

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 211 (D) 2001 WP (C) 1387
2000

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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 ...*211*.....OF 2001.
(N.P.C) 138/2000.

Applicant (S) *Shri K. Singh*

Respondent (S) *Lot 2 a/s.*

Advocate for Applicants (s) *Mr R. P. Sharma, S.C. Dullo Roy*

Advocate for Respondent (s) *Dr B.P. Todi,*
etc.

Notes of the Registry

Date

Order of the Tribunal

*This Petition has
been received from
the Hon'ble Gauhati
High Court under
order dated 25.2.001*

*and before Hon'ble
Court for orders.* 14.6.01

*Passed over. With on
14.6.2001. For order.*

*B/o
P.O.*

List this D.A. for admission
on 21-6-2001.

U U Sharma
Member

R
Vice-Chairman

Dr.M.Pathak holding brief of
Mr.R.P.Sharma, learned counsel for the
the applicant, requests for adjour-
ment of the case.

The case is accordingly adjour-
ned for admission on 26-6-2001 show-
ing the name of Dr.B.P.Todi as coun-
sel for the respondents.

U U Sharma
Member

R
Vice-Chairman

26x6x01x

Mr. U. Das learned counsel on behalf
of learned counsel Mr. P. P. Sharma

26.6.01

Mr. U. Das learned counsel on behalf
of Mr. R. P. Sharma learned counsel for
the applicant states that the applica-
tion has been rendered infructuous,
and dismissed ~~no costs~~. Applica-
tion is dismissed as infructuous.

✓ Copy

K C Sharma
Member

Vice-Chairman

lm

By
12.7.01

Copy of the order
Dtd. 26.6.01 sent
to D/Section for
issuing of the same
to the learned Adv.
for the parties.

THE GAUHATI HIGH COURT

(High Court of Assam Nagaland, Meghalaya, Manipur and Tripura)

CIVIL APPELLATE SIDE

ASP(C) No. 138 (AP) 2000.

No. 16 of 1995.

Appeal from

Civil Rule ✓

Appellant

Petitioner

Krishna Singh

Versus

Union of India &

Respondent

Opposite-Party

Appellant
For
Petitioner

Mr. R. P. Sarma
Mr. S. C. Dutta Roy } Adv.

Respondent


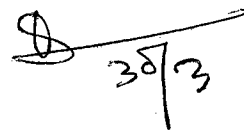
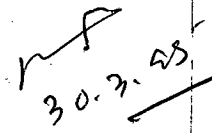
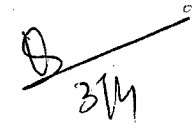
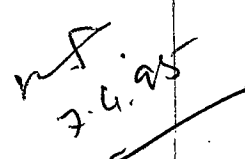
For
Opposite-Party

Case.

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports orders or proceedings with signature
1	2	3	4
<p><u>4.1.95.</u></p> <p>Present:</p> <p>Hon'ble Mr. Justice V. D. Gyani.</p> <p>Heard Mr. R. P. Sarma, learned counsel for the petitioner.</p> <p>The petition is admitted.</p> <p>Issue notice calling upon the respondents to show cause as to why the relief as prayed for should not be granted.</p> <p>The notice is made returnable within 3 (three) weeks.</p> <p><i>Noted - Notice 3 weeks 28/6/95</i></p>			

Judge.

12/8
2-1-95
nath.

Noting by Office or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
16.3.95			
Notice issued on Respondent No. 3 in ordinary post.			
 16.3.95			
list on 3/4/95			
 3/4/3			
 30.3.95			
list on 25/4/95			
 3/4			
 7.4.95			

28/3/95

The Hon ble Mr. Justice J. N. SHELLEY

List the matter
on Monday next.

Blo.

R

8/4/95

BEFORE

The Hon ble Mr. Justice J. N. SHELLEY

Put it after Bith
vacation.

Mo

R

GR. 18/95

Noting by Officer or Advocate

Serial No

Date

Office notes, reports order or Proceedings with signatures

BEFORE

The Hon'ble Mr. Justice Barua

Two (2) weeks time is granted in the presence of Mr. R.M. Choudhary; and Sr. G.H.S.C.



