

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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E.P/M.A No.

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SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 182/2000 OF 199

Applicant(s) Sri Pradip M. Saikia.

Respondent(s) K. V. S.

Advocate for Applicant(s) Mr. S.C. Dutta Roy
Mr. A.K. Roy.

Advocate for Respondent(s) Dr. B. P. Todi
K.V.S.

OA 31/2K

Notes of the Registry	Date	Order of the Tribunal
<p>and would like to F. of Rs. 500 deposited vide IPO BD No. 497255 dated 15.5.2000</p> <p>IN 516/2000</p> <p>7.6.2000</p> <p>Notice prepared and sent to D. Section for issuing of the same to the respondents through Regd. post with A/P.</p>	<p>6.6.00</p>	<p>Present : Hon'ble Sri D.C.Verma, Member (J).</p> <p>Mr. A.K.Roy, learned counsel for the applicant and Dr. B.P.Todi, learned counsel for the Kendriya Vidyalaya Sangathan.</p> <p>Issue notice to the respondents as to why the application shall not be admitted. Returnable on 21.6.2000. Written statement to be filed within two weeks. Endeavor will be made to dispose of the matter on that date.</p> <p>List on 21.6.2000 for written statement and further orders.</p> <p>Member(J)</p>

trd
21.6.00

Then 4 no. Benar today.
21.6.00 12.7.00. 820 km

Notes of the Registry

Date

Order of the Tribunal

13/6/00

D/No 1541 to 1543

dtd 12/6/00

12.7.00

Present : Hon'ble Mr. S. Biswas,
Administrative Member.

None for the respondents. Ms P. Baruah on behalf of Dr. B.P. Todi, learned counsel for KVS seeks for adjournment.

The case is adjourned and posted for admission on 2.8.00.

Member (A)

mk

2.8.00

There is no Bench.
Adjourned to 23-8-00.

23.8.00

There is no Bench adjourned to 28.8.00.

28.9.00

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

Heard Mr. A.K. Roy, learned counsel for the applicant.

Application is admitted. No further notice need be issued. Call for the records.

List on 1.11.2000 for further orders.

Vice-Chairman

trd

1-11-00

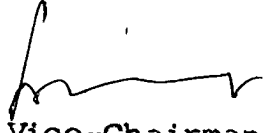


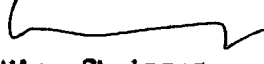
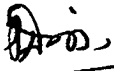
No representation, List again on 2-11-00.

2.11.00

Four weeks time is allowed to the respondents to file written statement on the prayer of Dr B.P. Todi, learned counsel for KVS.

List on 30.11.2000 for order.

Vice-Chairman

Notes of the Registry	Date	Order of the Tribunal
	30.11.00	<p>It has been stated that written statement has already been filed.</p> <p>List on 30.3.2001 for hearing. The applicant may file rejoinder, if any in the meantime.</p> <p> Vice-Chairman</p>
<p><u>19.12.2000</u></p> <p>Rejoinder Statement has been filed by the respondent para 2, 3.</p> <p></p>	pg 30.3.	<p>The case is adjourned to 30/4/2001.</p>
	30.4.	<p>Ms. A. B. Jeyaraj 2013 Left at tomorrow along with OA 31/2000.</p>
	1.5.	<p>Ms. A. B. Jeyaraj 30.4.1 Left at along with OA 9/2000 & 91/2000.</p> <p>Ms. A. B. Jeyaraj 1.5</p>
<p><u>19.12.2000</u></p> <p>Rejoinder has been filed by the applicant Advocate.</p> <p></p>	9.5.	<p>Left on 9.5. Left again on 23/5/2001.</p> <p>Ms. A. B. Jeyaraj 9.5</p>
	23.5.01	<p>CAV.</p> <p>Ms. A. B. Jeyaraj 23.5</p>
<p><u>23.4.2001</u></p> <p>An additional statement has been submitted by the applicant.</p>	25.6.01	<p>Judgement pronounced in the open court. Kept in separate sheets. The application is allowed in terms of the orders. No orders as to costs.</p> <p>IC. V. Subramanian Member</p> <p> Vice-Chairman</p>
<p><u>28.8.2001</u></p> <p></p> <p>Copy of the judgment has been sent to the D/Sec. for issuing the order to the L/Adv. for the respondent and same has been handed over to the L/Adv. for the applicant.</p>	mb	

Notes of the Registry	Date	Order of the Tribunal

6

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./K.X. No. . . 182. . . . of 2000.

DATE OF DECISION 25-6-2001.

Shri Pradip Kumar Saikia

APPLICANT(S)

Sri S.C.Dutta Roy

ADVOCATE FOR THE APPLICANT(S)

- VERSUS -

Union of India & Ors.

RESPONDENT(S)

Sri S. Sarma.

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 Admn.Member.

K C Sharma

✓

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 182 of 2000.

Date of Order : This the 25th Day of June, 2001.

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

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

Shri Pradip Kumar Saikia,
Son of Shri Khogeswar Saikia
Vill & P.O. Bongal Gaon via Dergaon,
District Golaghat (Assam) . . . Applicant

By Advocate Sri S.C.Dutta Roy.

- Versus -

1. Union of India,
represented by the Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Saheed Jeet Singh Marg,
New Delhi.
2. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Guwahati Regional Office,
Maligaon, Guwahati-12.
3. The Principal,
Kendriya Vidyalaya, O.N.G.C.,
Jorhat. . . . Respondents.

By Advocate Sri S.Sarma.

O R D E R

K.K.SHARMA, ADMN.MEMBER,

By this O.A. under Section 19 of the Administrative Tribunals Act, 1985 the applicant claims revised pay scale with effect from 1.1.1996. The second relief claimed by the applicant is the salary for the period of school vacations from the year 1992.

