoc /part time teachers and services of the Petitioner was terminated as per direction given by the Assistant Commissioner Guwahati Region being the supervising authority of the schools ~~not~~ falling within Guwahati region vide office letter No.15-22/98-KVS(GR/8982-84) dated 5.1.2000.

15. That with regard to statements made in paragraph 4.13 the answering respondent beg to state that the Petitioner did not possess the prescribed qualification for the regular post as per recruitment rule and accordingly sh

-7-

<sup>not</sup>  
she was called for interview. The respondents further beg to state that the Petitioner however appeared in the written examination conducted for permanent post of teachers held in the year 1999 but she could not pass in the written examination.

17. That under the facts and circumstances stated above, it is respectfully submitted that the challenge in the application filed by the Petitioner is devoid of any merit and liable to be dismissed.

-VERIFICATION -

I, Shri Deo Kishan Saikia, son of Sri Chholal Saikia aged about 50 years, presently working as Assistant Commissioner, Kendriya Vidyalaya Sangathan, Maligaon, Guwahati do hereby verify that the contents of paragraph 1 to 16 are true to my knowledge and I have not suppressed any material fact.

Date 31-3-2000

Place Guwahati

Chholal Saikia

SIGNATURE

From : Dr. B. P. Todi  
Standing Counsel  
Kendriya Vidyalay Sangathan

Dt. 28. 3. 2000

To : Shri B. K. Sharma  
Advocate

Sir,  
Please take notice that the written-  
Statement in O.A. No 4/2000 is being  
filed before the Hon'ble Tribunal today.  
A copy of the same is being served  
upon you for your use.

Kindly acknowledge receipt.

Yours faithfully

(Dr. B. P. Todi)  
Standing Counsel  
Kendriya Vidyalay Sangathan  
C. A. T.

Received Copy :

Advocate

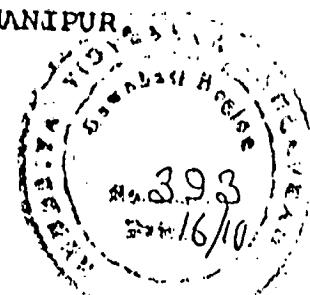
Date :

I undertake to serve a  
copy of the written-statement  
to the counsel of the  
applicant who was not  
available in the court  
today.

(Dr. B. P. Todi)  
Standing Counsel  
Kendriya Vidyalay  
Sangathan  
C. A. T.

Cap.	12/9/28
Date	13/10/28

IN THE GAUHATI HIGH COURT  
 ( HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR,  
 TRIPURA, MIZORAM & ARUNACHAL PRADESH )



(1) CIVIL RULE No. 1141 of 1995

Miss Sikhamoni Bordoloi,  
 D/o late Bibod Kr Bordoloi,  
 Pub Bangal Pukhuri, Jorhat.

..Petitioner

-vs-

1. The Union of India
2. Kendriya Vidyalaya Sangathan,  
     New Delhi.
3. Asstt Commissioner, KVS  
     Guwahati Region, Guwahati-11.
4. Principal Kendriya Vidyalaya,  
     Air Force Station, Jorhat. ..Respondents

(2)

CIVIL RULE NO. 5207/94

Mmt Pravawati Devi.

..Petitioner

-vs-

1. Union of India,
2. Kendriya Vidyalaya Santhan,  
     through the Commissioner, KVS,  
     New Delhi.
3. Asstt Commissioner, KVS,  
     Guwahati Region, Guwahati. ..Respondents

(3)

CIVIL RULE No. 894/95

SRI Rajesh Kumar Mishra,  
 S/o Govind Prasad Mishra.

.. Petitioner

-vs-

1. Kendriya vidyalaya Santhan,  
     through the Commissioner, KVS,  
     New Delhi.
2. The Asstt Commissioner, KVS,  
     Guwahati Region, Guwahati-12.
3. The Principal,  
     Kendriya Vidyalaya, Tura,  
     Meghalaya.
4. The Selection Committee,  
     Kendriya Vidyalaya,  
     Maligaon.
5. The Union of India, through  
     the Secretary to the Govt of  
     India, Ministry of HRD, Central  
     Secretariate, New Delhi-1.

.. Respondents

431. Geor

..2...

441.

- 2 -

(4)

CIVIL RULE NO. 5211/94.

Sri Rajesh Kumar Verma,  
S/o. Lt. Nagendra Nath Verma,  
Jalpaiguri.

... Petitioner.

Vs.

1. Kendriya Vidyalaya Sangathan,  
Through the Commissioner, K.V.S.  
New Delhi-16.
2. The Commissioner, K.V.S.  
18, Institutional Area,  
New Delhi-16.
3. The Asstt. Commissioner, K.V.S.,  
Guwahati Region, Guwahati-3.
4. The Asstt. Commissioner, K.V.S.  
Calcutta Regional Office,  
Ultadanga, Calcutta-700 054.
5. The Union of India,  
Through the Secretary to the Govt. of  
India, Ministry of H.R.D.,  
Central Secretariate, New Delhi.

... Respondents.

(5)

CIVIL RULE NO. 901/95.

Smt. Mabel Mazumdar,  
D/o. Satya Ranjan Mazumdar,  
Hengrabari, Guwahati-6.

... Petitioner.

Vs.

1. The Union of India.  
Represented by the Secretary,  
H.R.D., New Delhi.
2. The Asstt. Commissioner, K.V.S.  
Regional Office, Maligaon,  
Guwahati-11.
3. The Principal,  
Kendriya Vidyalaya,  
Borjhar, Guwahati-17.
4. Kendriya Vidyalaya Sangathan,  
Through the Commissioner, K.V.S.  
18, Institutional Area,  
New Delhi.

... Respondents.

Contd...

-3-

(6) Civil Rule No. 5136/94

Sri Sujit Kumar Basak,  
Son of Birendra Kumar Basak,  
Badaitari, Jalpaiguri...

Petitioner

-v8-

1. The Kendriya Vidyalaya Sangathan, New Delhi.
2. The Kendriya Vidyalaya Santhan, represented by the Commissioner, New Delhi-16.
3. The Asstt Commissioner, KVS Guwahati Region, Guwahati-3.
4. The Asstt Commissioner, KVS, Calcutta Regional Office, Calcutta-54.
5. The Union of India, through the Secretary to the Govt. of India, Ministry of HRD, New Delhi-1.