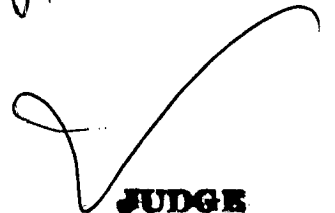
JUDGE

GAUHATI HIGH COURT

BEFORE

The Hon'ble Mr. Justice J. B. Chatterjee

List this matter for hearing on 7th August 95.



JUDGE

GAUHATI HIGH COURT

BEFORE

The Hon'ble Mr. Justice J. B. Chatterjee

List it on 4.9.95 as per my order.

1/6/95

S.R. on respondent No. 3 has been received back after duly served.

OK

8/6/95

S.R. on respondents Nos. 1 & 2 have been received back after duly served and ready as regard services.

OK

List for hearing on 2/8/95

26/7

mf 27.7.95

18/5/95

2 weeks time granted

Dis 10/5/95

mf 12/5/95

21.7.95

m

31.8.95

1/9

4

4

CA No. 16/95

Noting by Officer or Advocate

Serial No.

Date

Office notes, reports order or Proceedings with signatures

Believed in the next week. 15/9

12/7/95

BEFORE
The Hon'ble Mr. Justice Datta

Mr. Choudhury, L.C. for the Respondent submits that he has already prepared the Affidavit in support which will be filed within a week. The case may be listed next week.

AG
Judge,

GAUHATI HIGH COURT

14-9-95

BEFORE
The Hon'ble Mr. Justice Bhowmik

No representation. The case is adjourned till reopening of the long vacation.

JB
Judge,

GAUHATI HIGH COURT

6.5.96

V.O.S. in CR 5207/94

Before
The Hon'ble Mr. Justice V. Dutta Gyanl

V.O. sin CR 5207/94

-5- CR. 16/95

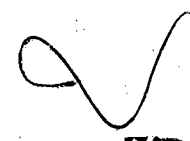
Noting by Office or Advocate	Serial	Date	Office notes, reports, orders or proceedings with signatures.
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17-12-96

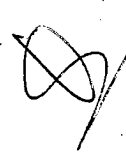
REPORT

TO HONBLE MR. JUSTICE J. M. CHAKRA

List it after vacation along with similar other matters.




JUDGE
GAUNATI HIGH COURT

 21/12/96

mf
27/12/96

18/12/2000.

Received on transfer from P.S.
The connected matter
(~~CR~~) CR. 5207/94
not received as
per order on 17/12/96.


18/12/2000

15/12/2000.

The connected case
records called for
(CR. 5207/94) vide
memo no. 598-99.


15/12/2000

ing by Office or
Advocate


Serial

Date

Office notes, reports, orders or proceedings
with signatures.

6

(7)

Noting by Office or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signatures
<p><u>11-1-2001.</u></p> <p><i>This case is received on transfer on 18-10-2000 from Principal Seat. This was admitted and notice has issued on 4-1-95. Another order was also passed fixing the case for hearing on 21.7.95 As per the record, the case is analogous with CR NO.5207/94(PS) but this Registry has not yet received the case required of C.R.5207/94 (PS).</i></p> <p><i>The record is call for on 15.12.2000, but not yet received.</i></p> <p><i>Laid for order.</i></p> <p> <u>Dy. Reg.</u></p>			

Noting by Office or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signatures
			<p>11-1-2001.</p> <p>This case is received on transfer on 12-10-2000 from Principal Seat. This was admitted and notice has issued on 4-1-95. Another order was also passed fixing the case for hearing on 21.7.95. As per the record, the case is analogous with CR 40.5207/94(PS) but this Registry has not yet received the case referred of C.R. 5207/94 (PS).</p> <p>The record is call for on 12.12.2000, but not yet received. Laid for order.</p> <p>By Reg.</p>

