

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CUMHATI BENCH, CUMHATI, 5 (FORM NO. 4)

ORDER SHEET.

(See Rule-42)

Contempt APPLICATION NO. 31/2000 (OA. 22/2000)

Applicant(s) Md. Jairol Abedin Hajarika.

Respondent(s) Principal, K.V.S. Jagir Road.

Advocate for Applicant(s) Mr. A.C. Braughain.

Mr. M. Rahman, Mr. D. Bora.

Advocate for Respondent(s)

Notes of the Registry

DATE

ORDER OF THE TRIBUNAL

This case is an application

7.11.00

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

Let this case be listed on 21.11.00 for orders.

Vice-Chairman

for Adv. A.C. Braughain.

for filed this

contempt petition

against the govt.

Compliance of the

Tribunal order dated

16-2-2000 passed by this

Hon'ble Tribunal.

1m

21.11.00

Heard learned counsel for the parties.

Issue notice to show cause as to why the contempt proceedings shall not be initiated against the alleged contemnors. List on 29.11.00 for orders.

Vice-Chairman

Laid before Hon'ble court for further orders.

1m

29.11.00

No reply to the show cause has been filed. The contemnors are ordered to be personally present before this Tribunal on the next date.

List on 15.12.2000 for further order.

Vice-Chairman

Section Officer

DM

Notice prepared and sent to D/S for issuing the respondents pg No 182 by Regd A/D. vide D/NO 2764 dated 23/11/00.

23/11/00

① Service report are still awaited.

24/11/2000

(2)

15.12.00

The alleged contemnners Mrs. Eral Moore, Principal, Kendriya Vidyalaya Sangathan, Nagaon Paper Mill, Jagiroad Dist. and Sri D.K.Saini, The Asstt. Commissioner, Kendriya Vidyalaya Sangathan, Maligaon are present in the Court to-day. Mr.B.P. Todi, learned counsel for respondents seeks time to file reply. Prayer is allowed List on 2.1.01 for orders.

The ^{person} persons present for the respondent are dispensed with for time being.

Member

Vice-Chairman

lm

2.1.01

Heard Mr.A.C.Boraguhain learned counsel for the applicant and also heard the Principal Kendriya Vidyalaya Sangathan, Nagaon Paper Mill, & Jagiroad and Her presence is dispensed with. List the matter on 10.1.01 for further orders.

Vice-Chairman

10.1.01

List the matter on 8.2.01 for orders.

Member

Vice-Chairman

8.2.01

In view of the order passed in O.A.No. 22 of 2000 the C.P. is closed.

Member

Vice-Chairman

lm

1-1-2001

An affidavit has been filed by the respondents. L.

Ron

8.1.01

Affidavit filed by the Respondent No. 1 & 2.

lm

10.1.01

Abbreviated filed on behalf of the Contemner No-1 & 2.

lm

8.2.01

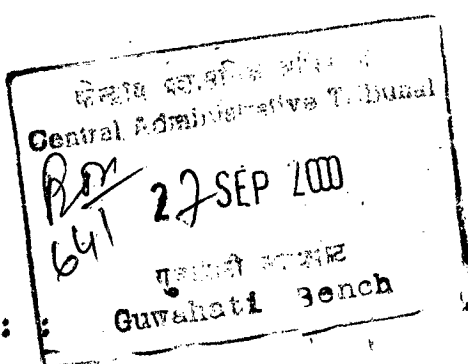
In view of the order passed in O.A.No. 22 of 2000 the C.P. is closed.

Member

Vice-Chairman

lm

22/9-1-2001



DISTRICT :

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH
GUWAHATI

CONTEMPT PETITION NO. 31 / 2000
In C.A. No. 22/2000

Md. Jainal Abedin Hazarika ... Petitioner

-vs-

Principal, Kendriya Vidyalaya
Sangathan, Jagiroad and ors.

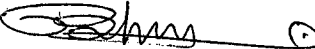
... Contemners

Subject matter -
Code No.

I N D E X

1. Petition	... page no. 1 to 5
2. Affidavit	... page no. 6
3. Annexure-A	... page no. 8
4. Annexure-B	... page no. 9
5. Annexure-C	... page no. 11
6. Annexure-D	... page no. 12
7. Annexure-E	... page no. 13
8. Annexure-F	... page no. 15
9. Annexure-G	... page no. 16

filed by


Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:GUWHATI BENCH :

GUWAHATI.