... Respondents

(8) CIVIL RULE No. 5205/94

Sri Subrata Guha,  
Son of Sri Sailendra Nath Guha,  
Gairkata, Jalapiguri.

..Petitioner

-v8-

1. Union of India

....4..

- 4 -

2. The Kendriya Vidyalaya Sangathan,  
through the Commissioner, K.V.S.,  
New Delhi.

3. The Asstt. Commissioner, K.V.S.,  
Guwahati Region, Guwahati-12.

... Respondents.

(8) CIVIL RULE NO. 1313/95.

Mrs. Rita Sarma Duarah,  
W/o. Sri Tapan Duarah,  
Jorhat.

... Petitioner.

Vs.

1. The Union of India.

2. The Kendriya Vidyalaya Sangathan,  
Through the Commissioner, K.V.S.,  
New Delhi.

3. The Asstt. Commissioner, K.V.S.,  
Guwahati Region, Guwahati-11.

4. The Principal,  
Kendriya Vidyalaya, AFS,  
Jorhat. 5.

... Respondents.

(9) CIVIL RULE NO. 842/95.

Miss. Malavika Banik, D/o. Sri KB Banik,  
Jahajghat, Sonitpur.

... Petitioner.

Vs.

1. The Union of India,

2. The Kendriya Vidyalaya Sangathan,  
through the Commissioner, K.V.S.,  
New Delhi.

3. The Asstt. Commissioner, K.V.S.,  
Gauhati Region,  
Guwahati-11.

4. The Principal,  
Kendriya Vidyalaya No.2,  
Sonitpur.

... Respondents.

(10) CIVIL RULE NO. 1389/95.

Smti. Alaka Datta,  
W/o. Sri Dhiren Datta,  
Geeta Nagar, Guwahati-24.

... Petitioner.

Vs.

Contd....

- 5 -

1. The Kendriya Vidyalaya Sangathan, New Delhi.
2. The Asstt. Commissioner, K.V.S., Gauhati Region, Guwahati-12.
3. The Principal, Kendriya Vidyalaya, Arunachal Pradesh.
4. The Union of India.

... Respondents.

(11). CIVIL RULE NO. 1383/95.

Smti. Barnali Saikia,  
W/o. Sri Nabin Ch. Dutta.  
Jorhat.

... Petitioner.

vs.

1. The Union of India.
2. The Kendriya Vidyalaya Sangathan, Through the Commissioner, K.V.S., New Delhi.
3. The Asstt. Commissioner, K.V.S., Gauhati Region, Ght.12.
4. The Principal, Kendriya Vidyalaya, A.F.S., Jorhat.5.
5. The Chairman, Selection Committee, K.V.S., Gauhati-12.

... Respondents.

(12) CIVIL RULE NO. 933/93.

Sri Tamash Choudhury,  
S/o. Lt. Madhu Sugan Choudhury,  
Gurung Basti, Darjeeling.

... Petitioner.

vs.

1. The Union of India.
2. The Deputy Commissioner, K.V.S., New Delhi.
3. The Asstt. Commissioner, K.V.S., Guwahati Region, Guwahati-3.
4. The Chairman, Vidyalaya Management Committee, Kendriya Vidyalaya, Sukna, Darjeeling.
5. The Principal, Kendriya Vidyalaya, Khaprail, Sukna, Darjeeling.

... Respondents.

- 6 -

( 13 )      CIVIL RULE NO. 1994/95.

Smti. Sabnam Parween,  
W/o. Ashique Hussain,  
Coochbehar, West Bengal.

... Petitioner.

vs.

1. The Kendriya Vidyalaya Sangathan,  
New Delhi-16.
2. The Commissioner, K.V.S.,  
New Delhi-16.
3. The Asstt. Commissioner, K.V.S.,  
Guwahati-3.
4. The Chairman, Selection Committee,  
K.V.S., Guwahati-12.
5. The Principal,  
Kendriya Vidyalaya School,  
Coochbehar.
6. The Union of India.

... Respondents.

( 14 )      CIVIL RULE NO. 696/93.

1. Mrs. Purnima Kumar, Kendriya Vidyalaya,  
Salugara, Jalpaiguri.
2. Mrs. Jayalaxmi Siva,  
Salugara, Jalpaiguri.
3. Mrs. L. Rathi,  
Salugara, Jalpaiguri.
4. Miss. Purabi Das,  
Siliguri, Jalpaiguri.
5. Sri Paramesh Paul,  
Siliguri.
6. Sri A.P. Upadhyaya,  
Salugara, Jalpaiguri.
7. Sri Sashidhar Singh,  
Mal, Jalpaiguri.

... Petitioners.

vs.

1. The Union of India.
2. Kendriya Vidyalaya Sangathan,  
through the Commissioner, KVS,  
New Delhi.

Contd...

- 7 -

3. The Asstt. Commissioner, KVS, Guwahati Region, Guwahati-3.
4. The Principal, Kendriya Vidyalaya, Salugara, Jalpaiguri.

... Respondents.

(15) ✓ CIVIL RULE NO. 17/95.

Sri Rupak Chaudhury,  
S/o. Sri R.C. De Chaudhury,  
Darjeeling.

... Petitioner.

Vs.

1. The Union of India.
2. The Kendriya Vidyalaya Sangathan, through the Commissioner, KVS, New Delhi.
3. The Asstt. Commissioner, KVS, Guwahati Region, Guwahati-12.

... Respondents.

(16) CIVIL RULE NO. 2262/95.

Miss. Madhu Srivastava,  
D/o. Sri RC Srivastava,  
Sonitpur.

Petitioner.

Vs.

1. The Kendriya Vidyalaya Sangathan, through the Commissioner, KVS, New Delhi.16.
2. The Asstt. Commissioner, KVS, Regional Office, Guwahati-12.
3. The Principal, Kendriya Vidyalaya No.2, Salanibari, Sonitpur.
4. The Union of India.

... Respondents.

(17) CIVIL RULE NO. 885/95.