2. The applicant is an employee of the Kendriya Vidyalaya. He joined as a Teacher in Kendriya Vidyalaya, O.N.G.C., Jorhat on 26.7.1991 on part time basis. As per the conditions laid down the applicant was entitled to 75% of the basic pay given to regular teacher which was

K K Sharma

contd..2

Rs.1400/- per month. There was a revision of pay of teachers with effect from 1.1.1996 and the basic pay of Rs.1400/- for teacher was raised to Rs.5500/- per month. The applicant claims that with effect from 1.1.96 he is entitled to 75% of the basic pay of Rs.5500/-. The applicant submitted 3 representations dated 9.3.98, 17.2.99 and 9.4.99 but the authorities failed to give any reply to the representations. The applicant anticipating termination from service approached the Hon'ble Gauhati High Court in Civil Rule No.517/92 and by order dated 16.3.92 the respondents were restrained from terminating the services of the applicant. Accordingly the applicant is in continuous service with effect from 26.7.1991. It is stated that similarly situated teachers working in Kendriya Vidyalaya Tezpur No.1 and II are being paid salary in the revised scale with effect from 1.1.96. The applicant is also not being paid the salary for the vacation period ever since he joined the service. Similarly situated teachers of the North Eastern Region are being paid salary during the vacation period. The Kendriya Vidyalaya Ad Hoc Teachers' Association approached Gauhati High Court in Civil Rule No.1526/92 assailing non payment of salary during vacation period to the members of the Association. The High Court directed the Kendriya Vidyalaya authorities to pay the salary for the vacation period from December 1992. Similar direction was given by the Gauhati High Court in Misc.Case No.1022/93 in Civil Rule No. 646/92 dated 25.1.94. Following the aforesaid decisions the respondents are paying summer vacation salary to the members of the teachers Association who approached the High Court but as the applicant did not approach the High Court he is being deprived of this

contd..3

11/11/94

benefit. The applicant's representation dated 17.2.99 was forwarded by the Principal, KV, O.N.G.C with recommendation (as per Annexure-D) of the O.A). The Principal has mentioned that the other teachers are getting vacation period salary.

3. We have heard Mr S.C.Dutta Roy, learned counsel for the applicant. The respondents have filed their written statement. Mr S.Sarma, learned counsel who appeared on behalf of the respondents submitted that the payment to part time teachers is consolidated one and was 75% of the pay admissible to a regular employee at that time. The system of engaging part time teachers has since been discontinued from 1994. The claim of the applicant for revision of scale with effect from 1.1.96 is not in order. It has also been submitted that the applicant applied for regular appointment under the scheme framed by the KVS approved by the High Court on 13.9.94. The applicant also applied for the post but as he did not possess the prescribed minimum qualification he was not called for interview. As ^{per} the rules of the KVS that the teachers appointed on part time basis are not entitled to any vacation pay.

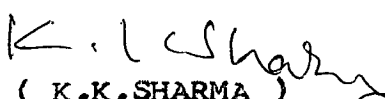
4. We have given our anxious consideration to the submissions made by the parties. The applicant was appointed in the year 1991 when the basic pay of the teachers was Rs.1400/-. Being a part time employee he was paid 75% of the basic pay. The pay scale of the teachers have undergone a revision with effect from 1.1.96. Similarly appointed teachers appointed in Tezpur are getting salary at the revised rates with effect from 1.1.96. It is highly discriminatory on the part of the respondents to deny


contd..4

16/11/2009

the applicant the same pay which is being paid to the similarly situated teachers. Denial of revision of pay to the applicant simply ^{is made} on the ground that he was a part time teacher and had agreed to be paid 75% of the pay in 1991 on the basis of a contractual appointment ^{and as such} he will be denied revision of pay. Non revision of pay is violative of principles of natural justice. The respondents are directed to pay the applicant 75% of the basic pay at the revised rate of pay with effect from 1.1.96. The part time teachers who are members of the Association and who had approached the High Court are being allowed the salary for the vacation period. The respondents being an organisation of the Central Government cannot discriminate towards its employees. They cannot pay at different rates to employees for the same work. The respondents cannot discriminate against the applicant and pay him differently than the payment being made to members of the Association. Similarly appointed teachers are being paid for the vacation period in other schools as admitted by the Principal, KV, O.N.G.C, Jorhat while recommending the applicant's representation dated 17.2.99 for consideration by Assistant Commissioner, KVS (GR). The High Court has already approved payment of salary during the vacation period. The same benefit cannot be denied to the applicant solely on the ground that he did not file a petition before the High Court. The respondents are directed to pay salary for the vacation period as directed by the High Court from the year 1992.

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


(K.K.SHARMA)
ADMINISTRATIVE MEMBER


(D.N.CHOWDHURY)
VICE CHAIRMAN

Central Administrative Tribunal

415 3 JUN 2000

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 182/2000.

Sri Prodip Kumar Saikia - Applicant
-Vs-
Kendriya Vidyalaya Sangathan - Respondents.

<u>Sl. No.</u>	<u>Particulars</u>	<u>Pages</u>
1.	Application ...	1- 10
2.	Verification ...	11
3.	Annexure A ...	12
4.	Annexure B ...	13-14
5.	Annexure C ...	14 -15
6.	Annexure D ...	16

Filed by -

For use in Tribunal's office.

A.K. Roy
(A.K. Roy)
Advocate.

Signature
Date

✓
Filed by the applicant
through -
Ashok K. Ray
Advocate 26/6/2000

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH.

