

FORM No. 4  
(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI.

ORDERS SHEET

Contempt APPLICATION NO. 55 / 2001 (CA 423/2000)

Applicant (S) T. K. Chakraborty

Respondant(s) H. M. Cairae & Another

Advocate for the Applicant: Mr. B. C. Das  
Mr. S. Dutta

Advocate for the Respondant:

Notes of the Registry

Date

Order of the Tribunal

This contempt petition  
has been filed u/s  
17 of the A. & P. Act, 1985  
praying for initiation  
of a contempt proceeding  
against the respondent  
order dated 5.6.2001 in  
CA 423/2000.

18.10.01

Issue notice of motion, returnable  
within three weeks.

~~xxxx~~ List on 29.11.2001.

Member

29.11.01

Mr. SaSarma, learned counsel for  
the respondents has stated that he  
has received the instructions from  
respondents nos. 1 and 2 to represent  
their case and accordingly Mr. Sarma,  
prays for three weeks time to file  
written statement. Prayer is allowed.  
List on 24.12.01 for order.

Member

Vice-Chairman

Notice prepared and sent to  
A/S. for signing the Respondent  
No 1 & 2 by Regd A/D.

D/No 4043 to 4044

Dtd 5/11/07

① Service report was still awaited.

By  
28.11.01

No written statement has been filed.

By  
21.12.01

No written statement has been filed.

By  
11.1.02

No. wts has been filed.

By  
4.2.02

Wts has been filed by Contemner  
on 1.2.02.

8.2.2002

Copy of the order has been sent to the Office for issuing the order to the L/Secy for the parties.

②

24.12.01

List on 15.1.2002 to enable the respondents to file reply.

IC Usha  
Member

[Signature]  
Vice-Chairman

mb

15.1.02

List on 5.2.02 to enable the respondents to file written statement

IC Usha  
Member

[Signature]  
Vice-Chairman

lm

5.2.02

List the matter on 6.2.2002 alongwith O.A. No. 487/2001.

IC Usha  
Member

[Signature]  
Vice-Chairman

mb

6.2.02

Heard Mr. M.Chanda, learned counsel for the applicant and also Mr.S.Sarma, learned counsel for the respondents.

This is a Contempt Proceeding

for alleged and violation of the order dated 5.6.2001 in O.A. 423/2000. It appears that pursuant to the direction of the Tribunal in the aforesaid O.A., the respondents took a decision on the representation preferred by the applicant by order dated 4th December, 2001, which is <sup>also</sup> a subject matter in O.A. 487/2001. In this circumstances, we do not find any merit <sup>is</sup> in continuance of the C.P. The C.P./accordingly, <sup>stands dismissed</sup> closed.

IC Usha  
Member

[Signature]  
Vice-Chairman

mb

Filed by:-  
Suryajit Datta  
Advocate  
18.10.01

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : GUWAHATI

Contempt Petition No. 55 /2001

In O.A. No.423 of 2000

In the matter of :

Sri Tapan Kumar Chakraborty

.....Petitioner

-Versus-

Sri H.M. Cairae & Another.

..... Contemnners

-AND-

In the matter of :

An Application under Section 17 of the Administrative Tribunals Act, 1985 praying for initiation of a contempt proceeding against the contemnners for non-compliance of the judgment and order dated 05-06-2001 passed in O.A. No.423 /2000;

-AND-

In the matter of :

Willful disobedience and non-compliance of the Order dtd.05.06.2001 passed by this Hon'ble Tribunal in O.A. NO.423 /2000 directing the contemnners to re-consider the case of the petitioner for his posting at Calcutta ;

-AND-

Tapan K. Chakraborty.

In the matter of :

Sri Tapan Kumar Chakraborty

Son of late Motilal Chakraborty

Resident of Kanakpur Part-II, Silchar-5. District-Cachar  
(Assam).

... Petitioner

-Versus-

1. Sri H. M. Cairae  
Commissioner, Kendriya Vidyalaya Sangathan  
(Hqrs), 18, Institutional Area, Shaheed Jeet Singh  
Marg, New Delhi-16.
2. Shri D. Singh Bisht  
Joint Commissioner (Admn.), Kendriya  
Vidyalaya Sangathan (Hqrs), 18, Institutional  
Area, Shaheed Jeet Singh Marg, New Delhi-16.