Sri Krishna Singh,  
S/o. Sri Nandalal Singh,  
Itanagar, A.P.

... Petitioner.

Vs.

1. The Union of India.

- 8 -

2. The Kendriya Vidyalaya Sangathan, Through the Commissioner, KVS, New Delhi.
3. The Asstt. Commissioner, KVS, Guwahati Region, Guwahati-12.
4. The Principal, Kendriya Vidyalaya No.2. Itanagar, A.P.

... Respondents.

(18) CIVIL RULE NO. 3027/95.

Smti. Sahana Sarkar, D/o. Dr. RB Sarkar, Jalpaiguri, W.Bengal.

... Petitioner.

Vs.

1. The Kendriya Vidyalaya Sangathan, through the Commissioner, KVS, New Delhi.
2. The Asstt. Commissioner, KVS, Guwahati Regional Office, Guwahati-12.
3. The Asstt. Commissioner, KVS, Calcutta Regional Office, Calcutta-54.
4. The Union of India.

... Respondents.

(19) CIVIL RULE NO. 5140/94. ✓

Smti. Ajanta Baruah, W/o. Sri Pritam Kr. Barthakur, Tarajan, Jorhat.

... Petitioner.

Vs.

1. The Union of India.
2. The Asstt. Commissioner, KVS, Guwahati Region, Guwahati.
3. The Commissioner, K.V.S., New Delhi-16.

... Respondents.

(20) CIVIL RULE NO. 66/95.

Sri Pradip Kumar Saikia, S/o. Sri Khageswar Saikia, Borigaon, Jorhat.

... Petitioner.

Vs.

1. The Union of India.

Contd...

- 9 -

2. The Kendriya Vidyalaya Sangathan, through the Commissioner, KVS, New Delhi.
3. The Asstt. Commissioner, KVS, Guwahati Region, Guwahati-12.

Respondents.

(21) CIVIL RULE NO. 1729/95.

Sri Aruna Prakash Upadhyaya,  
S/o. Sri Indrapati Upadhyaya,  
Allahabad, U.P.

... Petitioner.

Vs.

1. The Kendriya Vidyalaya Sangathan, through the Commissioner, KVS, New Delhi.
2. The Asstt. Commissioner, K.V.S., Guwahati Region, Guwahati-12.
3. The Asstt. Commissioner, Calcutta Region, Calcutta-54.
4. The Principal,  
Kendriya Vidyalaya, Salugara,  
Jalpaiguri.
5. The Union of India.

... Respondents.

(22) CIVIL RULE NO. 1382/95.

Smti. Chitra Sarma (Bardoloi),  
W/o. Sri Priti Mohan Sarma,  
Tezpur, Sonitpur.

... Petitioner.

Vs.

1. The Union of India,  
Represented by the Secretary,  
Govt. of India, Ministry of  
H.R.D., Central Secretariat,  
New Delhi.
2. The Kendriya Vidyalaya Sangathan,  
Through the Commissioner, K.V.S.,  
New Delhi.
3. The Asstt. Commissioner, K.V.S.,  
Guwahati Region,  
Guwahati-781 011.
4. The Principal,  
Kendriya Vidyalaya No. 2,  
Air Force,  
Tezpur, Sonitpur.

... Respondents.

Contd...

(23)

CIVIL RULE No. 19/95Smti Gita Karmakar,  
W/o Sri Dipak Mahanta

.. Petitioner

-vs-

1. Union of India, through the Secretary to the Govt of India, Ministry of Human Resources Development, Central Secctt. New Delhi.
2. Kendriya Vidyalaya Sangathan, through the Commissioner, KVS 18 Institutional Area, New Delhi.
3. The Asstt Commissioner, KVS Guwahati Region, Guwahati. .. Respondents

(24)

CIVIL RULE No. 20/95Sri Mukul Phukan,  
S/o Sri Guna Kanta Phukan.

.. Petitioner

-vs-

1. Union of India, through the Secretary to the Govt of India, Ministry of Human Resources Development, Central Secctt. New Delhi.
2. Kendriya Vidyalaya Sangathan, through the Commissioner, KVS, New Delhi.
3. The Asstt Commissioner, KVS Guwahati Region, Guwahati-12. .. Respondents

(25)

CIVIL RULE No. 67/95Miss Urmila Chowrasia,  
D/o Sri Rajaram Chowrasia.

.. Petitioner

-vs-

1. Kendriya Vidyalaya Sangathan, (through the Commissioner) New Delhi.
2. Asstt Commissioner, KVS, Regional Office, Guwahati.
3. Principal, Kendriya Vidyalaya, Salanibari, Dist. Sonitpur.
4. Union of India, through Secretary, Govt of India, Ministry of Human Resources and Development, Central Sectt. New Delhi. .. Respondents

- 18 -

-11-

(26) CIVIL RULE NO. 18/95  
 Smti Shobha Maheshwari,  
 W/o Sri AK Maheshwari,  
 BRPL Township, Bongaigaon. ..Petitioner

-vs-

1. Union of India
2. Kendriya Vidyalaya Santhan,  
New Delhi.
3. The Asstt Commissioner, KVS,  
Guwahati Region, Guwahati. ..Respondents

(27) CIVIL RULE NO. 3028/95  
 Smt Shefali Roy,  
 C/o Sri D Chattopadhyaya. ..Petitioner

-vs-

1. Kendriya Vidyalaya Santhan,  
through the Commissioner, KVS,  
New Delhi.
2. The Asstt Commissioner, KVS,  
Guwahati Regional Office,  
Guwahati.
3. The Asstt Commissioner, KVS,  
Calcutta Regional Office,  
Calcutta-54.
4. Union of India, represented  
by Secretary to the Govt of  
India, Ministry of Human Resources  
Development, New Delhi. ..Respondents

(28) CIVIL RULE NO. 5206/94  
 1. Miss Radha Srivastava,  
 2. Miss Sudha Srivastava,  
daughters of Sri RC Srivastava,  
11 Wing, 99 AFO. ..Petitioners

-vs-

1. Kendriya Vidyalaya Santhan,  
represented by the Commissioner,  
KVS, New Delhi.
2. Asstt Commissioner, KVS,  
Guwahati Region, Guwahati.
3. Union of India, represented  
by the Secretary, Human Resources  
& Development Deptt. New Delhi.