(An application under Sec.19 of the Administrative Tribunal
Act 1985)

For use in Tribunal's Office

Signature _____

Date _____

O. A. No. _____ of 2000.

BETWEEN

Shri Prodip Kumar Saikia,
S/O Shri Khogeswar Saikia,
Vill:& P.O. Bongal Gaon via Dergaon,
District: Golaghat (Assam)

.... Applicant.

AND

1. Union of India, represented by
the Commissioner, Kendriya
Vidyalaya Sangathan,
18, Institutional Area,
Saheed Jeet Singh Marg,
New Delhi.
2. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Guwahati Regional Office,
Maligaon, Guwahati -12.
3. The Principal,
Kendriya Vidyalaya, O.N.G.C.,
Jorhat.

.... Respondents.

1. Particulars of Order against which the application is made:
Non-payment of admissible salary to the applicant as
per the revised pay scale with effect from 1.1.1996
and vacation salary for summer, autumn and winter
vacations from 1992.

R.K. Saikia

2. Jurisdiction of the Tribunal:

The applicant declares that the subject matter of the application is within the jurisdiction of this Hon'ble Tribunal.

3. Limitation:

The applicant also declares that the application is within the limitation period as has been prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE:

1) That, the applicant was appointed as a teacher in Kendriya Vidyalaya, O.N.G.C., Jorhat on 26.7.1991, after due selection on part-time basis. Accordingly he joined service in the said Kendriya Vidyalaya on that very day as a part-time teacher and started discharging his duties with utmost sincerity, devotion and to the satisfaction of all concerned.

ii) That, as per the conditions laid down in the Education Code for Kendriya Vidyalaya Sangathan, the applicant was paid 75% of the Basic pay which was then Rs.1,400/- per month.

iii) That, the Kendriya Vidyalaya Sangathan revised the pay scales of all categories of teachers and non-teaching staff with effect from 1.1.1996 and the scale of Rs.1400/- was raised to Rs. 5,500/- per month. Thus as per the rules the applicant is entitled to get 75% of the revised pay, i.e., Rs.5,500/- with effect from 1.1.1996.

iv) That, although the scale of pay in which the applicant was initially appointed, has been revised from Rs.1,400/-pm to Rs.5,500/-P.M. with effect from 1.1.1996, the petitioner is still being paid 75% of the pre-revised basic pay.

v) That, the applicant having found that the authorities

P.K. Saikia

of the Kendriya Vidyalaya Sangathan are not taking any action in this regard, the applicant submitted a representation to the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Guwahati Regional Office on 9th March, 1998, through proper channel, praying him to pay the applicant his salary in the revised scale of pay from January, 1996, the day on which the revised scale of pay became effective.

A copy of the applicant's representation dt. 9th March, '98 is annexed herewith and marked as Annexure A.

vi) That, in this connection it may be stated here that anticipating termination from service, the petitioner approached this Hon'ble Court in Civil Rule No.517/92 and this Hon'ble Gauhati High Court by order dated 16.3.1992 in the aforesaid Civil Rule restrained the respondents from terminating the services of the applicant. Accordingly the applicant has been in continuous service in the said Kendriya Vidyalaya, ONGC, Jorhat since his appointment on 26.7.1991.

vii) That, having failed to get any response from the authorities on his representation dated 9th March, 1998, the applicant submitted reminders on 24th October, 1998, and 9th November, 1998. But unfortunately even those reminders also produced no results even though on all his representations and reminders, the Principal of the Vidyalaya concerned, recommended his case for favourable consideration.

viii) That, in this connection it may also be mentioned that similarly situated teachers working in Kendriya Vidyalaya No.1 and 2, Tezpur are being paid their salary in the revised scale of pay with effect from 1.1.1996 whereas the applicant is still being paid in the pre-revised scale of pay.

P.K. Saikia

ix) That, it may also be stated here that ever since the petitioner joined service in the said Kendriya Vidyalaya, O.N.G.C., Jorhat he is being paid salary for 29 days only and not for the whole month. The applicant is also not being paid salary for summer vacation, Autumn vacation and winter vacation since he joined service. But similarly situated teachers throughout N.E. region are being paid vacation salary but the applicant is being deprived of vacation salary for reasons best known to the KVS authorities.

x) That, the Kendriya Vidyalaya Ad-hoc Teachers' Association & others approached the Hon'ble Gauhati High Court in Civil Rule No.1526/92 assailing non-payment of summer vacation salary to the members of the said Association. The Hon'ble High Court, following the decisions of the Hon'ble Apex Court in Ratanlal-Vs-State of Haryana, reported in AIR 1987 SC 476 - (1985) 4 SCC 43 and also decision reported in AIR 1992 SC 677 directed the KVS authorities to pay the salary from 1992 for the period of summer vacation so long they continued in service, vide order dated 10.6.93 in the aforesaid Civil Rule.

Similarly, the Hon'ble Gauhati High Court in Misc. case No.1022/93 in Civil Rule No.646/92, by order dated 25.1.94 directed the respondents to pay the writ petitioners their salaries for the summer vacation.

Copies or orders of the Hon'ble Gauhati High Court dt. 10.6.93 in C/R 1526/92 and orders dt.25.1.94 in Misc. case No.1022/93 in C.R.646/92 are annexed herewith as Annexures B and C respectively.