..... Contemners

The humble petitioner above named most respectfully sheweths :

1. That this petition arises out of willful disobedience and non-compliance of the Order dtd.05.06.2001 passed by this Hon'ble Tribunal in O.A. NO.423/2000 filed by the petitioner wherein the contemners alongwith the other respondents were directed to re-consider the case of the petitioner for his posting at Calcutta in view of the option exercised by him seeking choice station posting.
2. That tersely described, the brief facts and circumstances of the case under which the aforesaid original application was filed by the petitioner were that the applicant, being aggrieved by an order dated 13.11.2000 issued by the Contemner No.1 transferring him from

Tapan K. Chakraborty

Kendriya Vidyalaya Sangathan, Regional Office, Silchar to Kendriya Vidyalaya Sangathan, Regional Office, New Delhi, in violation of the existing transfer guidelines and in frustration of his claim for choice station posting at Regional Office, Calcutta, had approached this Hon'ble Tribunal praying for setting aside the impugned order of transfer and for issuance of directions upon the respondents to consider and post him to his place of choice at R.O., Calcutta.

3. That the petitioner was brought to Regional Office, Silchar on transfer from Regional Office, Calcutta on 31.10.1995. However, on completion of a fixed tenure of three years service in the NE Region, the petitioner exercised his option in terms of the existing transfer guidelines for choice station posting at Regional Office, Calcutta. But, his case was not duly considered by the respondents in a most arbitrary and unfair manner. Nonetheless, he continued to press the respondents for redressal of his grievance but in vain and surprisingly by the impugned order dtd.13.11.2000, he was transferred to Regional Office, Delhi in colourable exercise of power.

4. That at this stage, because of the inaction of the respondents (therein), the petitioner approached this Hon'ble Tribunal in O.A. No.423/2000 to remove this discrimination and arbitrary action and this Hon'ble Tribunal after considering the matter had been pleased to pass interim orders on 07.12.2000 and 25.04.2001 restraining the respondents (therein) from relieving the petitioner from Silchar and from filling up the vacant post of Assistant at Regional Office, Calcutta.

5. That the above mentioned original application was heard in due course of time and after hearing the parties and considering the materials on record, this Hon'ble Tribunal allowed the application vide Order dtd.05.06.2001 and directed the respondents (therein) to re-consider the case of the petitioner for his posting at Calcutta on the basis of the representations so far filed by him in the year 1999-2000 and as per transfer policy guidelines.

A copy of the order dtd.05.06.2001 passed by this Hon'ble Tribunal in O.A. No.423/2000 is annexed herewith as Annexure - 1.

6. That the petitioner obtained a certified copy of the said order dtd.05.06.2001 and served the same to the contemnors (through proper channel) vide his letter dtd. 25.06.2001 and the said

Tapen K. Chakraborty

letter was duly forwarded by the Assistant Commissioner, K.V.S., R.O., Silchar to the contemnners vide letter no.F.No.4-1/2000-KVS(SR)/4360-66 dtd.28/26.06.2001.

Copies of the letter of the petitioner dtd. 25.06.2001 and the letter of the Assistant Commissioner dtd. 28/26.06.2001 are annexed herewith as Annexure-2 and 3 respectively.

7. That in terms of the directions passed by this Hon'ble Tribunal in O.A.No.423/2000, the contemnners were required to re-consider the case of the petitioner for his choice station posting at Regional Office, Calcutta and were also required to pass necessary orders to transfer and post him in the vacant post of Assistant at Regional Office, Calcutta. But the contemnners have not taken any action in terms of the order of this Hon'ble Tribunal dtd.05.06.2001 and thus have willfully flouted the order of this Hon'ble Tribunal. They have, therefore, made themselves liable to be punished for violating the order of this Hon'ble Tribunal.

8. That the above action of the Contemnners amount to willful disobedience to the Hon'ble Tribunal's direction and the same has been committed deliberately and intentionally. The contemnners are still acting arbitrarily and capriciously in their own design and this has resulted in substantial interference with the due course of justice. Hence, this petition for appropriate order under the law.

9. That it is submitted that the contemnners willfully did not take any initiative for implementation of the order dated 05.06.2001 passed by the Hon'ble Tribunal in O.A. No. 324/2000 and have deliberately defied the order of this Hon'ble Tribunal which amounts to contempt of Court. Therefore, they are liable to be proceeded against and punished according to law.

10. That it is a fit case for the Hon'ble Tribunal for initiation of contempt proceeding for deliberate non-compliance of the order dated 05.06.2001 passed by the Hon'ble Tribunal in O.A. No. 423 of 2000.

Tapau K. Chakraborty

11. That this petition is made bona fide and for the ends of justice.

Under the facts and circumstances stated above, the Hon'ble Tribunal be pleased to admit this petition and issue notice on the contemnors to show cause as to why a contempt proceeding should not be drawn up against them and to show cause further as to why they should not be punished for willful disobedience and non-compliance of the order dated 05.06.2001 passed in O.A. No.423/2000 ;

- and -

cause or causes being shown and upon hearing the parties be pleased to punish the contemnors in accordance with law and be further pleased to pass any such other order or orders as deemed fit and proper by the Hon'ble Tribunal.