CONTEMPT PETITION NO. _____/2000.

IN O.A. NO. 22/2000.

IN THE MATTER OF :

Md. Jainal Abedin Hazarika,

.. Applicant

- Vs -

Principal, Kendriya Bidyalaya

Sangathan, Jagiroad and Others,

.. Respondents
Contemners.

- AND -

IN THE MATTER OF :

An application under Section 17 of the
Administrative Tribunal Act, 1985 praying
for initiation of Contemt Proceeding against
the Contemners for non-compliance of the
order dated 16-2-2000 passed in O.A.No.22/
2000.

- AND -

IN THE MATTER OF :

Md. Joynal Abedin Hazarika,

S/O Sarifuddin, Village- Patiapathar,

P.O. Patia Chapari, B.S. Dhing,

Dist. Nagaon(Assam)

(PRT in K.V.S. Jagiroad).

... Petitioner.

- Vs -

Filed by
Hafiz Rahman
Advocate

Md. Jainal Abedin Hazarika

1. Sri/Mrs. Era! C. Moore,
Principal, Kendriya Vidyalaya
Sangathan, Nagaon Paper Mill,
Jagiroad, Dist. Morigaon (Assam).
2. Sri D.K. Saini,
The Asstt. Commissioner,
Kendrya Vidyalaya Sangathan (G.R.),
Chhaya Ram Building, 2nd Floor,
Maligaon Charali, Guwahati-12.

.. Respondents.

That your applicant most humbly and respectfully
beg to state as under :-

1. That, the applicant was appointed as Primary teacher
at Tenga Velley K.V.S., Arunachal Pradesh vide Memo No.
F.S.-2/PRT/(NE)/KVS/GR/84-85/1717-29 dt. 18.7.84. He joined
on 9.8.85. On request on Medical ground the applicant was
transferred from Tenga Velley, Arunachal Pradesh to K.V.S.
Jagiroad vide No.F-9(1)/KVS/FR/85-86 dt. 30.7.85 and
subsequently he was relieved from K.V.S. Tenga Velley,
Arunachal Pradesh vide Memo No.F.25/KVTV/85-86/609-15 dated
13/8/85. He joined K.V.S. HPCL Jagiroad on 16.8.85. Copies
of all orders are annexed in Original application as

Appointment letter - Annexure - A.

Transfer order from KVS

Tenga Velley, A.P. - Annexure - B.

Relieved order from KVS

Tagavelly. - Annexure - C.

The applicant was surprised when on 8/8/1998 he
received the Transfer order transferring him from K.V.S.,

Md. Jaisal Abedin Hazarika

HPCL, Jagiroad, to K.V.S. No.2 Missamari on "surplus ground". The applicant is senior most PRT in KVS, HPCL Jagiroad, hence cannot be alleged to be surplus. The impugned order for transfer (on surplus ground) is not in public interest and is with ill motive and malafide intention.

2. That, your applicant has appraised the Hon'ble Court,

- (i) To declare the Transfer order dtd. 31.7.98 bearing Memo No. P-10-1/98/KVS(GR)/8226-37 as illegal, arbitrary and malafide as the same has been passed in violation of the relevent surplus rules.
 - (ii) Direct the respondent not to implement or give effect to the aforesaid Transfer order dt.31.7.98 and quash the same.
 - (iii) Direct the respondent to allow the petitioner to join in his original post of teacher(PRT) in K.V. HPCL, Jagiroad with effect from 31.7.98 without any break in service.
 - (iv) To pray arrear salary/pay and allowances with effect from 31.7.98 till he is allowed to join treating the applicant who to had been in regular services.
 - (v) To grant adequate compensation for giving harrashment to the petitioner unnecessarily.
 - (vi) And to grant any other compensation as deem fit and proper.
- (Relief sought mentioned in SL.No.8 Page-11 of the Original application).

6
Md. Javed Abedin Hagarika

3. That, the Hon'ble Court pleased to pass an interim Order dtd. 16.2.2000 as follows :-

" Application has already been admitted. Mr. M. Rahman learned counsel for the applicant prays for and interim order. Issue Notice to show cause as to why interim order shall not be granted. Returnable by 4 weeks. List on 22.3.2000 for orders.

There is no representation for the Opposite Party. Meanwhile, the impugned transfer order dt.31.7.98 shall remain suspended ".