P.R. Saikia

xi) That following the aforesaid decisions of the Hon'ble Gauhati High Court, the Kendriya Vidyalaya Sangathan authorities are paying summer vacation salary to all the members of the Kendriya Vidyalaya Ad-hoc Teachers' Association and other teachers, both adhoc and part-time, who approached the Hon'ble Gauhati High Court, regularly. But since the applicant did not approach the Hon'ble High Court against non-payment of vacation salaries, he is being deprived of it even though he had been in continuous service since the date of joining service in the said Kendriya Vidyalaya.

xii) That, as the applicant also stand on the same footing he is also entitled to vacation salaries but he is not being paid his due vacation salary for reasons best known to the authorities. The applicant, therefore, submitted a written representation on 17th February, 1999 to the Principal, Kendriya Vidyalaya, ONGC, Jorhat praying for payment of full monthly salary in the revised scale of pay and also salary for the vacation periods starting from 1992. The said representation of the applicant was duly forwarded to the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Guwahati Regional Office with a strong recommendation for necessary instructions in this regard. It was also pointed out in the forwarding note that the Principals, Kendriya Vidyalaya No.1 and 2, Tezpur are giving the same to adhoc teachers retained under Court's orders.

A copy of the said representation dtd. 17.2.99 is annexed herewith as

Annexure D.

xiii) That, although the case of the petitioner was strongly recommended by the Principal of the Vidyalaya concerned, the KVS authorities have not passed any orders in this regard.

and the petitioner has been deprived of his due salary for no fault of his own. The petitioner, therefore, submitted yet another representation to the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Guwahati Regional Office on 9th April, 1999, through the Principal of the Vidyalay concerned, who duly forwarded the representation to the Asstt. Commissioner with his recommendation.

xiv) That, though the representations have been submitted to the authorities long ago, no action whatsoever has been taken in the matter and the petitioner has been made to suffer financially for no fault of his own.

xv) That, it is stated that since the similarly situated adhoc/part-time teachers working in Kendriya Vidyalaya No.1 and 2, Tezpur are being paid salary in the revised scale of pay and are also being paid their vacation salaries regularly there is absolutely no justification for the authorities to deny the applicant his due salary in the revised scale of pay and also vacation salary. Therefore, the applicant is being unjustly and illegally discriminated in the matter of payment of monthly salary and vacation salary.

xvi) That, the action of the respondents being highly discriminatory, it is violative of the provisions in Article 14 of the Constitution of India.

xvii) That, it is stated that the applicant has been in continuous service since his initial appointment on 26.7.1991 without any break and as such he is entitled to get vacation salary for the vacation period as per the decision of the Hon'ble Apex Court and also Hon'ble Gauhati High Court.

xviii) That, it is also stated that the scale of pay in which the applicant was initially appointed is no more in existence, the sales of pay having been revised in 1996.

P. K. Saikia

Therefore, there is no reason why the applicant should not be paid his salary according to the revised scale of pay which came into being with effect from 1.1.1996. Moreover, when the similarly situated part-time teachers working in Kendriya Vidyalaya No.1 and 2 Tezpur are being paid salary in the revised scale of pay, there is no justification whatsoever to deny the applicant his legitimate salary.

xiv) That, it also stated that since the adhoc/part-time teachers in different Kendriya Vidyalayas who are continuing in service on the orders of the Hon'ble High Court, are being paid vacation salary, there can be no justification to deny the applicant his vacation salary which is due to him since 1992.

xv) That, it is reiterated that the applicant has been continuing in service since his initial appointment on 26.7.1991 without any break, though under orders from the Hon'ble Gauhati High Court. As such he is entitled to vacation salary from 1992 onwards as per the decisions of the Hon'ble Apex Court and Gauhati High Court.

xi) That, the applicant is also entitled to get his pay in the revised scale of pay since the scale of pay in which he was first appointed is no more in existence, the scale of pay having been revised by the authorities with effect from 1.1.1996.

xvii) That, being highly aggrieved by the action of the respondents in denying the applicant revised scale of pay as also his vacation salary, the applicant has come up before this Hon'ble Tribunal praying for a direction to the respondents to pay him his due monthly salary in the revised scale of pay and also his vacation salary.

P. K. Saikia

5. GROUND FOR APPEAL:

i) For that, the action of the respondents in denying the petitioner of his monthly salary and vacation salary in the revised scale of pay which came into existence with effect from 1.1.1996, is arbitrary, illegal and violative of all canons of justice.

ii) For that, since the similarly situated adhoc/part-time teachers working in Kendriya Vidyalaya No.1 and 2, Tezpur are being paid their salary in the revised scale of pay with effect from 1.1.1996 and are being paid their vacation salary from 1992, the action of the respondents in depriving the applicant of the same benefit, it is highly discriminatory violative of Article 14 of the Constitution of India.

iii) For that, when the scale of pay in which the applicant was initially appointed is no more there, the scale of pay having been revised by the authorities with effect from 1.1.1996, there is absolutely no justification in paying the applicant in the old scale of pay which is no more in existence. Therefore, the action of the respondents is arbitrary, mala fide and without any cogent reason.

iv) For that, since the applicant has been in continuous service since his initial appointment on 26.7.1991, there is no reason why the applicant should be denied his vacation salary from 1992. Thus the action of the respondents is violative of the decisions of the Hon'ble Apex Court and the Hon'ble Gauhati High Court.

v) For that, in any view of the matter the action of the respondents in denying the petitioner his salary in the revised scale of pay and his vacation salary, is arbitrary, illegal, mala fide and violative of all canons of justice.

P. K. Saikia

6.. DETAILS OF REMEDIES EXHAUSTED:

The applicant declares that he has submitted appeals/ representations to the authorities praying for redressal of his genuine grievances but no response has been received from the authorities. He has, therefore, no alternative than to approach this Hon'ble Tribunal for redressal of his grievances.

7. WHETHER ANY CASE IS PENDING IN ANY COURT OR TRIBUNAL ON THIS ISSUE:

The applicant further declares that he has not filed any other application or suit with regard to the matter agitated in this petition before any Court or any other Bench of this Tribunal, or any suit or proceeding before any of them.