And for this act of kindness the petitioner as in duty bound shall ever pray.

Tapau W. Chakraborty

AFFIDAVIT

I, Sri Tapan Kumar Chakraborty, son of late Motilal Chakraborty, aged about 45 years resident of Kanakpur Part-II, P.O. Silchar-5, in the district of Cachar, do hereby solemnly declare as follows :-

1. That I am the petitioner in the above contempt petition and as such well acquainted with the facts and circumstances of the case and also competent to sign this affidavit.
2. That the statement made in para 1-11 are true to my knowledge and belief and I have not suppressed any material fact.
3. That this Affidavit is made for the purpose of filing contempt petition before the Hon'ble Central Administrative Tribunal, Guwahati Bench, in the matter of non-compliance of the Hon'ble Tribunal's order dated 05.06.2001 passed in O.A. No.423/2000. And I sign this Affidavit on this 15th day of October, 2001.

*Tapan Kumar Chakraborty*

Identified by

Deponent

*Swajit Kumar*

Advocate

Solemnly affirmed and declared before me by the deponent who is identified by...*S. Dutta* Advocate on this *15th* day of...*October*...2001.

*S.K. Ghosh*  
Advocate (S.K. Ghosh)

*Tapan K. Chakraborty*



DRAFT CHARGE

Laid down before the Hon'ble Central Administrative Tribunal, Guwahati for initiating a contempt proceeding against the contemnors for willful disobedience and deliberate non-compliance of order of the Hon'ble Tribunal dated 05.06.2001 passed in O.A. No.423/2000.

Tapan K. Chakraborty.

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 423 of 2000.

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

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

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

By Advocate Sri S. Dutta.

- Versus -

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

By Advocate Sri S. Sarma.

ORDER

CHOWDHURY J. (V.C)

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

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

contd..2



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

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

contd...3

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

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

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

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

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

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

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

contd..4

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



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

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

not reveal the actual role played by the officers in making illegal appointments. The respondents are therefore under obligation to hold fresh enquiry and initiate disciplinary proceeding against all the persons concerned including the officers who were responsible for talking the final decision according terms of the advertisement.

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

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

contd. 6

proceeding mentioned in the written statement.

The application is allowed to the extent indicated.

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

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



So/ VICE CHAIRMAN

Certified to be true copy  
प्रमाणित प्रतिलिपि

Signature and date: 9/6/2001

Section Officer

आयुक्त, अधिकांश (न्यायिक शाखा)  
Central Administrative Tribunal  
केन्द्रीय प्रशासनिक अधिकरण  
Guwahati Bench, Guwahar  
गुवाहाटी न्यायपीठ, (गुवाहाटी)

Signature and date: 8/6/2001

To,

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Annexure - 2

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

(Through proper channel)

Ref: Order dated 5.6.2001 passed by the Hon'ble  
CAT, Guwahati, in O.A.No.423/2000 (Tapan Kr.  
Chakraborty-vs- Union of India & Ors.)

Sir,

Enclosed please find herewith a copy of the above Order passed by the Hon'ble Tribunal in the above mentioned case.

In this connection, I may say that by an order dtd.13.11.2000 I was transferred from R.O., Silchar, to R.O., Delhi on the plea of Public Interest without considering my option for choice station posting at R.O. Calcutta. I had completed my tenure in the North East during the year 1998 and during the year 1999-2000, I had opted for posting at Calcutta.

My representation for re-consideration/modification of the transfer order so as to transfer me to Calcutta was disposed of by memorandum dtd.29.01.2001 contending, inter-alia, that I was transferred to R.O., Delhi, in consideration of my request for transfer on completion of tenure at Silchar and my prayer for posting to Calcutta could not be acceded to in view of para 18(d) of the transfer guidelines.

I challenged the transfer order before the Hon'ble CAT, Guwahati, in O.A.No.423/2000. The Hon'ble CAT, upon threadbare consideration of the matter, has been pleased to hold that :-

(i) para 18(d) of the transfer guidelines is not applicable in my case and cannot stand on the way for considering my posting at Calcutta, and

(ii) the plea of pendency of the disciplinary proceeding cannot be a valid reason for not posting me at Calcutta.

It may not be out of place to mention here that during pendency of the case, the Hon'ble Tribunal passed orders on 7.12.2000 and 25.4.2001 prohibiting my release from Silchar and filling up of the vacant post of Assistant at Calcutta.