Noting by Office or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signatures
	12.1.2001		<p>BEFORE HON'BLE MR. JUSTICE N.S.SINGH</p> <p>None appears for the petitioner.</p> <p>List it in the next available Bench.</p> <p>N. S. Singh JUDGE</p>
	08/2/2001		<p>BEFORE Hon'ble Mr. Justice P.C. Phukan.</p> <p>Mr. T. Son, Learned Sr. Govt Advocate AP appears for the State Respondents. On call, none appears for the petitioner.</p> <p>List This matter before the next available Bench.</p>
	20/4/2001		<p>BEFORE THE HON'BLE Mr JUSTICE H. K. K. Singh</p> <p>P.O. for the</p> <p>dy. 1</p> <p>B/O</p>

h
12/1 as

str

J.P.

24/4

Noting by Office or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signatures
			<p style="text-align: center;"><u>B E F O R E</u></p> <p style="text-align: center;">THE HON'BLE MR.JUSTICE NS SINGH</p> <p><u>2.5.2001</u></p> <p>Heard Mr.B.Chakraborty, learned counsel for the petitioner who submitted that this matter may be transferred to the Central Administrative Tribunal at Guwahati. In my considered view, prayer is reasonable as this matter vests upon the wisdom and jurisdiction of the Central Administrative Tribunal at Guwahati in view of Section 14 of the Cantral Administrative Tribunal Act, 1985.</p> <p>In view of the above position, this case is hereby transferred to the Central Administrative Tribunal(CAT) at Guwahati. Registry of this Bench is directed to transmit the related case record to the C.A.T., Guwahati ^{enable the Registry CAT to} so as to place the matter before the Tribunal.</p> <p style="text-align: right;">N. S. SINGH JUDGE.</p> <p style="text-align: center;">as.</p>

11/5/2001

Court order dated 2/5/2001 Communicated

Vide NO. 844-46 on 11/5/2001.

16

DISTRICT: ITANAGAR (A.P.)

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

(CIVIL WRIT JURISDICTION)

NPCC No. 138 (AP) 2000
Civil Rule No. 16/95

Sri Krishna Singh

- Vs -

Union of India & ors.

BENCH 'B'

K.V. teacher's case.

I N D E X

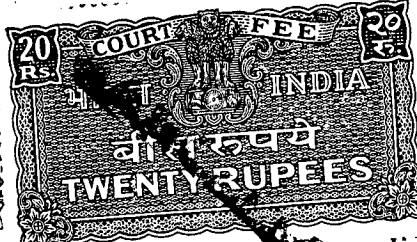
<u>Sl.No.</u>	<u>Contents</u>	<u>Pages</u>
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2.	Affidavit ..	10
3.	Annexure A ..	11
4.	Annexure B ..	12-13
5.	Annexure C ..	14-19

Filed by -

(S.C. Dutta Roy)
Advocate.



38/F



*Filed by Mr. P. K. D. 20/1/95
Through: Mr. P. K. D.
Advocate*

DISTRICT: ITANAGAR

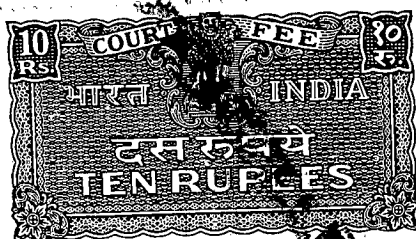
IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM: NAGALAND: MEGHALAYA: MANIPUR: TRIPURA:
MIZORAM AND ARUNACHAL PRADESH)

(CIVIL WRIT JURISDICTION)

APCC No. 188 (AD) 2000,
Civil Rule No. 16/95.

BEFORE THE COURT

To



The Hon'ble Shri V.K. Khanna, B.Sc., LL.B.,
the Chief Justice of the Hon'ble Gauhati
High Court and his Lordship's companion
Justices of the said Hon'ble High Court.

In the matter of:

An application under Article 226 of the
Constitution of India for issuance of a
writ in the nature of Mandamus and/or
any other appropriate writ, order or
direction for protection and enforcement
of the petitioner's legal and fundamental
rights.