8. RELIEFS SOUGHT FOR:

Under the facts and circumstances stated above, the applicant prays for the following reliefs :-

a) A direction to the respondents to pay the applicant his full monthly salary in the revised scale of pay which came into existence with effect from 1.1.1996 and also to pay him salary for the vacation period, summer, autumn and winter, with effect from 1992 as is being paid to the similarly situated adhoc/part-time teachers working in other Kendriya Vidyalayas.

b) To grant him any other reliefs as the Hon'ble Tribunal seems fit and proper.

c) The cost of the proceeding.

9. INTERIM RELIEF, IF ANY:

Under the facts and circumstances the applicant prays that the Hon'ble Tribunal may be pleased to pass an interim order directing the respondents to pay the applicant his full monthly salary in the revised scale of pay from the

P.K. Saikrishna

current month onwards.

10. DETAILS OF I.P.O.

I.P.O. No. 06 497255 Dated 19/5/2000 for Rs. 50. 00.

(Rupees fifty) only is enclosed.

... 11.

P. K. Saikrishna

Page 16

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

I, Shri Prodip Kumar Saikia, son of Shri Khgeswar Saikia, aged about 42 years, permanent resident of village & P.O. Bongal Gaon, via Dergaon in the District of Golaghat, Assam, and presently staying at Jorhat town, and applicant in the instant application, do hereby verify that the statements made in this application from paragraphs 1 to 7 above are true to the best of my knowledge and belief and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this verification this the 2nd ~~nd~~
^{June}
~~day~~ day of ~~May~~, 2000 at Guwahati.

Prodip Kumar Saikia
Signature of Applicant.

To
The Asstt. Commissioner,
Kendriyaa Vidyalaya Sangathan,
Regional Office,
Maligaon, Guwahati -781012.

Dated 9th March, '98.

(Through the Principal, Kendriya Vidyalaya, ONGC,
Jorhat)

Subject: Prayer for allowing to draw the salary of 75% of
Rs.5,500/-.

Sir,

With due respect I beg to state that I have been working here as TGT(S.St.) on part-time basis since 26.7.91 under an interim order of the Hon'ble Gauhati High Court and drawing the salary of 75% of the basic pay of Rs.1400/-. As the basic pay has now risen to Rs.5,500/- from 1.1.96 declared by Vth Pay Commission, I should be entitled to get the salary of 74% of the revised basic pay of Rs.5,500/- from 1.1.1996.

I, therefore, request you to kindly look into the matter and make necessary orders at your earliest convenience.

I will remain ever grateful to you for your kind and sympathetic action in this regard.

With warm regards,

Yours faithfully,

Sd/- Prodip Kr. Saikia,
Part-time TGT(S.St),
K.V. ONGC, Jorhat.

Date: 11.3.98

Place: Jorhat.

Received.

Sd/- Illegible.
11.3.98.

(Seal of School)

Attacked by

AKB

Admitted
1/6/2000

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

CIVIL APPELLATE SIDE

Civil Rule No.1526/92.

Kendriya Vidyalaya Ad-hoc Teachers' Association & ors. -Petitioners.

-Versus -

Union of India & ors.

-Respondents.

P R E S E N T.

HON'BLE MR JUSTICE S.N. PHUKAN

For the petitioners: Mr.R.P. Sarmah,
Mr. S.C.Dutta Roy,
Mr. H.K.Baishya, Advocates.

For the Respondents: Mr. P.G.Baruah,
Mr. D.Goswami,
Mr. R.Baruah, Advocates for Resp.2 to 22.

Date: 10.6.93.

O R D E R

After hearing learned counsel for the parties the petition is disposed of finally.

The writ petition has been filed by the Kendriya Vidyalaya Ad-hoc Teachers' Association and the grievance of the teachers is that though they are continuing in service they have not been paid the salary for the summer vacation of the school. The period of vacation is for 60 days. The petitioners have claimed the salary for the summer vacation since 1992. It may be stated that the services of the adhoc teachers were directed not to be terminated by this court.

The first question that arises regarding locus standi. The petitioner being a representative body has got right to file the present petition in view of the various decisions of the Apex Court (AIR 1993 SC 892, AIR 1981 SC 298, AIR 1982 SC 149 and AIR 1982 SC 1473).

Regarding salary for the above period Mr. R.P. Sarma has placed reliance on various decisions of the Apex Court including the decision of Ratanlal -VS- State of Haryana AIR 1987 SC 478 = (1985) 4 SCC 43 and also decision reported in AIR 1992 SC 677.

Attested by

Advocate

1/6/2000

contd...15.

Mr. K.P.Sarma, learned standing counsel for the Union of India is trying to distinguish Ratanlal's case on the ground that the facts are different. According to learned counsel in view of executive instruction namely Article 137 of the Accounts Code of Kendriya Vidyalaya Sangathan the petitioners are not entitled to get any salary for the above period. Mr.Goswami, appearing for Kendriya Vidyalaya has also submitted that the authority is bound by the above Executive Instruction and as such adhoc teachers are not entitled to get salary for the above period. On the other hand, Mr.R.P.Sarma, learned counsel for the petitioner submits that this executive instruction is not tenable in law, being arbitrary and violative of Article 14 and 16 of the Constitution and in this connection learned counsel has drawn attention to the above decision of the apex court. Mr. Sarma has also placed reliance on the other decisions and it is not necessary to refer to all the above decisions.

As the writ petitioners are continuing in service on adhoc basis, the denial of pay for the period of summer vacation is arbitrary and as such the action of the respondents is not enable in law.