The Hon'ble CAT, vide Order dtd.5.6.2001, has allowed the application filed under O.A.No.423/2000 with the following direction :

....."For all the reasons stated above, the respondents are accordingly directed to re-consider the case of the applicant for his posting at Calcutta on the basis of his representation so far filed by the applicant in the year 1999-2000 and as per policy guidelines without being influenced by the pendency of the disciplinary proceeding mentioned in the written statement.

The application is allowed.....

Contd.P/2.....





The interim order dtd. 07-12-2000 and 25-04-2001 passed by this Tribunal shall remain operative till completion of the above exercise for posting him against the vacant post at Calcutta."

In the above circumstances, I would request you to kindly transfer me to R.O. Calcutta, in terms of the Order of the Hon'ble CAT, Guwahati. In this connection, copy of Office Order No. F.2-58/88 -KVS(I&C) dtd. 19/21.07.89, is enclosed for kind perusal and reference please.

In anticipation of your early action.

Enclosed : 1) Certified copy of the Order dtd. 5.6.2001, and  
2) Copy of the Orders dtd. 7.12.2000 and 25.4.2001

(for ready reference)

Dated : 25th June, 2001.

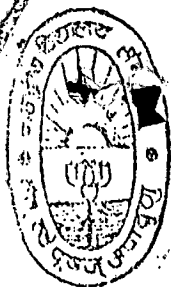
Yours faithfully,

*(Tapan Kumar Chakraborty)*  
Assistant  
Kendriya Vidyalaya Sangathan  
Regional Office, Silchar.  
Silchar-788 001.

Copy to :

1. The Jt. Commissioner (Admn), KVS, New Delhi - for information and necessary action.
2. The DC (Finance), KVS, New Delhi - do -
3. The Sr. A.O. (Establishment), KVS, New Delhi - do -
4. The Assistant Commissioner, Silchar - for information. (This also refers to letter dtd. 7.12.2000, 11.12.2000 and 26.04.2001 communicating the stay order dtd. 07.12.2000 and 25.04.2001). You are requested to forward the letter and orders of the Hon'ble CAT to the Commissioner and other Officers at KVS, Hqrs. as well as A.C., Calcutta at the earliest under intimation to the undersigned.
5. The Assistant Commissioner, Calcutta - for information and necessary action. (This also refers to the letter dtd. 26.4.2001 and 03.05.2001 communicating the stay order dtd. 25.04.01).

*(Tapan Kumar Chakraborty)*  
Assistant  
Kendriya Vidyalaya Sangathan  
Regional Office, Silchar  
Silchar - 788 001.



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दूरभाष - { 34009 (AC) with Fax  
34339 (AC) Resi.  
Phone - { 34154 (AO)  
45737 (EO)

केन्द्रीय विद्यालय संगठन

KENDRIYA VIDYALAYA SANGATHAN

Annexure - 2

क्षेत्रीय कार्यालय  
अस्पताल रोड,  
सिलचर - 788001

Regional Office  
Hospital Road,  
Silchar - 788001

पत्रांक

F. No.

4-1/2000-KVS(SR)/

4360-66

दिनांक

Dated 26.06.2001

To

Speed Post

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

Sub. : Court case O.A No.423/2000 filed by Sh.Tapan Kr.  
Chakraborty, Assistant.

Sir

I am to forward herewith the representation of Sh.  
Tapan Kr. Chakraborty, Asstt. of this Office on the subject cited  
above alongwith a copy of Order dated 08.06.2001 passed by the  
Hon'ble CAT, Guwahati Bench in O.A No.423/2000 for further  
necessary action.

Encls : As above.

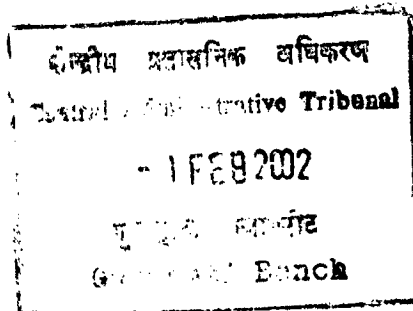
Yours faithfully,

( S.P. BAURI )  
Asstt. Commissioner.

Copy alongwith a copy of order dtd.8.6.2001 for  
information and necessary action to :

1. The Jt. Commissioner(Admn), KVS(Hqrs), New Delhi.
2. The Dy. Commissioner(Finance), KVS(Hqrs), New Delhi.
3. The Sr. A.O. (Estt), KVS(Hqrs), New Delhi.
4. The Asstt. Commissioner, KVS, RO, Calcutta.
5. The EO (L&C), KVS(HQRS), New Delhi.
- ✓ 6. Sh. Tapan Kr. Chakraborty, Assistant, KVS(RO) Silchar - for  
information only.