..Respondents

-12-

(29) CIVIL RULE No. 1176/95

Miss Urmila Chowrasia,  
D/o Sri Rajaram Chowrasia,  
Air Force, PO Salanibari, Tezpur.

..Petitioner

-vs-

1. Kendriya Vidyalaya Sangathan,  
through the Commissioner, KVS  
New Delhi -16.
2. The Asstt Commissioner, KVS,  
Regional Office, Maligaon,  
Guwahati-12.
3. Principal, KV, Salanibari,  
Dist Sonitpur.
4. The Union of India, through  
Secretary, Ministry of Human  
Resources & Development  
Central Sectt. New Delhi.

..Respondents

(30) CIVIL RULE No. 3172/93

Sri Om Prakash Sharma,  
S/o Sri Shiv Shankar Sharma.

..Petitioner

-vs-

1. Kendriya Vidyalaya Sangathan,  
through the Commissioner,  
New Delhi.
2. The Asstt Commissioner, KVS  
Guwahati Region, Shankar Dev Path,  
Guwahati-3.
3. The Asstt Commissioner, KVS,  
Calcutta Region, Calcutta-54.
4. The Union of India, through the  
Secretary to the Govt of India,  
Ministry of Human Resources  
Development, Central Sectt.  
New Delhi-1.

..Respondents

(31) CIVIL RULE No. 3171/93

Sri Subrata Guha,  
S/o Sri Sailendra Nath Guha.

..Petitioner

-vs-

1. Kendriya Vidyalaya Sangathan,  
through the Commissioner,  
New Delhi-16.
2. The Commissioner, KVS,  
New Delhi-16.
3. The Asstt Commissioners, KVS,  
Guwahati Region, Guwahati.

Contd....

-20-

-13-

4. The Asstt Commissioner, KVS,  
Calcutta Regional Office,  
Calcutta-54.

5. Union of India, (through  
Secretary, Ministry of Human  
Resources Development) Central  
Sectt. New Delhi. .. Respondents

(32) Civil Rule No. 3170/93

Smti Sahana Sarkar,  
D/o Dr RB Sarkar, .. Petitioner

-vs-

1. Kendriya Vidyalaya Santhan,  
through Commissioner, New Delhi.

2. The Asstt Commissioner, KVS  
KVS, Guwahati Region, Guwahati.

3. The Asstt Commissioner, KVS,  
Calcutta Region, Calcutta-54.

4. The Union of India, through the  
Secretary to the Govt. of India,  
Ministry of Human Resources  
Development, Central Sectt.  
New Delhi-1. .. Respondents

(33) CIVIL RULE No. 3333/95

Sri Pinaki Sarkar,  
S/o Sri Phani Bhushan Sarkar, .. Petitioner

-vs-

1. The Union of India,  
2. The Deputy Commissioner,  
KVS, New Delhi.

3. The Asstt Commissioner, KVS,  
Guwahati Region, Guwahati-3.

4. The Chairman, Vidyalaya  
Management Committee, K.V. Coochbehar,  
5. The Principal, KV, Coochbehar. .. Respondents

(34) CIVIL RULE No. 1608/93

Smti Nupur Shrivastava,  
W/o Sri KK Shrivastava,  
BRPL Township, Dhaligaon, Assam. .. Petitioner

-vs-

1. Union of India, through the  
Secretary to the Govt of India,  
Ministry of Human Resources  
Development) Central Sectt.  
New Delhi.

Contd....

44  
Annexure P contd

-21-

-14-

(35) CIVIL RULE No. 1804/95

1. Smt Alka Misra,  
W/o Sri AK Misra.
2. Smt Oli Sarmah,  
W/o Sri Hiren Sarmah.

.. Petitioners

-vs-

1. Kendriya Vidyalaya Sangathan,  
through the Commissioner, KVS,  
New Delhi.
2. The Asstt Commissioner, KVS  
Guwahati Region, Guwahati.
3. Union of India, through the  
Secretary to the Govt of India,  
Ministry of Human Resources  
Development, Central Sectt.  
New Delhi.

.. Respondents

(36) CIVIL RULE No. 274/96

Smt Latifa Khatun,  
W/o Md Rashidur Nabi.

.. Petitioner

-vs-

1. Union of India, through the  
Secretary to the Govt of  
India, Ministry of Resources  
Development) New Delhi.
2. Kendriya Vidyalaya Santhan,  
through the Commissioner, KVS,  
New Delhi.
3. The Asstt Commissioner, KVS,  
Guwahati Region, Guwahati.

.. Respondents

(37) CIVIL RULE No. 5188/94

1. Ms Deepa Barkataki,  
D/o late HN Barkataki
2. Ms Gurucharanjit Kaur,  
D/o Sri Harpal Singh.
3. Sri Bimal Ch. Medhi,  
S/o late Joseph Medhi.

.. Petitioners

-vs-

1. The Union of India,  
represented by the Secretary,  
Ministry of Human Resources  
Development, Central Sectt.  
New Delhi.
2. Kendriya Vidyalaya Sangathan,  
represented by the Chairman, KVS  
New Delhi.
3. Commissioner, KVS, New Delhi.
4. Asstt Commissioner, KVS,

2021-2

Some more I? contd

-22-

-15-

(38) CIVIL RULE No.5204/94  
Sri Tusar Kanti Deb Nath,  
S/o Shri Kalipada Debnath. .. Petitioner

-vs-

1. The Kendriya Vidyalaya Sangathan, through the Commissioner, KVS, New Delhi.
2. Asstt Commissioner, KVS, Regional Office, Guwahati.
3. The Principal, KV No.2 Binaguri Cantt. West Bengal.
4. Union of India, through the Secretary, Ministry of HR & D) New Delhi.

.. Respondents

(39) CIVIL RULE No.1732/95  
Sri Om Prakash Sharma,  
S/o Sri Shiv Shankar Sharma. .. Petitioner

-vs-

1. Kendriya Vidyalaya Sangathan, through the Commissioner, KVS, New Delhi.
2. The Asstt Commissioner, KVS, Guwahati Region, Guwahati.
3. The Asstt Commissioner, KVS, Calcutta Region, Calcutta.
4. Dr SP Singh, Principal KV No.1 Binnaguri Cantt. West Bengal.
5. Union of India, through the Secretary to the Govt of India, Ministry of Human Resources Development, New Delhi.