Accordingly petition is accepted and the respondents are directed to pay the salary from 1992 for the period of summer vacation so long they continued in service. As the petitioners are on adhoc basis and advertisement has been made for regular appointment, as stated at the bar, the above direction shall continue so long the petitioners continue in service. The payment shall be made within a period of 3 months from to-day. This order shall apply to the members of the petitioners Association. The petition is disposed of. No cost.

Sd/- S.N. Phukan,
Judge.

...
Attested by
C.Roy
Advocate
1/6/2000

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

Misc. Case-No; 1022/93

In Civil Rule No. 646/92.

Smti. Prabhawati Devi & ors. ... Petitioners
-Versus-
Union of India & ors. ... Respondents.

P R E S E N T

THE HON'BLE MR. JUSTICE S.K. HOMCHAUDHURI.

For the petitioners: Mr. T.C. Khetri,
Smti. S. Barthakur.

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

Date: 25.1.94

O R D E R

Heard Mr. T.C. Khetri, learned counsel for the
petitioner. None appears for the respondents.

By the order dated 2.4.92 passed in Civil Rule
No. 646/92 this court ordered that petitioners shall not be
ousted from service. Petitioners' grievance is that
although they are continuing in service they are not paid
any remuneration for the summer vacation. If the petitioners
are continuing in service before and after the summer vacation,
there cannot be any rational basis for denying the salaries
to the petitioners for the period of summervacation.

I, therefore, direct the respondents to pay the
petitioners their salaries for the summer vacation.

The Misc came is disposed of.

Sd/- S.K. Homchaudhuri
Judge.

...
Assisted by
Advocate
1/6/000

Date: 17th Feb.'99.

To
The Principal,
Kendriya Vidyalaya,
ONGC, Jorhat.

Sub: Prayer for paying full month's (instead of 29 days) and vacation period's salary from 1992 onwards.

Sir,

Most humbly and respectfully I beg to state you that as I have been working in this Vidyalaya continuously by virtue of Hon'ble Guwahati High Court stay order, I should get the full month's (instead of 29 days) and vacation period's (Summer, Autumn and Winter) salary starting from 1992 in conformity with some of the teachers of K.V. No.1 and M.V.No.2, Tezpur, who are also in service on the strength of Hon'ble High Court's ^{stay} order and getting the salaries for the vacation periods from 1992.

I, therefore, request you to kindly look into the matter deeply and make necessary orders to pay me vacation periods and full month's salary from 1992 at an early date considering sympathetically my pitiable economic condition.

I shall be most obliged for your quick and favourable action in this regard.

With warm regards,

Thanking you,

Yours faithfully,

Sd/- Pradip Kr. Saikia,
TGT(S.St.) Part-time,
ONGC, Jorhat.

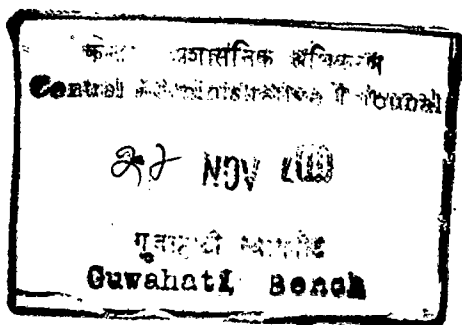
Date: 17.2.99.

Place: Jorhat.

Forwarded and strongly recommended to the Assistant Commissioner, KVX(GR) for necessary instruction to this office. As per statement given above, Principals K.V.No.1 & 2 Tezpur are giving the same to candidates of Adhoc teachers retained due to Court orders.

Sd/- Illegible,
Principal,
K.V. O.N.G.C. Jorhat.

...
Attended by
A. Ray
Advocate
1/6/2000



17
Filed in
Bul. 28
(Dr. Raj To do)
27/11/1991

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

ORIGINAL APPLICATION NO. 182/2000

Sri Pradip Kumar Saikia

...applicant

-Vs-

Union of India & ors..

...Respondents

**The Respondent Nos.1,2 and 3 above
named beg to file their written statement
as follows :**

- 1. That all the averments and submissions made in the Original 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 4(i) and 4(ii) of the Original Application the Respondents beg to state that the payments made to the Petitioner from the date of his appointment, that is 26.7.91 to the post in Kendriya Vidyalaya (hereinafter referred to in short as K.V.) Jorhat, was in accordance with the terms and conditions and policies governing his appointment to the post on part time basis.**

contd...2

-2-

3. That with regard to statements made in paragraph 4(iii) , 4(iv) , 4(v) and 4(vii) of the Original application the answering respondents beg to state that the averments made by the Petitioner in these paragraphs are not correct and misleading . The scales of only regular employees were changed with effect from 1.1.96 . The payment of emolument of part time teacher was ~~consid~~ consolidated one and that too at the rate of 75% of the pay admissible to a regular employee at that time. Moreover, the system of engaging teachers on part time basis was discontinued from the session 1994. Therefore the claim of the Petitioner about revision of scale for him w.e.f. 1.1.96 is not in order. Hence question of making any payment to him on account of subsequent revision of scale of pay does not arise.