Asstt. Commissioner.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH  
AT GUWAHATI

Contempt Petition No. 55/2001

in O.A No. 423/2000.

Sri Tapan Kumar Chakraborty

..... Petitioner.

-VERSUS-

Sri H. M. Cairae

..... Contemner No. 1.

An affidavit filed on behalf of the Contemner No. 1.

I, Sri H. M. Cairae, Commissioner, Kendriya Vidyalaya Sangathan, solemnly affirm and declare as follows :

1. That I have been impleaded as Contemner No. 1 in the instant case. A copy of the contempt petition filed by the petitioner has been served upon me. I have gone through the same and understood the contents thereof. Save and except what has been specifically admitted in this affidavit and those which are matters of record to the extent the documents on record support them all other averments and submissions in the contempt petition may be treated to have been

denied by the deponent.

2. That with regard to the statements made in paragraph 1 of the contempt petition the deponent begs to submit that he has no intention to disobey the order of the Hon'ble C.A.T. The Hon'ble Tribunal have not fixed any time limit for reconsideration of the representation of the petitioner for transfer in its judgment dated 5.6.2001 and has kept operative the interim Orders dated 7.12.2000 and 25.4.2001 till the completion of exercise regarding posting of the petitioner at KVS Regional office, Calcutta. The post for which the petitioner has applied for transfer at Regional Office, Calcutta is still kept vacant with due honour to the Hon'ble Tribunal's Order.

3. That with regard to the statements made in paragraph 2 of the Contempt Petition the deponent has no comments.

4. That with regard to the statements made in paragraph 3 of the Contempt Petition the deponent begs to submit that the petitioner on his selection to the post of Assistant has joined at KVS, Regional Office Silchar from Regional office, Patna. The petitioner was working as UDC at KVS Regional Office Patna and on selection as Assistant he drew transfer benefits from the Regional office, Patna for joining the Regional Office, Silchar. Since the petitioner was

pressing hard for his transfer from KVS, RO Silchar time and again and also opted for Delhi in his application for transfer on request, he has been transferred to KV, RO, Delhi in public interest.

Copy of the application for transfer on request is enclosed herewith and marked as Annexure:-1.

5. That with regard to statements made in paragraph 4 and 5 of the Contempt Petition <sup>the</sup> deponent has no comments.

6. That with regard to the statements made in paragraph 6 of the Contempt petition the deponent begs to submit that forwarding of the Order of the Hon'ble Tribunal to the proper authority is a routine work of the sub-ordinate office.

7. That with regard to the statements made in paragraph 7 of the Contempt petition the deponent begs to submit that the case of the petitioner for his posting at Calcutta on the basis of the representation so far filed by the petitioner in the year 1999-2000 has been reconsidered by the competent authority but the same could not be acceded to. The petitioner has been informed vide order No. F-6-25/74-KVS(Estt-1) dated 4.12.2001. In fact the petitioner challenging the said order dated 4.12.2001 preferred OA No.487/01 and the said OA is pending disposal before the

Hon'ble Tribunal.

8. That with regard to the statements made in paragraph 8 of the Contempt Petition the deponent begs to submit that he has never disobeyed the Order of the Hon'ble Tribunal at any stage and the contentions of the petitioner is baseless and misleading specially relating to the modus-operandi of the KVS administration.

9. That with regard to the statements made in paragraph 9 of the Contempt petition the deponent begs to submit that he has not issued any order negating the order of the Hon'ble Tribunal.

10. That with regard to the statements made in paragraph 10 of the Contempt petition the deponent begs to submit that there is no willful and deliberate violation or disobedience of the Order passed by the Hon'ble Tribunal. In fact the judgment and order passed by this Hon'ble Tribunal has been implemented.

11. That this affidavit is made bonafide and in the interest of justice.

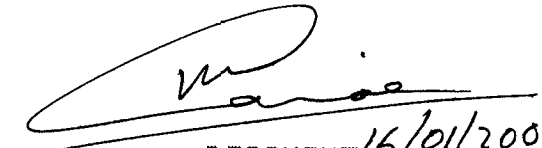
Verification.....

VERIFICATION

I, Sri H. M. Cairae, son of V.P. Cairae aged about 44 years, presently working as Commissioner, Kendriya Vidyalaya Sangathan, New Delhi, do hereby verify that the statement made in paragraphs 3 1, 3, 5, 6, 8, 9, 10, 11 are true to my knowledge and those made in paragraph 2 2, 4, 7 are based on records.