... Respondents

(40) CIVIL RULE No. 5155/94  
1. Sri N Arunkumar Singh,  
S/o N Pishak Singh, Imphal.

2. Ms Sukanya Gupta,  
D/o Sunil Chandra Gupta.
3. Smt Malti Devi,  
Lamphelpat, Imphal.
4. Smt Raj Bala Yadav,  
D/o Sri Mam Chand,  
Group Centre, CRPF,  
Imphal.

... Petitioners

-vs-

1. Kendriya Vidyalaya Sangathan, New Delhi.
2. The Asstt Commissioner, KVS, Regional Office, Guwahati.

-16-

B E F O R E

THE HON'BLE JUSTICE SMT. M SHARMA

For the petitioners : Mr RP Sharma, Mr P Sharma,  
Mr TN Srinivasan, Mr SC Dutta Roy,  
Mr BC Pathak, Mr AK Roy,  
Mr HK Baishya, Mr B Chakraborty,  
Mr SC Biswas, Mr K Bhattacharyya,  
Mr HN Sarma, Mr BD Goswami,  
Mr BP Sahu, Mr NB Singh, Mr KK Gupta,  
Advocates.

For the respondents: Mr KN Choudhury, Sr. Central Govt.  
Standing Counsel.

Date of hearing : 20.1.98

Date of judgment : 15th September, 1998

JUDGMENT AND ORDER

The above mentioned writ petitions have been preferred by the petitioners, who were appointed by the respondents - Kendriya Vidyalaya Sangathan on adhoc/part-time basis. Services of these petitioners were terminated as they were not found suitable for the post on the basis of an advertisement published on 16.11.94 (Office Order No. F.16-237/92-KVS(RP-II)). As all the above writ petitions are identical and similar on facts as well as on law, I propose to dispose of these Civil Rules by a common judgment. Petitioners claiming substantive appointment under Kendriya Vidyalaya Sangathan can be grouped into two groups, i.e. First group being petitioners who were not called for interview and Second group being those candidates who were called for interview but were not selected by the Selection Committee.

2. As transpires from the contentions of these writ petitions, the brief facts of the cases are that they were appointed on adhoc/part time basis, some of them for 179 days and some of them completed six months or more. Petitioners have requisite qualification for those post. They were appointed as per laid down rules after due interview on adhoc/part time basis. Apprehending termination, some appointees filed writ petitions before this Court and this Court after hearing the counsel for the parties,

directed....

directed the respondents to call those petitioners for selection test/interview for the posts, for which they applied for, with a further direction to the Respondents to allow those petitioners to continue in their respective posts till regular selection and appointment is made.

By the present writ petitions, petitioners have challenged the said selection process, which was subsequently undertaken by the respondents/Kendriya Vidyalaya Sangathan as per the order of this Court dated 13.7.93 passed in Writ Appeal No. 76/93. As stated above, these writ petitions can be categorised in two groups for proper consideration of the cases in hand.

3. Respondents/Kendriya Vidyalaya Sangathan authorities have filed a common affidavit-in-opposition in all the writ petitions as all those writ petitions involved same question of facts as well as law.

4. Mr KN Choudhury, Senior Central Govt. Standing Counsel has submitted that before proceeding to decide the petitions the Court is required to examine the back ground of the cases leading to filing of these writ petitions. Mr Choudhury has submitted that a batch of writ petitions were filed for regularisation of adhoc/part time teachers of Kendriya Vidyalaya Sangathan before this Court and this Court in Writ Appeal No.109/94 and others, decided the issue by judgment and order dated 13.9.94. While deciding the issues involved in those petitions/writ appeal Division Bench of this Court placed reliance, on the decision of the Division Bench of this Court in Kendriya Vidyalaya Sangathan -vs- Smt. Latifat Khan, (1994)GLR 157, wherein the Division

-18-

Bench directed the Kendriya Vidyalaya Sangathan to formulate a Scheme for regularisation of adhoc appointees among teaching and non-teaching staff subject to such reasonable conditions as may be incorporated in the scheme. The Division Bench further directed that on formulation of such a scheme it is open to the petitioners to apply for regularisation and the respondent was directed to consider the same in the light of the provisions of the scheme so formulated and pass appropriate orders.

5. Mr Choudhury has further submitted that a scheme was formulated and placed before the Writ Appellate Court and the Writ Appellate Court approved the scheme after hearing the counsel of different writ petitioners and the Standing Counsel for Union of India and also giving liberty to the aggrieved petitioners to approach this Court. It was further submitted that after approval of the scheme Kendriya Vidyalaya Sangathan published a special advertisement on 16.11.94 inviting applications from adhoc/part time teachers for regularisation of their services. Only those adhoc/part time teachers who satisfied the conditions as per the scheme were called for interview held on 28/29-12-94 and thereafter, their cases were considered. Those conditions were :-

- a) Candidates who possess the requisite educational qualifications and experience as per the Recruitment Rules of the KVS for the post;
- b) who have served at least 6 months on adhoc/part time basis in an academic session at the time of approaching this Court; and

-19-

c) "The candidates who fulfilled the above conditions were called for interview by the Selection Committee and their cases were considered for regular appointment."

Mr Choudhury has pointed out that the Special Advertisement dated 16.11.94 was in respect of only those adhoc/part time teachers of Kendriya Vidyalaya Sangathan, who were working on the strength of the interim orders of this Court from time to time as it was a one time action.

6. As stated above, in the first group of writ petitions, the petitioners were not called for interview. Their common prayer is to withdraw/cancel/revoke/rescind the condition of six months teaching experience on adhoc/part time basis in an academic session and to call the petitioner to the interview. These category of petitioners' services were automatically terminated as they did not fulfil the eligibility criteria of having served for six months in an academic session as per the Advertisement dated 16.11.94. In that view of the matter, I am of the view that the condition put forth in the scheme has been approved by the Division Bench of this Court by order dated 13.11.94, and therefore, this Court cannot now go beyond the order of the Division Bench.