(Copy of the order is enclosed as Annexure-'A').

4. That, the applicant obtained the certified copy of the order on 25/2/2000, and immediately on 28/2/2000 submitted an application to the Principal, K.V.S. HPCL, Jagiroad along with a copy of the order of the Hon'ble Tribunal praying to allow him to join at K.V.S. HPCL, Jagiroad. But the Principal showed his reluctance to accept his application as well as the order of the Hon'ble Tribunal. However, the petitioner sent his application by Regd/AD which was received by the Principal, K.V.S. on 10.3.2000, by signing the acknowledgement Postal Receipt.

(A copy of his application and A/D Card are enclosed as Annexure- 'B', 'C' & 'D').

5. That, the petitioner submitted another application to the Asstt. Commissioner, K.V.S. (GR) by Regd/AD Post on 8/3/2000 along with a copy of the order dt.16.2.2000 of the Hon'ble Tribunal and the same was acknowledged by the Asstt. Commissioner on 13/3/2000.

(A copy of application, Postal receipt and A/D Card enclosed as Annexure- 'E', 'F' and 'G').

Ud. joined Abedin Hagarika

6. That, more than 6 (six) months has elapsed, but no positive action has been taken by the respondents. The respondents wilfully disobeyed the order of the Hon'ble Tribunal and unnecessarily harrassed the petitioner by not allowing him to join his duties in K.V.S., HPCL, Jagiroad even after receipt of Hon'ble Tribunal's order. The Respondents have wilfully violated and disobeyed the Hon'ble Court's order involving punishment for contempt of court's order.

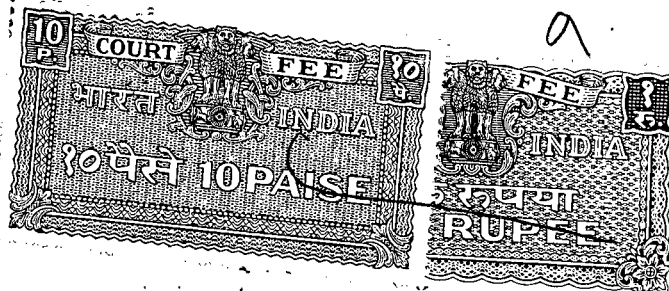
7. That, under the above circumstances, it is a fit case for the Hon'ble Tribunal for initiation of a Contempt proceeding against the Contemners for wilfull non-compliance of the Tribunal order dt. 16/2/2000.

8. That, this application is made bonafide and for the end of justice.

In the fact and circumstances stated above the Hon'ble Tribunal may be pleased to initiate Contempt proceeding against the Contemners for wilfull non-compliance/disobedience of the order dt. 16/2/2000 and further be pleased to inflict adequate punishment to them, and/or pass such further order or orders as may deem fit and proper under the above facts and circumstances of the case.

And for this act of kindness the humble applicant shall ever pray -

8
Md. Javed Abedin Hagarika



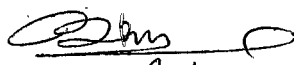
A F F I D A V I T

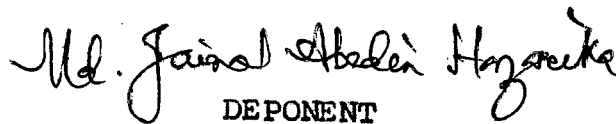
I, Md. Joynal Abedin Hazarika S/O. Sarifuddin
aged about 43 years, resident of village patiapathar,
P.O. Patia Chaoari P.S. Dhing, Dist .Nagaon (Assam)
do hereby solemnly affirm and state as follows :

1. That I am the petitioner in the above Contempt
petition and as such I am well acquainted with the fact
and circumstanced of the case and also competent to
sign this affidavit.
2. That the statement made in Paragraph 1 to 8,
are true to ~~my~~ the best of my knowledge and I
have not suppressed any material facts.
3. That this affidavit is made for the purpose of
filling the contempt petition before the C.A.T
Guwahati Bench, Guwahati for noncompliance of the
Judgment/order dtd 16.2.2000 passed in O.A No.22/2000.

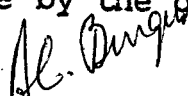
That, I have been duly sworn this affidavit
and I sign this affidavit to this 4th day of
September/2000.

Identified by


(M. Rahman)
Advocate


DEPONENT

Solemnly affirm and declare ~~before~~
before me by the deponent.