And I sign this verification of this the 16<sup>th</sup> day of January, 2002 at New Delhi.

Place: New Delhi

  
DEPONENT 16/01/2002

Date : 16.01.02.

## APPLICATION FOR TRANSFER OR REQUEST OF STAFF OF REGIONAL OFFICE

1. Name of Applicant : Tarapur Kumar (Karkachor)
2. Designation : Assistant
3. Whether working on adhoc basis or regular : Regular  
(if on adhoc basis indicate the permanent/regular cadre)
4. Seniority No. if allotted : 79
5. Date of joining the Sangathan : 04.5.78
6. Date of joining the present office in the present post : 30.10.95
7. Particulars of transfer since joining the Sangathan

Sl. No.	Name of Office	Post held	Period of stay		Nature of each transfer ie, request/public interest	Other relevant information if any.
			From	To		
1.	KV. Baramkhone (Gang)	L.D.O.	4.5.78	31.7.84	Public Interest	NIL.
2.	KVS. RO. Karkachor	U.D.O.	1.8.84	29.9.95	Public Interest	NIL.
3.	KVS. RO. Patna	U.D.O.	30.9.95	29.10.95	Public Interest	NIL.
4.	KVS. RO. Silekhar	Asstt.	30.10.95		Continuing Public Interest	NIL.

## 8. Particulars of home-town

Name of Town	Distt./Taluka	State	Distance from office by Rail/Road etc.	Other relevant information if any
Arinadhar	North-24 Pgs.	West-Bengal	1400 Km (approx)	NIL.
Karkachor-700057				

9. Specific reasons for seeking transfers : Stated here in below. (E)

In case an employee is seeking transfer on medical grounds documentary evidence in support of the illness, duly signed by the Distt. Medical Officer should be attached with the 1st copy of the application.

10. If applied for transfer in the past, indicate years and result thereof : Yes - 1995, 1996, 1997. Yielded no result.

2. A/C Completed 2 yrs in NDC. Prominent complaint for posting in Karkachor. vacancy existed in 04/95. No post in the commitment of 8th VK. Gupta, 2. A/C. (line 100).

The posting in Silekhar has

cont.....2

(a) Disrupt the family peace. (b) Disturbed child's education. (c) Unable to be able to maintain separate establishments in Karkachor & Silekhar. (d) forced not to discharge job duties to family. (e) forced to undergo financial loss. (f) suffered sufferings mentally, physically, socially thereby compelled to undergo irresponsible, irresponsible



ANNEXURE 1 contd  
25

11. Details of Employment of the spouse (if applicable)

Name	Place and name of the KV/Organisation/ Institution where employed.	Post held	Period of employment From (DD. MM. YY) To (DD. MM. YY)
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Note :- In case the spouse is employed, a certificate from the employer should be attached.

12. Particulars of stations (not more than three) requested for transfer in order of preference (choice of stations should be specific and not vague as anywhere in such and such state. In case an employee has only the choice of station he/she may not fill up second and third choice.)

- (1) CALCUTTA (2) KVS (H.S. 13) (3) ...

- Note : 1. Disciplinary action will be taken against employee submitting wrong information.  
2. Stations of choice, once given, will not be allowed to be altered.

Certificate : I certify that the particulars given above are correct.

Place : Silchar Tapan K. Chakrabarty  
Date : 05.01.98 Signature of the applicant  
with designation.

(FOR USE IN REGIONAL OFFICE)

1. Shri/Smt. T.K. Chakrabarty Asstt. was never transferred on administrative grounds on account of misconduct, indiscipline, indulging in tuition work etc.

2. ☒ Shri/Smt. \_\_\_\_\_ was transferred from \_\_\_\_\_ to \_\_\_\_\_ on administrative grounds (give detailed reasons).

\* 3. ☒ No disciplinary case is pending or contemplated against Shri/Smt. \_\_\_\_\_

Disciplinary case is pending against T.K. Chakrabarty  
Place : REC. ... Tapan K. Chakrabarty  
Date : \_\_\_\_\_ Signature of the Asstt. Commissioner with seal.

Note : To be filled in duplicate. One copy to be retained in the Regional Office and second copy to be sent to the Headquarters Office.

Transfer of staff on hypothetical grounds being tentative and does not lead to transfer on completion of 2 yrs. or after 2 yrs. of decision. Under the rules, signed by the competent authority of 3 yrs. and other conditions of guidelines for transfer of teachers are not applicable to Non-Teaching staff as per order of Divisional Secretary of Government, High Court in Writ Appeal No. 153 of 1996 arising out of G.O. Rule No. 332 of 1976 in the case of Shri P. Rajaraman & Co. vs. ...