7. In the second group of writ petitions, the writ petitioners were qualified for interview held on 28/29.12.94 pursuant to the Special Advertisement dated

16.11.94 but could not be appointed, as the Selection Committee did not find them suitable for the posts. Services of those petitioners were terminated after finding them not suitable.

8. From the above discussion, it is seen that the Special Advertisement dated 16.11.94 was published in view of the Special Scheme, as per direction of the Division Bench of this Court and the scheme was recommended accordingly. As stated by Mr Choudhury issuance of Special Advertisement was a one time action as per direction of this Court. All the petitioners and similarly situated teachers applied in pursuance of that Special Advertisement in the respective posts they were holding at the relevant time. Accordingly qualified teachers/persons were called for interview and the Selection Committee considered their cases. In support of this contention the respondents/Kendriya Vidyalaya Sangathan produced the proceeding of Selection Committee. After going through it I find no infirmity in the proceedings and no interference by this Court is called for. Further by orders dated 5.1.95 passed in CR 68/95, dated 2.2.95 passed in CR 475/95 & 2.2.95 in CR 5040/95 (Annexure-III, IV, V of the affidavit-in-opposition) those Civil Rules were dismissed by this Court.

9. A group of the petitioners pray for direction from this Court to rescind/cancel the conditions of six months adhoc/part time service in an academic session for regularisation of adhoc appointment. The Division Bench of this Court approved the scheme wherein this condition was inserted for regularisation and accordingly in the Special Advertisement ~~\*\*~~ condition was given

as...

-21-

as they fulfilled 'six months' criteria for regularisation. In that view of the matter, this eligibility/qualification was required to be fulfilled by the candidates as prescribed under the advertisement in response to which they had applied. Therefore, if the petitioners did not have that qualification as per the approved scheme, this Court cannot interfere and review the same.

10. As averred in the affidavit-in-opposition this Special Advertisement was only one time action and this special scheme was taken as per direction of a Division Bench of this Court. From this averment it appears that the respondents can consider the case of the petitioners (adhoc/part time teachers) who are otherwise qualified for regularisation under the said scheme, but could not complete the qualifying time of six months. Therefore, petitioners of this group can certainly be offered an opportunity in due course considering their continuation in service. In Dr Meera Massey and others -vs- Dr SR Mehrotra and others, (1998) 3 SCC 88, the Apex Court held that adhocism in services, particularly in case of appointment of professors, readers and teachers of Universities should be deprecated. The Kendriya Vidyalaya Sangathan authority, as it is seen, normally follow the procedures regarding qualification/merit of the teachers while making appointment in adhoc appointments. In that case, the authority shall take due care so that qualified adhoc/part time appointees, when appointed as a stop gap arrangement, be regularised in due course, after completion of six months.

-29-

-22-

11. In view of the above discussion and also considering the facts and circumstances of the case, I direct the respondents to consider the case of the petitioners and allow them to appear in any interview that may be held for future appointment. Though the special advertisement in question was only a one time action as stated by the respondents, in my opinion, that cannot prevent the authority to consider the case of the petitioners in allowing them to appear in the interview, if they are otherwise qualified. ✓

12. with the above direction and observation the writ petitions are disposed of. No order as to costs.

(Sd/ Smt M. Sharma,  
Judge

Editorial Note:  
Shyamal Bebochee  
Supintendent Copying 13/10/98  
Sectt. of the Jt. Com. 13/10/98

—ASJ  
13/10/98

केन्द्रीय प्रशासनिक बिधिकरम  
Central Administrative Tribunal

2 APR 2001

गुवाहाटी न्यायालय  
Guwahati Bench

5  
File No. 10000  
Advocate  
30/3/2001

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

OA No. 09 of 2000

Smti Prabhawati Devi.

... Applicant.

- Versus -

Union of India & Ors.

... Respondents

Rejoinder to written statement filed by the Respondents.

1. That the Applicant have received the copy of the written statement and have gone through the same. Save and except the statement which are specifically admitted herein below, rests may be treated as total denial. The statement which are not borne on record are also denial and the Respondents are put to the strictest proof thereof.
2. That with regard to the statements made in paragraph 1 of the written statement the Applicant offers no comment on it.
3. That with regard to the statements made in paragraph 2 of the written statement Applicant begs to state that the judgment and order dated 15.9.98 passed in CR No. 1141 of 98 and 39 other similar cases, the Hon'ble High Court has given a direction to consider the case of the Applicant by allowing her to appear in any interview. The Respondents have not yet held any such interview and now they have

68

issued an order dated 31.7.2000 enclosing thereto a speaking order through a memorandum dated 27.7.2000. In the said order the Respondents have decided to comply with the judgment and order dated 15.6.98. Therefore the statement made by the Respondents are not true and contradictory. The Hon'ble High Court vide its judgment and order dated 15.9.98 did not issue any direction to terminate her service, - rather direction has been issued to consider her case. Now only the Respondents by issuing the order dated 27.7.2000 have decided to implement the order of the Hon'ble Court.

31-7-2000

A copy of the said ~~judgment~~ and order dated ~~27.7.2000~~ is annexed herewith and marked as Annexure-RJ-1.

4. That with regard to the statements made in paragraphs 3 & 4 of the written statement the Applicant offers no comment on it.
5. That with regard to the statements made in paragraph 5 of the written statement the Applicant denies the correctness of the same and begs to state that the writ appeal (W.A. 581/96) preferred by the Respondents have been dismissed vide judgment and order dated 31.3.2000 and now the matter has attained finality. However the Respondents knowing fully well the aforesaid facts sought to terminate her service without any basis.

A copy of the judgment and order dated 31.3.2000 is annexed herewith and marked as Annexure-RJ-2.

6. That with regard to the statements made in paragraph 6 of the written statement the Applicant denies the correctness

67

of the same and begs to reiterate and reaffirm the statement made above.