Advocate.

DRAFT CHARGE

Laid down before the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati, for initiating Contempt Proceeding against the alleged Contemners responsible for wilful non-compliance of the Judgement and Order dated 16/2/2000 passed on O.A.No. 22/2000 and further be pleased to impose punishment against the Contemner/respondents for wilful non-compliance and deliberate violation of the Hon'ble Tribunal's Order dated 16-2-2000.

10
Md. Javed Abedin Hagarika

-8-

Annexure - 'A'

FORM NO. 4
(See Rule 42)

In The Central Administrative Tribunal
GUWAHATI BENCH : GUWAHATI

ORDER SHEET
APPLICATION NO. 29/2000 OF 199

Applicant(s) Md. Jorinal Abedin Hossain

Respondent(s) Union of India and Ors.

Advocate for Applicant(s) Mr. A.C. Rongobam,
Mr. M. Rahman Mr. D. K. Das.

Advocate for Respondent(s)

C. G. S. C.
16.2.2000



Application has already been admitted.

Mr. M. Rahman learned counsel for the applicant prays for an interim order. Issue notice to show cause as to why interim order shall not be granted. Returnable by 4 weeks. List on 22.3.2000 for orders.

There is no representation for the opposite party. Meanwhile, the impugned transfer order dated. 31.7.98 shall remain suspended.

Sd/- VICECHAIRMAN
Sd/ MEMBER (A)

Certified to be true Copy

प्रमाणित प्रतिलिपि

Certified to be the true Copy

[Signature]
Advocate

[Signature]
25/2/2000
Section Officer (A)
आयुक्त न्यायाधीश
Central Administrative Tribunal
Guwahati
Assam

ANNEXURE - B.

To,

The Principal, K.V. HPC Jagiroad,

Dated :- The 9th of March, 2000.

Subject:- Prayer for joining at K.V. HPC. Jagiroad.

Reference:- Vide Order sheet of the hon'ble Vice-Chairman
Central Administrative Tribunal, Guwahati Bench.

Dated :- 25.2.2000.

Madam,

Please find enclosed herewith a copy of the Order Sheet of the hon'ble Vice-Chairman, Central Administrative Tribunal, Guwahati Bench, dated - 25.2.2000 in which my surplus transfer order dated- 31.7.98 has been suspended.

Therefore, I request your honour to take necessary measures for my joining at K.V. HPC. Jagiroad and oblige.

Thanking you Madam,

Yours faithfully,

Sd/-(Md. J.A. Hazarika)
Block No. A/72/3
HPC, Township,
P.O. Kagaj Nagar,
Dist. Morigaon (Assam)
Pin: 782413.

Cent'm to be the true copy
[Signature]
22/3/2000

30

The Principal, K.V. HPC. Jajiroad.

Dated:- The 9th of March, 2000.

Subject:- Prayer for joining at K.V. HPC. Jajiroad.

Reference:- Vide Order Sheet of the hon'ble Vice-Chairman,
Central Administrative Tribunal, Guwahati
Bench, dated:- 25.2.2000.

Madam,

Please find enclosed here with a copy
of the Order Sheet of the hon'ble Vice-Chairman,
Central Administrative Tribunal, Guwahati Bench,
dated - 25.2.2000 in which my surplus transfer
order dated - 31.7.98 has been suspended.

Therefore, I request your honour to
take necessary measures for my joining at
K.V. HPC. Jajiroad and oblige.

Thanking you Madam,

Yours faithfully



(Md. J. A. Hazarika)

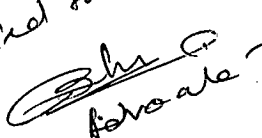
Block No. A/T2/3

HPC. Township.

P.O. Kargaj Nagar

Dist. Morigaon (Assam)

Pin. 782413.

Submitted to be the true copy

Advocate

Amreavur - B C

AT INSURED

ऑन का मूल्य रु

ps affixed Rs.

19 p.

Registered*

R/A.D.

क्रमांक

No. 2570

तारीख मोहर

Date Stamp

The Principal K

V. HPC

Signature of Receiver Officer

certified to be the true Com

Advocate

To,

The Asstt. Commissioner, KVS (GR),
Chhaya Ram Building, 2nd Floor,
Maligaon Charali, Ghy.- 12.

Dated:- The 8th of March, 2000.