4. That with regard to statements made in paragraph 4(vi) of the Original application the Respondents beg to state that the Petitioner had approached the Hon'ble Gauhati High Court in Civil Rule No.517/92 and Hon'ble High C Court by its order had allowed the Petitioner to continue in service. But the Petitioner had suppressed the material facts about his appointment to the post and his eligibility for the post. The fact is pursuant to the judgement and order dated 13.7.93 passed by the Hon'ble Gauhati High Court in W.P.(C) No.76/93 the Kendriya Vidyalaya Sangathan (hereinafter referred to in short as KVS) had framed a scheme for regularisation of services of the adhoc and part time teacher . The scheme so framed by the KVS was approved by the Hon'ble High Court of Gauhati on 13.9-94 in W.P(C) NO. 109/94. Accordingly a special advertisement was published in the newspaper, on 6.11.94 inviting applications for adhoc/ part time teachers for regularisation

contd...3

-3-

of their services. In response to the Petitioner also applied. On scrutiny of his application it was found and noticed that the Petitioner did not possess the prescribed minimum essential qualification as prescribed in the Recruitment Rules for the post because he was not in possession of minimum 45% marks at graduation level which is one of the essential requirements in the Recruitment Rules. Hence he being ineligible for the post was not called for interview.

5. That with regard to statements made in paragraph 4(viii) of the Original application the respondents beg to state that the averments made by the Petitioner in this paragraph is not correct as no part time teacher were working in Kendriya Vidyalaya No.1 and 2 in Tezpur.

6. That with regard to statements made in paragraph in 4(ix) to 4(xiv) of the Original application the respondents beg to state that the Petitioner has misguiding the Hon'ble Tribunal by giving strong submission and stating wrong facts in the Petition. As per rules of KVS teachers appointed on Part time basis are not entitled to any vacation pay. Moreover, the Petitioner while working as part time teacher generally remained absent from his duties and as such he was paid emoluments as per his entitlement. Moreover the avements made by the Petitioner in the paragraphs 4(x) to 4(xiv) and 4(xvii) are not related to his case.

contd...4

-4-

7. That with regard to statements made in paragraph 4(xv) of the Original application the respondents beg to state that the averments made in this paragraph are denied as no part time teacher is working in Kendriya Vidyalaya No.1 and 2 in Tezpur.

8. That with regard to statements made in paragraph 4(xvi) of this Original application the respondents beg to state that the action of the respondents are neither discriminatory nor violative of the provisions of article 14 of the constitution of India.

9. That with regard to statements made in paragraph 4(xviii) of the Original application the respondents beg to state that the Petitioner was engaged as PRT on Part time basis @ 75% of the emoluments of the pay of the post. Since he was not a regular employee he was not eligible for the revision of scales of pay because part time teachers were not covered under this Scheme .

10. That with regard to statements made in paragraph 4(xix) of the Original application the respondents beg to state that no part time teacher is continuing in the service on the orders of the Hon'ble Gauhati High Court except the Petitioner.

11. That with regard to statements made in paragraph 4(xx) to 4(xxii) of the Original application the respondent beg to state that the Petition position has already been submitted in the proceeding paragraphs.

12. That under the facts and circumstances stated above it is respectfully prayed that the Hon'ble Tribunal may be pleased to dismiss the application with cost.

VERIFICATION

I Mr D.K. Saini aged about 51 years son of ~~h. c. r.~~
Saini presently working as the Assistant Commissioner,
Kendriya Vidyalaya Sangathan, Guwahati Region, do hereby verify
that the statements made in paragraphs 1, 3, 5, 7, 8, 11
are true to my personal knowledge, those made in paragraphs
4, 6, 9, 10 are based on legal advice and nothing
material has been concealed therefrom.

Place : Guwahati.

Date : 27-11-2000

W. K. Saini

SIGNATURE

on part-time basis, that does not mean that the applicant is not entitled to the benefit of revised scale of pay. He has been in continuous service in the said Kendriya Vidyalaya, though on part-time basis, and as such he cannot be denied the benefit of the revised scale of pay. The order of appointment clearly says that he is entitled to 75% of the basic pay of the scale and since the scale has been revised, the applicant is entitled to the benefit of the revised pay. The applicant emphatically denies the correctness of the statement that his submissions in his application are misleading.

5. That, regarding the statement made in para 4 of the written statement, the answering-applicant would say that there was no suppression of facts about his appointment to the post in his petition before the Hon'ble High Court.

With regard to the special advertisement published on 6.11.94, although the applicant was eligible for being called for interview, he was illegally deprived of an opportunity for regular selection. In the successive advertisement made by the Kendriya Vidyalaya Sangathan the essential qualifications required for the post of Trained Graduate Teacher were Second Class Bachelor's Degree with B.Ed.(45% marks in aggregate including languages and elective subjects is considered equivalent). The bracketed portion of percentage of marks refers to Pass Graduates. In case of honours Graduate, all Second Class Graduates are eligible for the post. Moreover, as per the terms of advertisement in the case of Trained Graduate Teacher for Social Studies, it is said that candidates having honours in Geography/Econ./History/Pol.Science are eligible for the post. The applicant being Second Class honours Graduate in Geography, he is eligible for the post, but he was illegally denied interview.

6. That, with regard to the statement at para 5 of the written statement, the answering-applicant would like to say

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that the ad-hoc teachers in Tezpur K.V. No.1 and 2 who are continuing in service on the basis of Hon'ble Court's orders and who were initially appointed in the pre-revised scale of pay, have been given the benefit of not only the revised scale of pay with effect from 1.1.1996, but they are also being paid all vacation salaries. But in the case of petitioner who was appointed as part-time teacher on 75% of the basic pay of the scale then in vogue and now revised has been denied the benefit of the revision of pay.

7. That, with regard to the averment made in para 6 of the written statement, the answering-applicant would deny the correctness of the statement that he is misleading the Hon'ble Tribunal by giving wrong statement and wrong facts. The allegation is vague and without any basis and hence denied. As per the decisions of the Hon'ble Apex Court as also Hon'ble Gauhati High Court, the teachers who had been working prior to vacation and continue in service after vacation, they are entitled to get vacation salary. The applicant is denied vacation salary illegally, arbitrarily and against all canons of justice since he has been in continuous service without any break.