7. That with regard to the statements made in paragraph 7 of the written statement the Applicant denies the correctness of the same and begs to state that the Annexure-4 order dated 7.1.2000 has been issued as per the dictation of the higher authority and same is violative of the judgment and order dated 15.9.98 passed by the Hon'ble High Court. It is noteworthy to mention here that the Hon'ble High Court keeping in view of the qualification of the Applicant passed the said judgment and direction has been issued to issue a special advertisement and to consider the case of the Applicant. It is noteworthy to mention here that under the Respondents there are numbers of similarly situated persons like that of the present Applicant who are still working and in their recruitment Rule has been relaxed. For example <sup>cases the</sup> <sup>A</sup> Mrs. Bhanumati Sarma TGT (Maths), who was below 45% (Ph,Ch,M) got her appointment still continuing under the Respondents. Similarly Mr. Saminder Singh (TGT English) and Mrs. Geeta Negi TGT (Hindi) who has got below 45% marks. On the other hand Mrs. B. Kausal TGT (E) has got no subject as English but she got her appointment as TGT (E) under the Respondents and she is still continuing.

8. That with regard to the statements made in paragraph 8 of the written statement the Applicant reiterates and reaffirms the statement made above as well as in the OA and begs to state that the WA No. 581/96 has been dismissed by the Hon'ble High Court vide its judgment and order dated

31.3.2000 (Annexure-RJ-2).

9. That with regard to the statements made in paragraph 9 of the written statement, the Applicant reiterates and reaffirm the statement made above as well as in the OA and begs to state that, since the matter has attained its finality, the Respondents cannot now reopen the said issue. The judgment and order dated 15.9.98 passed by the Hon'ble High Court, is yet to be complied with and the Respondents are now impleading the same by issuing the order dated 27.7.2000.

10. That with regard to the statements made in paragraph 10 to 13, the Applicant reiterates and reaffirms the statement made above as well as in the OA and denies the correctness of the same.

11. That with regard to the statements made in paragraph 14 of the written statement the Applicant denies the correctness of the same and begs to state that the impugned order of termination has been issued as per the dictation of the higher authority without any basis and violating the direction issued by the Hon'ble High Court.

12. That with regard to the statements made in paragraph 16 of the written statement, the Applicant denies the correctness of the same and begs to state that till date the interview contemplated in implementing the said judgment and order dated 15.9.98 is yet to be held and in the said interview (special) she is confident of her success. The statement regarding the written examination is not correct and in fact the said written examination was meant for employees whose cases were not covered by the said judgment.

69

Same was not the special interview as directed by the Hon'ble High Court.

13. That with regard to the statements made in paragraph 17 of the written statement, the Applicant denies the correctness of the same and begs to state that in view of the facts and circumstances stated above her case is required to be considered for regularisation.

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

Verification.....

28

VERIFICATION

I, Smti. Prabhawati Devi, wife of K.K. Tewari, aged about 43 years, No. 115 Helicopter Unit Air Force, Tezpur, do here by solemnly affirm and state that the statements made in this application from paragraph 1, 2, and 4 are true to my knowledge and those made in paragraphs 3, and 5 to 12 are matters of records informations derived therefrom which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

And I sign this verification on 29th day of March, 2001.

*Prabhawati Devi*



केन्द्रीय विद्यालय नं० २, वायुसेना केन्द्र, तेजपुर (आदर्श विद्यालय)

KENDRIYA VIDYALAYA No. : 2, AFS, TEZPUR

(Model School)

P. O. SALONIBARI  
Dt. SONITPUR  
ASSAM - 784104

Phone (Office) :  
Civil - 03712 - 58805  
AF - 343

No. P. Court Case/KVAFT2/2000/1S (P.B) Date July 31, 2000

To

273.

Smt. Preabharali Devi,  
TGT (Adhoc), Hindi,  
K.V. No. 2, AFS,  
Tezpur (Assam).

Sub: SPEAKING ORDER.

Madam,

Please find enclosed herewith the speaking order of Hon'ble Guwahati High Court and action in compliance of the judgement taken by KVS for your persusal and necessary action

Kindly acknowledge the receipt of the order.

Yours faithfully,

(Dr. MK KRISHNAMOORTHY)

Principal.

Enclos: As above

Kendriya Vidyalaya No.

केन्द्रीय विद्यालय नं० २

Air Force Tezpur

वायुसेना तेजपुर

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

F.15-237/92-KVS(RP-II)(GIR) 2363

5207/94/92  
Date: 27.7.2000

REGISTERED

MEMORANDUM

1. Whereas the Petitioners in Civil Rules No. 1141 of 95, 5207 of 94, 894 of 95, 5211 of 94, 901 of 95, 5136 of 94, 5205 of 94, 1313 of 95, 842 of 95, 1389 of 95, 1383 of 95, 933 of 93, 994 of 95, 696 of 93, 17 of 95, 2262 of 95, 885 of 95, 3027 of 95, 5140 of 94, 66 of 1995, 779 of 95, 1261 of 95, 2953 of 95, 274 of 96, 5188 of 94, 5204 of 94, 1732 of 95, 5155 of 94, 1729 of 95, 1382 of 95, 19 of 95, 20 of 95, 67 of 95, 18 of 95, 3028 of 95, 5206 of 94, 1176 of 95, 3172 of 93, 3171 of 93, 3170 of 93, 3333 of 95, 1608 of 93, 1804 of 95, who could not either be selected for the post or could not be called for interview for the post, filed petition in the Hon'ble High Court of Gauhati. The Hon'ble High Court in its common judgement and order dated 15.9.98 passed the following order:-

"In view of the above discussion and also considering the facts and circumstances of the case, I direct the respondents to consider the case of the petitioners and allow them to appear in any interview that may be held for future appointment. Though the special advertisement in question was only a one time action as stated by the respondents, in my opinion, that cannot prevent the authority to consider the case of the petitioners in allowing them to appear in the interview, if they are otherwise qualified."

2. Whereas the aforesaid judgement of the Hon'ble High Court has been considered by the Kendriya Vidyalaya Sangathan very earnestly. The earlier system of recruitment based on paper qualifications and interview at the Regional Level has since been reviewed and replaced by a new system in order to promote selections based on all India merit as assessed on the basis of all India Written examination followed by Interview in an objective and transparent manner. This decision is uniformly applicable throughout India. Thus, the recruitment is now centralized and the recruitment to all the teaching posts is made by Kendriya Vidyalaya Sangathan centrally after holding Written examination for the posts followed by interview of successful and qualified candidates for the post.