Tapan K. Chakrabarty  
Asstt. Commissioner

Filed by \_\_\_\_\_  
 Sei B. Singh  
 Collector No. 2  
 through Borgehins  
 Miss Dipika  
 advocate  
 11/2/2002

AT GUWAHATI

1. That I have been impleaded as Contemner No.2 in the instant case. A copy of the contempt petition filed by the petitioner has been served upon me. I have gone through the same and understood the contents thereof. Save and except what has been specifically admitted in this affidavit and those which are matters of record to the extent the documents on record support them all other averments and submissions in the Contempt petition may be treated to have

been denied by the deponent.

2. That with regard to the statements made in paragraph 1 of the contempt petition the deponent begs to submit that he has no intention to disobey the order of the Hon'ble C.A.T. The Hon'ble Tribunal have not fixed any time limit for reconsideration of the representation of the petitioner for transfer in its judgment dated 5.6.2001 and has kept operative the interim Orders dated 7.12.2000 and 25.4.2001 till the completion of exercise regarding posting of the petitioner at KVS Regional office, Calcutta. The post for which the petitioner has applied for transfer at Regional Office, Calcutta is still kept vacant with due honour to the Hon'ble Tribunal's Order. --

3. That with regard to the statements made in paragraph 2 of the Contempt Petition the deponent has not comments.

4. That with regard to the statements made in paragraph 3 of the Contempt Petition the deponent begs to submit that the petitioner on his selection to the post of Assistant has joined at KVS, Regional Office Silchar from Regional office, Patna. The petitioner was working as UDC at KVS Regional Office Patna and on selection as Assistant he drew transfer benefits from the Regional office, Patna for joining the Regional Office, Silchar. Since the petitioner was

pressing hard for his transfer from KVS, PO Silchar time and again and also opted for Delhi in his application for transfer on request, he has been transferred to KV, RO, Delhi in public interest.

Copy of the application for transfer on request is enclosed herewith and marked as Annexure:-1.

5. That with regard to statements made in paragraph 4 and 5 of the Contempt Petition deponent has no comments.

6. That with regard to the statements made in paragraph 6 of the Contempt petition the deponent begs to submit that forwarding of the Order of the Hon'ble Tribunal to the proper authority is a routine work of the sub-ordinate office.

7. That with regard to the statements made in paragraph 7 of the Contempt petition the deponent begs to submit that the case of the petitioner for his posting at Calcutta on the basis of the representation so far filed by the petitioner in the year 1999-2000 has been reconsidered by the competent authority but the same could not be acceded to the petitioner has been informed vide order No. F-6-25/74-KVS(Estt-10) dated 4.12.2001. In fact the petitioner challenging the said order dated 4.12.2001 preferred OA No.487/01 and the said OA is pending disposal before the

Hon'ble Tribunal.

8. That with regard to the statements made in paragraph 8 of the Contempt Petition the deponent begs to submit that he has never disobeyed the Order of the Hon'ble Tribunal at any stage and the contentions of the petitioner is baseless and misleading specially relating to the modus operandi of the KVS administration.

9. That with regard to the statements made in paragraph 9 of the Contempt petition the deponent begs to submit that he has not issued any order negating the order of the Hon'ble Tribunal.

10. That with regard to the statements made in paragraph 10 of the Contempt petition the deponent begs to submit that there is no willful and deliberation violation or disobedience of the Order passed by the Hon'ble Tribunal. In fact the judgment and order passed by this Hon'ble Tribunal has been implemented.

11. That this affidavit is made bonafide and in the interest of justice.

Verification.....

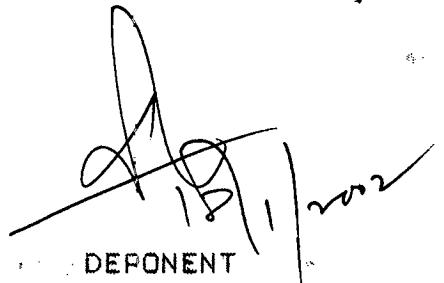
VERIFICATION

I, Sri D. Singh Bisht, son of Sri I.S. Bisht  
aged about 38 years, presently working as Commissioner, Kendriya Vidyalaya Sangathan, New Delhi, do hereby verify that  
the statement made in paragraphs 1, 3, 5, 6, 8 to 11  
are true to my knowledge and those  
made in paragraphs 2, 4 & 7 are based on  
records.

And I sign this verification of this the 18<sup>th</sup> day  
of January, 2002 at New Delhi.