- And -

In the matter of:

Violation of the provisions of Articles
14, 16, 21 and 23 of the Constitution of
India read with Articles 38, 39, 41 and
46 thereof.

- And -

contd...2.



In the matter of:

Disallowing the petitioner to face interview for regular selection inspite of issuance of interview call letter.

- And -

In the matter of:

Violation of the principle of natural justice and administrative fairplay.

- And -

In the matter of:

Shri Krishna Singh,
S/O Shri Nandalal Singh,
Kendriya Vidyalaya No.II,
Itanagar, Arunachal Pradesh.

-Versus- ... Petitioner

1. Union of India through the
Secretary to the Govt. of India,
Ministry of Human Resource Development, Central Secretariat,
New Delhi.
2. The Kendriya Vidyalaya Sangathan,
through the Commissioner, KVS,
18, Institutional Area,
Saheed Jeet Singh Marg, New Delhi.
3. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Guwahati Region,
Maligaon Charali, Guwahati-12.

... Respondents.

The petition of the humble
petitioner above-named

Most Respectfully sheweth:

1. That your humble petitioner is a citizen of India and a resident of Itanagar in the District of Itanagar, Arunachal Pradesh and as such he is entitled to all the rights, privileges and protection as guaranteed under the Constitution of India.
2. That the petitioner who is 37 years old is a Graduate in Arts, a Master Degree holder in Physical Education and a Bayam Visharad. He is, therefore, sufficiently qualified and trained to be appointed as Physical Education teacher in any High or Higher Secondary school.
3. That in consideration of his educational and professional qualifications and training the petitioner was appointed, after due interview and selection by the competent authority of the Kendriya Vidyalaya, as Physical Education teacher (PET in short) in the Kendriya Vidyalaya No.II, Itanagar on 8.12.1991 for a period of six months on adhoc basis, his candidature having been sponsored by the local Employment Exchange.
4. That in terms of above appointment letter the petitioner joined his duties in the said Kendriya Vidyalaya No.II, Itanagar on 9.12.1991 and discharged his duties with all sincerity, devotion and to the entire satisfaction of all concerned, as will be evident from the certificate dated 2.5.1992 issued by the Principal, Kendriya Vidyalaya concerned.

A copy of the certificate dt.2.5.92
is annexed as Annexure A.

5. That the post against which the petitioner has been appointed and working is a regular and substantive post but the petitioner has been appointed on an adhoc basis even though he has the requisite qualifications, training and experience for appointment on regular basis.

6. That on the expiration of the first term of appointment of the petitioner on 30th April, 1992 the petitioner was allowed to continue in his post but on daily wage basis.

7. That as has been the practice with the authorities of Kendriya Vidyalaya Sangathan, the service of the petitioner was terminated just on the eve of the long summer vacation of 1992 only to deprive him of the benefit of continuity of service and vacation salary.

8. That on the re-opening of the Vidyalaya after long summer vacation the petitioner was again appointed, after due interview and selection, against the same post of Physical Education teacher with effect from 25.7.'92 for a period of six months on adhoc basis. It will thus be seen that the petitioner has been in continuous service in the said Kendriya Vidyalaya No.II, Itanagar since his initial appointment on 8.12.1991, first on adhoc basis upto 30th April,'92, then on daily wage basis and again on adhoc basis with effect from 25.7.'92 with only break during the summer vacation of 1992.

9. That before expiration of the second term of appointment, apprehending termination from service, the petitioner approached this Hon'ble Court in Civil Rule No.2765/92, praying for a direction to the Respondents not to terminate his service.

10. That this Hon'ble Court, after hearing the parties and perusing the records, were pleased to pass orders on 6th

January, 1993 holding that the writ petitioners shall continue in service as ad hoc employees till they are replaced by regularly selected teachers. It was further observed in the said common judgment and order that the writ petitioners can also try their luck for regular selection.

11. That on the basis of the aforesaid orders of this Hon'ble court the petitioner is still continuing in service. Thus the petitioner has already completed more than three years of continuous service in the said Kendriya Vidyalaya No.II, Itanagar with only fictional break during the summer vacation of 1992.