Contd. 2.

Whereas in order to comply with the said judgement it has been decided to consider the cases of the petitioners before the High Court that all the petitioners be advised to apply for the post as and when vacancies are advertised in the newspaper after which their candidature will be considered for the post in accordance with the rules, giving due weightage to age relaxation to the extent of his/her adhoc service rendered in the Vidyalaya subject to a maximum limit of 5 years, provided the candidate fulfills the essential qualifications as prescribed in the Recruitment Rules. Also he/she has to qualify in the written test and to appear for the interview for the post for being found selected and appointed to the post after being empanelled for the post.

1. Now, therefore, the undersigned hereby conveys the order of the Kendriya Vidyalaya Sangathan accordingly.

✓ Smt. Prabhavati Devi,  
(V.K. GUPTA)  
ASSISTANT COMMISSIONER(ADMN)

Copy to:

1. The Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Gauhati.
2. The Principal, Kendriya Vidyalaya, No. 2 Tezpur for information and necessary action.

ASSISTANT COMMISSIONER(ADMN)

Date of application for the copy.

संस्था सूचित करने की तिथि  
तारीख  
Date fixed for notifying the requisite number of stamps and folios.

देने की तारीख  
Date of delivery of the requisite stamps and folios.

प्रतिलिपि तैयार भी  
Date on which the copy was read/ for delivery.

तारीख  
Date of making over the copy to the applicant.

4/12/21C

13/12/21C

13/12/21C

13/12/21C 13/12/21C

-10-

ANNEXURE - RJ-2

IN THE GRADUATE HIGH COURT

THE HIGH COURT OF ASSAM, NAGALAND, TRIPURA,  
MANIPUR, MIZORAM & ARUNACHAL PRADESH

WA 581/96

62.A.C.T) H-2-0126  
in C.R. 648/96

CIVIL APPELLATE SIDE

OF 1996

APPEAL FORM  
CIVIL RULE

State Union of India & Ors.

APPELLANT  
PETITIONER

- Versus -

Smti Prabhavati Devi

RESPONDENT  
OPPOSITE PARTY

For Appellant Mr. K. N. Choudhury, Sr. C. G. S.C.  
For Petitioner Dr. B. B. Tudu, Mrs. P. Deka,

For Respondent Mr. T. C. Khetri.

Mr. R. P. Sharma } For Respondent No. ①  
Mr. A. K. Ray } For Respondent No. ②

ing by office Serial Date Office notes, reports, orders  
Advocate

Q

1. Union of India,  
represented by the Secretary, Govt.  
of India, Ministry of HRD, Depart-  
ment of Education, New Delhi.
2. Kendriya Vidyalaya Sangathan,  
represented by its Commissioner/  
Secretary and having its headquarters  
at 13, Institutional Area, Saheed  
Jyoti Marg, New Delhi-110016.
3. The Assistant Commissioner,  
Kendriya Vidyalaya Sangathan,  
Sankardev Path, Rajgarh Road,  
Pul Sarania, Guwahati-3.
4. The Principal,  
Kendriya Vidyalaya No.2, Air  
Force Station, Tezpur.
5. The Principal,  
Kendriya Vidyalaya No.3, Air  
Force Station, Tezpur.

... Appellants  
Respondents in Writ  
Petition.

-versus-

1. Srimati Prabhawati Debi,  
wife of Sri K.K. Tewari, Trained  
Graduate Teacher (Hindi), Kendriya  
Vidyalaya....

Vidyalaya No.2, Air Force, Tezpur,  
Post office Tezpur, District Sonitpur,  
Assam.

✓2. Srimati Karabi Gohain,  
wife of Wing Commander D. Gohain,  
MOFTU, No.11 Wing, Air Force, C/o 99  
A.P.O., Trained Graduate Teacher  
(Science), Kendriya Vidyalaya No.2,  
Tezpur.

3. Srimati Anubhuti Nehta,  
wife of Flight Lt. N.K. Nehta, 11 Wing,  
Air Force, C/o. 99 A.P.O., Post Graduate  
Teacher (Physics), Kendriya Vidyalaya  
No.2, Air Force Station, Tezpur.

4. Srimati Unnila Chorasia,  
daughter of Sri Raja Ram Mohan Chorasia,  
No.11 Wing, Air Force, c/o. 99A.P.O.,  
Primary Teacher, Kendriya Vidyalaya  
No.3, Air Force, Tezpur.

5. Srimati Manimala Sarma,  
daughter of Sri Jayanta Kumar Sarma,  
Dhulapadong Tea Estate, Thakurbari,  
Post Office Rangapara, District-Sonitpur,  
Trained Graduate Teacher (Social Studies),  
Kendriya Vidyalaya No.3, Tezpur.

6. Srimati...

6. Srimati Indu Singh,  
daughter of Sri Surendra Singh of  
Autoways, K.C.Road, Tezpur Town,  
Post office Tezpur, District  
Sonitpur, Assam, Trained Graduate  
Teacher (English), Kendriya Vidya-  
Laya No. 3, Air Force, Tezpur.

*10012*  
...Respondents  
Petitioners in Writ  
Petition.

-14-5

W.A. NO.581/96.

g by Office or  
date.

Sl.  
No.

Date

Office Notes, Reports, Orders  
or proceeding with Signature.

31.3.2000.

BEFORE

SHRI BRILJESH KUMAR, HON'BLE THE CHIEF JUSTICE  
THE HON'BLE MR JUSTICE D. BISWAS

Despite the time granted step has  
not been taken for service of notice upon the  
Respondents No. 2 & 4. None responds for the  
appellant today.

The appeal is dismissed for non-  
prosecution. ✓

Shri Briljesh Kumar  
Smt D Biswas Chief Justice  
Judge

Briljesh Ch. Justice  
13/12/2000  
Appeal No. 696/92

Briljesh Ch. Justice

order date 22.8.96 in Cr 696/92  
is open.

2.1.97 — date 16.2.8.96

Briljesh Ch. Justice

Briljesh Ch. Justice

Cr 696/92 —

22.8.96 —