Subject:- Prayer for permission to join at K.V. HPCL,
Jagiroad.

Reference:- Vide Order Sheet of the hon'ble Vice-Chairman,
Central Administrative Tribunal, Guwahati Bench,
dated - 25.2.2000.

Respected Sir,

I have the honour to say before your good self the following few lines for your kind consideration and necessary action please.

That Sir, please find enclosed herewith a copy of the hon'ble Vice Chairman, Central Administrative Tribunal's Order sheet dated 25.2.2000 where my transfer order dated 31.7.98 has been suspended.

Therefore, I would like to request your honour to authenticate your necessary action and permit me to join my duties at K.V. HPCL, Jagiroad.

For this act of your kindness, I shall remain ever grateful to you.

Thanking you sir,

Yours faithfully,

Sd/- (Md. J.A. Hazarika) PRT,
K.V. HPCL, Jagiroad.

To
The Asstt. Commissioner, KVS (GR)
Chhaya Ram Building, 2nd Floor
Maligaon Charali, Ghy - 12.

Dated :- The 6th of March, 2000.

Subject :- Prayer for permission to join at K.V.
HPCL. Jajiroad.

Reference :- Vide Order Sheet of The Hon'ble Vice-
Chairman, Central Administrative
Tribunal, Guwahati Bench, dated - 25.2.2000.

Respected Sir,

I have the honour to lay before
your good self the following few lines for your
kind consideration and necessary action please.

That Sir, please find enclosed herewith a
copy of The Hon'ble Vice Chairman, Central Adminis-
trative Tribunal's order sheet dated 25.2.2000 where
my transfer order dated - 31.7.98 has been suspended.

Therefore, I would like to request your honour
to authenticate your necessary action and permit
me to join my duties at K.V. HPCL. Jajiroad.

For this act of your kindness, I shall remain
ever grateful to you.


Thanking you Sir,

Yours faithfully,

(Md. J. A. Hazarika) PRT.

K.V. HPCL. Jajiroad.

Certified to be true
the true copy


Advocate -

Annexure - F

8

NOT INSURED

क्रमांक
No. **2556**

तारीख मोहर
Date Stamp

Stamps affixed Rs. **10/-**

Record to Registered* **R/AD**

Addressed to **Asslt. Commissioner**

City-12

प्राप्तकर्ता अधिकारी के हस्ताक्षर
Signature of Receiving Officer

Certified to be the true Copy


Adro carb.

Ammeame - 9

LNc - 2556

प्राप्ति-स्वीकृति (स्वीकृति), RECEIPT, ACKNOWLEDGEMENT

★ Received a Post Card Letter/Postcard/Parcel/Parcel
Insured

- प्राप्ति का नाम
- प्राप्त करने वाले का नाम
- Addressed to (Name)
- प्राप्ति का प्रकार (Category)
- प्राप्त करने वाले का पता
- Insured for (Amount)

The Asstt. Commissioner,
Kendriya Vidyalaya Sangathan,
C.R. Building, 2nd Floor,
Maligaon Charali,
Guwahati - 12.

Date of Delivery

12/12/2000

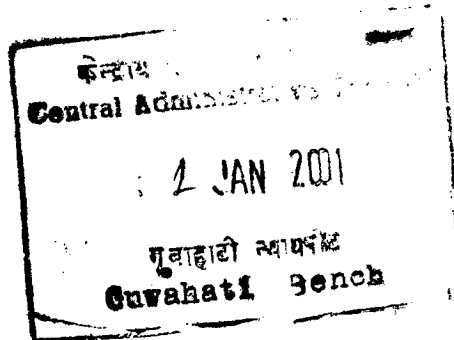
Signature of addressee

Secure out the matter not required:

For insured articles only.

Archd to be the Inc Com

Advocate



12
20
Filing
Admission
11/1/2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH :
AT GUWAHATI

CONTEMPT PETITION NO. 31/2000 IN
ORIGINAL APPLICATION NO.22/2000

Md. Jainal Abedin Hazarika

.... Applicant

-Versus-

Union of India & others

.....Respondents.

IN THE MATTER OF :

An affidavit-in-opposition filed on
behalf of Respondent No.2.