12. That as has been stated already, the petitioner has the requisite qualifications as laid down in the KVS rules for the post he is holding and he has already completed three years continuous service, with only artificial break, and therefore, the petitioner has acquired an indefeasible right to the post.

13. That it may be stated here that as per direction of this Hon'ble Court in Writ Appeal No.76/93, the Kendriya Vidyalaya Sangathan, New Delhi prepared a scheme for regularisation of the services of adhoc/part time employees of the Sangathan and submitted the same to this Hon'ble Court. This Hon'ble Court by orders dated 13.9.94 in Writ Appeal No.109/94 directed the KVS authorities to complete the process of regularisation of the services of adhoc/part time employees in terms of the scheme prepared by 31st December, 1994.

14. That pursuant to the aforesaid direction of this

Hon'ble Court in CIVIL/109/94/ Writ Appeal No.109/94, the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Guwahati Region, issued an advertisement in the Assam Tribune dated 6th November, 1994, inviting applications from the eligible adhoc/part-time employees of the Kendriya Vidyalayas to consider regularisation of their services. The eligibility criteria laid down in the said advertisement dtd. 6.11.94 are as under:

- (i) The candidates who possess the requisite educational qualifications and experience as per recruitment rules of the KVS for the post.
- (ii) The candidates should have served at least for six months on adhoc/part time basis in an academic session at the time of approaching the Hon'ble Gauhati High Court.

15. That the petitioner having the requisite qualifications as laid down in the recruitment rules of the KVS and being in service in the Kendriya Vidyalaya No.II, Itanagar since his initial appointment in December, 1991, applied for the post of Physical Education teacher.

16. That accordingly the petitioner was called for interview for the post of P.E.T. by the Asstt. Commissioner, KVS, Guwahati Region vide his letter No.F.8-9/94-KVS(GR) dated 8.12.94 and the interview was fixed at 9 A.M. on 28.12.94.

A copy of the interview call letter dtd.

8.12.94 is annexed herewith as Annexure B.

17. That on the 28th December, 1994 when the petitioner went to the venue of the interview at Kendriya Vidyalaya, Maligaon, he was not allowed to face the interview on the ground that as the petitioner had not served for at least six months in an academic session as stipulated in the scheme, he

... 7.

could not be allowed to appear at the interview, and the letter inviting him to appear at the interview was wrongly issued to him. The conditions are said to have been set forth on the basis of the judgment and order of this Hon'ble Court in Writ Appeal No.109/94.

A copy of the judgment and order dated 13.9.94 in Writ Appeal No.109/94 is annexed as Annexure C.

18. That in this connection it may be stated that the second condition laid down in the advertisement that a "candidate should have served at least for six months on adhoc/part time basis in an academic session at the time of approaching the Hon'ble Gauhati High Court" has no rational basis; it is arbitrary. The Kendriya Vidyalaya Sangathan never allows an adhoc/part time employee to complete six months in one spell and he is terminated at least one day before he can complete six months. The appointments are usually made for 179 days and therefore, one is not allowed to complete six months. The petitioner was first appointed on 8.12.1991 for a period of six months on adhoc basis and he was terminated in the afternoon of 30th April, 1992, but was allowed to continue on daily wage basis. His service was discontinued during the summer vacation of 1992 but was appointed again on 25.7.92 for a period of six months. But before expiration of the six months term the petitioner approached the Hon'ble High court, apprehending termination from service. Thus though the petitioner has been in continuous service since his initial appointment in December 1991, he could not complete six months in an academic session before approaching this Hon'ble Court.

19. That, as has already been stated above, the condition

... 8.

that in order to be eligible to be considered for regularisation one has to complete at least six months on adhoc/part time basis in an academic session before approaching this Hon'ble Court has no rational basis and as such it needs to be struck down as illogical and arbitrary. The petitioner has already completed more than three years continuous service and therefore he has acquired an indefeasible right to the post he is holding now.