Place: New Delhi

Date : 18-1-2002

  
DEPONENT

## APPLICATION FOR TRANSFER ON REQUEST OF STAFF OF REGIONAL OFFICE

31

1. Name of Applicant : Tarapur Kumar (Kakichar)
2. Designation : Assistant
3. Whether working on adhoc basis or regular : Regular
- (if on adhoc basis indicate the permanent/regular cadre)
4. Seniority No. if allotted : 79
5. Date of joining the Sangathan : 04.5.78
6. Date of joining the present office in the present post : 30.10.95
7. Particulars of transfer since joining the Sangathan

Sl. No.	Name of Office	Post held	Period of stay		Nature of transfer request/public interest	Other relevant information if any.
			From	To		
1.	K.V. Buxar (Gang)	L.D.C.	4.5.78	31.7.84	Public Interest	NIL.
2.	KVS. RO. Buxar	L.D.C.	1.8.84	29.7.95	Public Interest	NIL.
3.	KVS. RO. Patna	WOC	30.7.95	29.10.95	Public Interest	NIL.
4.	KVS. RO. Silchar	Asstt.	30.10.95		continuing Public Interest	NIL.

## 8. Particulars of home town

Name of Town	Distt./Taluka	State	Distance from office by Rail/Road etc.	Other relevant information if any
Amadaha Calcutta-700057.	North-24 Pgs.	West-Bengal.	1400 Km (air)	NIL.

9. Specific reasons for seeking transfers : Stated here in below. (C)

In case an employee is seeking transfer on medical grounds documentary evidence in support of the illness, duly signed by the Distt. Medical Officer, should be attached with the 1st copy of the application.

10. If applied for transfer in the past, indicate years and result thereof : Yes - 1995, 1996, 1997. Yielded no result.

(C) Completed 2 yrs in NRC. Prominent satisfied for posting in Calcutta against vacancy existed in 1995. Please mention commitment of Sr. VK. Gupta, Sr. Asstt. (line) (KVS).

Cont.....2

The posting in Silchar has

(A) disrupted the family peace. (B) disturbed child's education. (C) made it difficult for family to maintain separate establishments in Calcutta & Silchar. (D) forced not to discharge child duties to family. (E) forced to undergo financial loss of Rs. 20,000. (F) suffered sufferings mentally, physically, socially thereby compelled to undergo irreparable, irreparable loss.

11. Details of Employment of the spouse (if applicable)

Name	Place and name of the KV/Organisation/ Institution where employed.	Post held	Period of employment From (dd/mm/yy) To (dd/mm/yy)

Note :- In case the spouse is employed, a certificate from the employer should be attached.

12. Particulars of stations (not more than three) requested for transfer in order of preference (choice of stations should be specific and not vague as many where in such and such state. In case an employee has only the choice of station he/she may not fill up second and third choice.)

- (1) CALCUTTA (2) KANS (H.S. 13) (3) HATIA

Note : 1. Disciplinary action will be taken against employee submitting wrong information.

2. Stations of choice, once given, will not be allowed to be altered.

Certificate : I certify that the particulars given above are correct.

Place : Saichon

Date : 05.01.98

Signature of the applicant

Signature of the applicant  
with designation. *[Signature]*

(FOR USE IN REGIONAL OFFICE)

1. Shri/Smt. T.K. Chakraborty, Asstt. WAS NEVER  
transferred on administrative grounds on account of misconduct,  
indiscipline, indulging in tuition work etc.

2. ☒ Shri/Smt. \_\_\_\_\_ was transferred from \_\_\_\_\_ to \_\_\_\_\_ on administrative grounds: (give detailed reasons). \_\_\_\_\_

- \* 3. X No disciplinary case is pending or contemplated against  
Shri/Smt. \_\_\_\_\_

Place :

Date :

Signal the Asstt. Comandante  
with seal.

Note : To be filled in duplicate. One copy to be retained in the Regional Office and second copy to be sent to the Headquarters Office.

Sharp School District upon an hypothetical grounds being untenable and  
time wasted as well as a separate issue, prudence of discipline, prudence  
does not have transfer on suspension of 2 yrs. in N.T.R. in terms of 2 yrs.  
decision. Since the reader signal has completed 1973. of service, tenure  
of 3 yrs. and other contributions of qualifications for 5-years of teachers  
are not at all applicable to Non-Teaching Staff as far as order of Division  
Board of Education High School in Wild Appeal NO. 153 of 1996 existing  
out of School Rule NO. 332 of 1996 - see the case of Stan P. Riskover  
V. W.D.S. & Co.

Tolson, W. A. C. K. R. L.