I, Shri D.K. Saini, son of Shri C.L. Saini, aged about 52 years, presently residing in Guwahati, in the State of Assam do hereby solemnly affirm and state as follows :-

1. That I am presently working as the Assistant Commissioner, Kendriya Vidyalaya Sangathan (hereinafter referred to in short as KVS) Guwahati Region in the State of Assam. I have been impleaded as Respondent No.2 in the aforesaid Contempt Petition. A copy of the Contempt Petition was served upon me. I have gone through the same and under-

21/18

stood the contents thereof.

2. That the deponent does not admit anything other than those specifically admitted herein and the statements based on documents to the extent and such documents on records support them. All other statements made in the Petition are therefore may be treated as denied by the deponent.

3. That with regard to the statements made in paragraph 1 of the Contempt Petition the deponent begs to state that the petitioner was transferred on surplus ground from K.V., HPCL, Jagiroad to K.V. No.2 Missamari vide letter No.F 10-1/98-KVS (GR)/5226-37 dated 31.7.98 and No.10-1/98-KVS(GR)/6882-88 dated 19.9.98. As per the KVS Transfer Guidelines, an employee of a particular category who has the longest stay at the station was to be transferred to another K.V. where a clear vacancy exist. Therefore, on the same ground Md.J.A. Hazarika was transferred on public interest. In compliance of the transfer order, Md. J.A. Hazarika was relieved by the then Principal K.V. HPCL Jagiroad vide letter No.F-29/KVHPC/JRD/1998-99/258-61 dated 27.8.98 with the direction to report to K.V. No.2 Missamari. But the petitioner refused to accept the relieving order. So the same was sent to the Petitioner by Registered Post.

4. That with regard to statements made in paragraph 2 of the Contempt Petition the deponent begs to state that the

petitioner was transferred as per KVS Transfer Policy. As per staff strength sanctioned during 1998-99, Md. J.A. Hazarika was declared excess and accordingly transferred to K.V. No.2 Missamari where a clear vacancy exists. Therefore there is no arbitrary or malafide intention.

Moreover, in compliance of the said transfer order, the petitioner was relieved on 27.8.98. Further, the petitioner was already relieved from K.V. HPCL, Jagiroad on 27.8.98, all his dues i.e. (Salary and Transfer Grant) has been paid to him vide Cheque No.245544 and 245546 dated 27.8.98 amounting to Rs.9656/-. But Md. J.A. Hazarika refused to accept and so the same was submitted to the court. The deponent begs to state that as the petitioner was transferred as per KVS Rules, there is no question of paying compensation. Further no harassment of any nature was given to the petitioner.

5. That with regard to statements made in paragraph 3 of the contempt petition, the deponent begs to state that the Petitioner had approached the Hon'ble High Court by Civil Rule No.4287/98 against the said Transfer Order. The Court by order dated 28.8.98 directed the Respondents that till the final decision, Md. J.A. Hazarika should be allowed to continue in K.V. HPCL Jagiroad "if he is not already relieved". Since Mr. J.A. Hazarika was already relieved on 27.8.98 by order No.F29/KV HPCL/JRD/1998-99/258-61 dated 27.8.98 the Hon'ble Court's order dated 28.8.98 became

infructuous.

The petitioner again filed a Contempt Petition No.398/99 before the Hon'ble High Court on the same issue but the same was disposed of as infructuous by the Hon'ble Court vide order dated 8.9.99.

Further, it is submitted that with reference to his representation dated 26.4.99, the Transfer Order dated 31/7/98 the place of posting of Md. J.A. Hazarika PRT has been modified from KV No.2 Missamari to KV Chabua. Accordingly he was directed to report to K.V. Chabua after Summer Vacation vide KVS (GR) order No.F.10-1/98-KVS(GR)/2443-46, dated 8.6.99 but till date he has not reported to K.V. Chabua.

6. That with regard to statements made in paragraph 4 of the Contempt Petition the deponent begs to state that the petitioner was already relieved from K.V. Jagiroad vide Relieving Order No.F.29/KV, HPCL/KRD/1998-00/258-61 dated 27.8.98 in compliance of the said Transfer Order dated 31.7.98. The Principal is not the Competent Authority to allow him to join after he was relieved from K.V. Jagiroad. Therefore, he was not allowed to join.

7. That with regard to the statements made in paragraph 5 of the Contempt Petition, the deponent has no comments as they are matters of record.