PKS The allegation of remaining absent from duties is denied. He was never absent without prior intimation. In the middle of 1998, the applicant lost his younger brother who was the main bread-winner of the family and who died under tragic circumstances. During that time the applicant had to remain absent from duty but with due intimation to the Principal of the Vidyalaya. He was never absent without intimation.

8. That, regarding the averment made in para 7 and 8 of the written statement, the answering applicant would reiterate what he has already stated in para 6 above. The

applicant has been denied the benefit of the revised scale of pay and the vacation salary illegally and arbitrarily as the same benefits have been given to the adhoc teachers working in the Kendriya Vidyalaya, Tezpur, No.1 and 2, who are also working on the basis of the orders of the Hon'ble Court. Thus the action of the respondents is discriminatory violative of the provisions of Article 14 of the Constitution of India and against all canons of justice.

9. That, with regard to the averment made in para 9 of the written statement, the answering petitioner would say that he was appointed as a part-time teacher of Social Studies which is a post in the category of Trained Graduate Teacher and not PRT as stated in the statement and on a pay of 75% of the basic pay of the scale which was then Rs.1,400/-p.m. and which has since been revised. Therefore the old scale is no longer in existence and so the applicant is entitled to 75% of the basic pay of the scale which has since been revised and is in force. In the order of appointment it clearly says that the applicant is entitled to 75% of the basic pay of the scale.

In this connection it may also be stated here that although the applicant has been appointed as a part-time teacher and is paid accordingly, he, in fact has been taking as many classes per day as a regular whole-time and adhoc teacher takes, but he is paid only 75% of the basic pay of the scale and no other allowances. Thus the petitioner is denied his due remuneration for no fault of his own.

10. That, with regard to the statements at para 10 and 11 of the written statement, the applicant has no comments.

11. That, the claim of the applicant for revised scale of pay and vacation salary is very genuine and as such the Hon'ble Tribunal may be pleased to issue a direction to the respondents to pay him his due salary and vacation salary.

PKS

37 26

VERIFICATION

I, Shri Pradip Kumar Saikia, S/O Shri Khageswar Saikia, aged about 42 years, applicant in O.A.No.182/2000, do hereby verify that the statements made in this counter to the written statement filed by Respondent Nos.1,2 & 3 in paragraphs 1 to 10 are true to my knowledge and belief, and those in paragraph 11 are my submissions before the Hon'ble Tribunal.
And I sign this verification this the 13th day of December, 2000 at Guwahati.

Place: Guwahati.

Date: 13th December, 2000.

Pradip Kumar Saikia

A¹

APPLICANT.

23 APR 2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

Guwahati Bench
GUWAHATI BENCH

Filed by the applicant
through -
Ashok Kumar Ray
Adm. case.
23/4/01

O. A. No.182 of 2000

In the matter of:

Shri Pradip Kumar Saikia

-Versus -

Union of India & others.

AND

In the matter of:

An additional statement of
the applicant abovenamed.

Most Respectfully sheweth:

1. That, the applicant has filed one original application which has been registered as O.A.No.182 of 2000 which is now pending before this Hon'ble Tribunal. In the said original application the applicant has assailed the action of the respondents in denying him his monthly salary in the revised scale of pay which came into being with effect from 1.1.1996 and also his salary for the vacation period which is being paid to other similarly situated teachers working in Kendriya Vidyalayas and prayed for a direction to the respondents to pay the applicant his pay in the revised scale of pay and his vacation salary from 1992.
2. That, while submitting the original application the applicant could not annex his appointment letter dated 25.7.1991 as he could not trace out the letter.
3. That, now that he has found out the appointment letter, he is furnishing it with this additional statement as Annexure X.

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

I, Shri Pradip Kumar Saikia, son of Shri Khageswar Saikia, aged about 43 years, permanent resident of village and P.O. Bongal Gaon via Dergaon in the District of Golaghat, Assam, and presently staying in Jorhat town, do hereby verify that the statements made in this additional application from paragraphs 1 to 3 are true to the best of my knowledge and belief.

And I sign this verification this the 23 th day of April, 2001 at Guwahati.

Pradip Kumar Saikia
Signature of applicant.

KENDRIYA VIDYALAYA

~~ONAC Jorhat~~

No. F. 25 (E.H) KVI/ONAC/71-92/1537

Dated: 25.7.91

MEMORANDUM

With reference to his/her application/interview dated , Sh./Smt./Km. Pindeep K Saikin is hereby offered appointment to the post of TGT Social Studies on part-time basis subject to the terms and conditions indicated below:

1. This offer of appointment is for 29 days only with effect from the date of joining or till joining of regular incumbent or otherwise ordered, whichever is earliest.

2. This offer of appointment is purely temporary and on part-time basis.

3. No other allowances are admissible in addition to 75% of basic pay of Rs. 1600.00 p.m.

4. Part-time services are terminable at any time and even before the expiry of the stipulated period without any notice and without assigning any reason thereof.

5. This offer is subject to his/her being declared fit for the post by Civil Surgeon if necessary.

6. No travelling allowances are admissible.

7. He/She not claim for extension/regularisation/confirmation/re-employment etc.

8. If She/He accepts the offer of appointment on the terms and conditions stipulated above, she should send her acceptance to the undersigned latest by 26.7.91 and join this Vidyalaya latest by 26.7.91 failing which the offer of appointment on part-time basis will be treated as cancelled automatically and no further correspondence will be entertained from him/her in this regard.

Shi Pindeep K Saikin

Copy to:-

The Asstt. Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office, SILCHAR.

PRINCIPAL

Kendriya Vidyalaya
ONAC Jorhat

PRINCIPAL.