20. That the action of the Respondent No.3 in not allowing the petitioner to face interview for which he was called to try his luck for regular selection after having put in more than three years continuous service is violative of all canons of justice. The petitioner is sufficiently qualified and experienced to be appointed on regular basis and there is no reason why he should not be regularised in service.

21. That the action of the Respondent No.3 in not allowing the petitioner to face the interview after he was called to do so, on the ground that he did not complete six months service in an academic session before approaching the Court is illogical, arbitrary and unreasonably discriminatory violative of Article 14 of the Constitution of India.

22. That the action of the Respondents in depriving the petitioner of the opportunity of trying his luck for regular selection after having served for more than three years on adhoc basis is against the principle of natural justice and administrative fairplay.

23. That this petition is made bonafide and in the interest of justice.

...9.

24. That the petitioner is already over-aged and if he is now thrown out of employment he would not be eligible for any Government job.

25. That the petitioner wants justice which has been denied to him.

26. That there is no other equally efficacious and alternative remedy available to the petitioner and the reliefs sought for herein will be just and adequate.

In the premises aforesaid, it is humbly prayed that your Lordships may be pleased to admit this petition, call for the records and issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or any other appropriate writ, order or direction should not issue directing/ commanding the Respondents to withdraw/cancel/revoke/ rescind the condition that "the candidate should have served at least for six months on adhoc/part time basis in an academic session at the time of approaching the Hon'ble Gauhati High Court" in the scheme for regularisation and to call the petitioner for an interview with a view to regularising his adhoc appointment and upon hearing the parties and perusing the records make the Rule absolute and/or pass any other order or orders as to your Lordships may seem fit and proper.

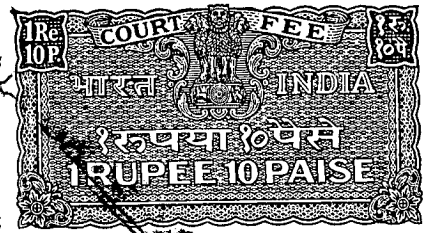
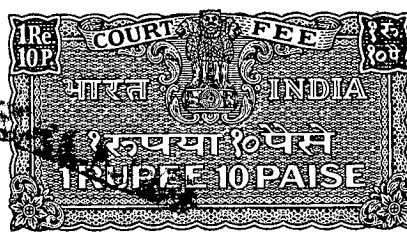
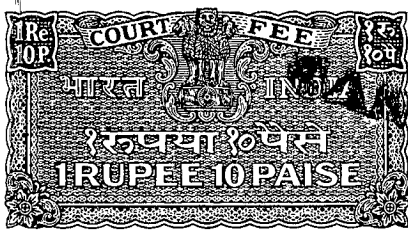
- And -

Pending disposal of the Rule an interim order may be passed restraining the Respondents from terminating the service of the petitioner till disposal of the Rule.

And for this the petitioner shall, as duty bound, ever pray.

... Affidavit ... 10.

[Handwritten signature]
Commissioner of Assam
Gauhati High Court
Disputes



A F F I D A V I T

26

I, Shri Krishna Singh, son of Shri Nandalal Singh, aged about 37 years, a resident of Itanagar in the District of Itanagar, Arunachal Pradesh, by profession school teacher, by religion Hindu, do hereby solemnly affirm and say as under :-

1. That I am the petitioner in the instant writ petition and being fully acquainted with the facts of the case I am competent to swear this affidavit.
2. That the statements made in this affidavit and in paragraphs 1 to 26 of the writ petition are true to my knowledge and the rest are my humble submission before this Hon'ble Court.

I sign this affidavit this the 2nd day of January, 1995.

Identified by -

Dilip K. Sharma
Advocate's clerk. 2-1-95

Krishna Singh
DEPONENT.

Subscribed and sworn to before me this 2nd day of January 1995

The deponent is identified by Sri. *Dilip K. Sharma* Personally

known to me I certify that I read over and explained the contents to the deponent and that the deponent seemed to understand them.

[Signature]
Commissioner of Affidavits
Hochel High Court
MURWANAN

2-1-95

ANNEXURE A.