8. That with regard to statements made in paragraph 6 of the Contempt Petition, the deponent begs to state that the averments made by the Petitioner is not correct. The Petitioner was already relieved vide order dated 27.8.98 in compliance of the Transfer Order dated 31.7.98. In view of the Hon'ble High Court's order and for his representation dated 26.4.99, his place of posting has been modified and the Petitioner was posted at K.V. Chabua vide office order No.F.10-1/98-KVS(GR)/2443-46 dated 8.6.99.

Further, it is submitted that Md. J.A. Hazarika had suppressed the fact before the Hon'ble Court regarding the modification of his transfer from KV No.2 Missamari to K.V. Chabua and till date he has not joined his duty at K.V. Chabua.

9. That with regard to statements made in paragraph 7 of the Contempt Petition the deponent begs to state that there is no willful violation or disobedience of the Hon'ble Court's order. Therefore, it is prayed that the contempt proceedings initiated against the deponent may kindly be dropped.

10. That with regard to statements made in paragraph 8 of the Contempt Petition the deponent begs to state that the Contempt Petition filed by the petitioner is devoid of any

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merit and not filed bonafide . Therefore it is liable to be dismissed.

11. That the deponent begs to state that she is always prompt in complying the orders passed by Hon'ble Court and can never think of violating any order passed or direction given by the Hon'ble Court.

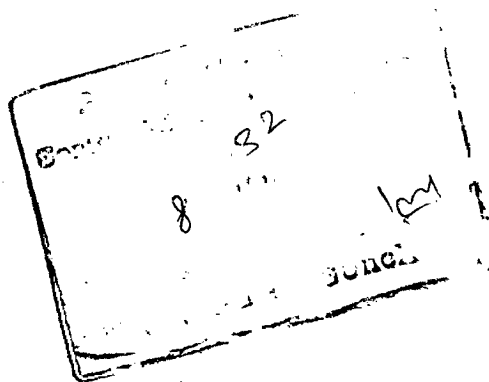
12. That this affidavit is filed bona fide and for the ends of justice.

13. That the statements made in this affidavit are true to the best of my knowledge and belief supported by the relevant record which I believe to be true.

And I sign this affidavit-in-opposition on this 14th day of January, 2001 at Guwahati.

Identified
Bawa.
(Priyanka Bawa)

Arundhati
DEPONENT



28

Handwritten notes and signatures in the top right corner, including 'Dr. Raj (to be)', 'Advocate', and a date '11/1/2001'.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH
AT GUWAHATI

CONTEMPT PETITION NO. 31/2000 IN
ORIGINAL APPLICATION NO.22/2000

Md. Jainal Abedin Hazarika

.... Applicant

-Versus-

Union of India & others

.....Respondents.

IN THE MATTER OF :

An affidavit-in-opposition filed on
behalf of Respondent No.1.

I, Mrs. Bral C. Moore, wife of Shri. C.O. Koshy
aged about 48 years, presently residing in Jagiroad in the
State of Assam do hereby solemnly affirm and state as fol-
lows :-

1. That I am presently working as the Principal,
Kendriya Vidyalaya (hereinafter referred in short as K.V),
Nagaon Paper Mill, Jagiroad, under Guwahati Region in the
State of Assam. I have been impleaded as the Respondent No.1
in the aforesaid Contempt Petition. A copy of the Contempt

Petition was served upon me. I have gone through the same and understood the contents thereof.

2. That the deponent does not admit anything other than those specifically admitted herein ^{and based on records to the extent} and such documents on records support them. All other statements made in the Petition are therefore may be treated as denied by the deponent.

3. That with regard to the statements made in paragraph 1 of the Contempt Petition the deponent begs to state that the petitioner was transferred on surplus ground from K.V., HPCL, Jagiroad to K.V. No.2 Missamari vide letter No.F 10-1/98-KVS (GR)/5226-37 dated 31.7.98 and No.10-1/98-KVS(GR)/6882-88 dated 19.9.98. As per the KVS Transfer Guidelines, an employee of a particular category who has the longest stay at the station was to be transferred to another K.V. where a clear vacancy exist. Therefore, on the same ground Md.J.A. Hazarika was transferred on public interest. In compliance of the transfer order, Md. J.A. Hazarika was relieved by the then Principal K.V. HPCL Jagiroad vide letter No.F-29/KVHPC/JRD/1998-99/258-61 dated 27.8.98 with the direction to report to K.V. No.2 Missamari. But the petitioner refused to accept the relieving order. So the same was sent to the Petitioner by Registered Post.

4. That with regard to statements made in paragraph 2

of the Contempt Petition the deponent begs to state that the petitioner was transferred as per KVS Transfer Policy. As per staff strength sanctioned during 1998-99, Md. J.A. Hazarika was declared excess and accordingly transferred to K.V. No.2 Missamari where a clear vacancy exists. Therefore there is no arbitrary or malafide intention.

Moreover, in compliance of the said transfer order, the petitioner was relieved on 27.8.98. Further, the petitioner was already relieved from K.V. HPCL, Jagiroad on 27.8.98, all his dues i.e. (Salary and Transfer Grant) has been paid to him vide Cheque No.245544 and 245546 dated 27.8.98 amounting to Rs.9656/-. But Md. J.A. Hazarika refused to accept and so the same was submitted to the court. The deponent begs to state that as the petitioner was transferred as per KVS Rules, there is no question of paying compensation. Further no harassment of any nature was given to the petitioner.

5. That with regard to statements made in paragraph 3 of the contempt petition, the deponent begs to state that the Petitioner had approached the Hon'ble High Court by Civil Rule No.4287/98 against the said Transfer Order. The Court by order dated 28.8.98 directed the Respondents that till the final decision, Md. J.A. Hazarika should be allowed to continue in K.V. HPCL Jagiroad "if he is not already relieved". Since Mr. J.A. Hazarika was already relieved on 27.8.98 by order No.F29/KV HPCL/JRD/1998-99/258-61 dated

27.8.98 the Hon'ble Court's order dated 28.8.98 became infructuous.

The petitioner again filed a Contempt Petition No.398/99 before the Hon'ble High Court on the same issue but the same was disposed of as infructuous by the Hon'ble Court vide order dated 8.9.99.

Further, it is submitted that with reference to his representation dated 26.4.99, the Transfer Order dated 31/7/98 the place of posting of Md. J.A. Hazarika PRT has been modified from KV No.2 Missamari to KV Chabua. Accordingly he was directed to report to K.V. Chabua after Summer Vacation vide KVS (GR) order No.F.10-1/98-KVS(GR)/2443-46, dated 8.6.99 but till date he has not reported to K.V. Chabua.

6. That with regard to statements made in paragraph 4 of the Contempt Petition the deponent begs to state that the petitioner was already relieved from K.V. Jagiroad vide Relieving Order No.F.29/KV, HPCL/KRD/1998-00/258-61 dated 27.8.98 in compliance of the said Transfer Order dated 31.7.98. The Principal is not the Competent Authority to allow him to join after he was relieved from K.V. Jagiroad. Therefore, he was not allowed to join.

7. That with regard to the statements made in paragraph 5 of the Contempt Petition, the deponent has no com-

ments as they are matters of record.

8. That with regard to statements made in paragraph 6 of the Contempt Petition, the deponent begs to state that the averments made by the Petitioner is not correct. The Petitioner was already relieved vide order dated 27.8.98 in compliance of the Transfer Order dated 31.7.98. In view of the Hon'ble High Court's order and for his representation dated 26.4.99, his place of posting has been modified and the Petitioner was posted at K.V. Chabua vide office order No.F.10-1/98-KVS(GR)/2443-46 dated 8.6.99.

Further, it is submitted that Md. J.A. Hazarika had suppressed the fact from the Hon'ble Court regarding the modification of his transfer from KV No.2 Missamari to K.V. Chabua and till date he has not joined his duty at K.V. Chabua.

9. That with regard to statements made in paragraph 7 of the Contempt Petition the deponent begs to state that there is no willful violation or disobedience of the Hon'ble Court's order. Therefore, it is prayed that the contempt proceedings initiated against the ^{deponent} Respondents may be dropped.

10. That with regard to statements made in paragraph 8 of the Contempt Petition the deponent begs to state that the Contempt Petition filed by the petitioner is devoid of any

merit and therefore it is liable to be dismissed.

11. That the deponent begs to state that she is always prompt in complying the orders passed by Hon'ble Court and can never think of violating any order passed or direction given by the Hon'ble Court.

12. That this affidavit is filed bona fide and for the ends of justice.

13. That the statements made in this affidavit are true to the best of my knowledge and belief supported by the relevant record which I believe to be true.

And I sign this affidavit-in-opposition on this 14th day of January, 2001 at Guwahati.

Identified by:
Berna
(Priyanka Berna)

DEPONENT
(ERAL C. MOORE)