KENDRIYA VIDYALAYA NO.2 ITANAGAR
Itanagar 781111 Arunachal Pradesh.

No.F 99/KVI-II/92-93

Dated 2.5.'92.

This is to certify that Sh. K.Singh worked in this Vidyalaya as Physical Education Teacher on adhoc basis from 9.12.91 to 30.4.92. During this period Shri Singh proved to be a devoted, sincere and hard working teacher. He took active part in all the activities of the school. He was also given class teachership of Class IX and he shouldered the responsibility with all sincerity.

I wish him success in life.

Sd/- S.N. Prasad,
Principal,
Kendriya Vidyalaya No.2,
Itanagar.

...

KENDRIYA VIDYALAYA SANGATHAN
Regional Office,
Chaya Ram Bhawan, Maligaon Charali,
Gauhati-12

No.F.8-9/94-KVS(GR)/

Dated: 8/12/94

To
6. Shri Krishna Singh
KV No. II Itanagar
PB No. 125
Itanagar-791111 (AP).

Subject : Interview for the post of

P. E. T.

Sir/Madam,

With reference to your application for the above post in Kendriya Vidyalaya Sangathan, you are hereby requested to appear for interview at the place, date and time indicated below :-

Place : KENDRIYA VIDYALAYA, MALIGAON, GUWAHATI.
Date : 28-12-94
Time : 9.00 A.M.

2. If the selection committee is unable to interview on the date specified above, it may be necessary for you to stay till the next day without any claim for overstayal. YOU WILL BE INTERVIEWED PROVIDED YOU SATISFY ALL THE CONDITIONS GIVEN IN THE ADVERTISEMENT.

3. You are also requested to bring the following :-

- i) All original certificates in support of your qualifications (including Degree Certificates) experience and age.
- ii) All original Marksheet in support of the aggregate percentage of marks mentioned in your application (Marksheets issued for each part/semester by the University must be brought). Only marksheets issued by the examining board or University (Not from college) will be taken as valid.
- iii) If you belong to SC/ST community a certificate (in original) from the competent authority viz. the District Magistrate/ Dy. Commissioner/Collector etc. of your District in this regard.
- iv) Certificate (in original) from a Head of Orthopaedic/Ophthalmological Department of a Govt. Civil Hospital/Civil Surgeon stating the nature of handicap and extent of disability, if you are physically Handicapped.
- v) Original certificate issued by the Dy. Commissioner of District in Assam under resident of Assam (Relaxation of age) Rules, 1985 if relaxation in age, being a person ordinarily residing in Assam from 01.01.81 to 15.08.85 is sought.
- vi) Service certificate as per advertisement to the effect that you are working/worked as adhoc/part time teacher in KV as per the order of the Hon'ble High Court.
- vii) All original papers, relating to the Court case.
- viii) In case of candidates called for interview for the post of TGT English/Hindi where the Marksheet does not indicate the level of the course i.e. General/Literature in the concerned subject at degree level the candidate should produce a certificate from the University to that effect.

4. Failure to produce the documents mentioned at para 3(i) to (Viii) above, wherever applicable will entail forfeiture of candidature and in that case you will not be interviewed similarly if any of the particulars stated by you in your application is found wrong or incorrect on verification and also found to have wilfully suppressed any material information relevant to the consideration of your case, without prejudice to any other action that may be taken in consequent thereof, your candidature will be summarily rejected.

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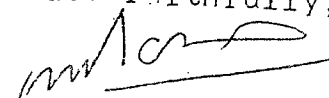
29 5. For attending interview (For SC/ST candidates only) if the journey is performed by train, return second class through ticket, rail fare by the shortest route will be paid to you from the railway station nearest to the address given in your application or the station from which you commence your journey for interview and back, whichever is less. In case of places which are not connected by rail, actual bus or steamer fare by lowest class will be paid upto the nearest railway station and thereafter second class rail fare by shortest route. In case the journey or a portion thereof is performed by bus, return second class rail fare as above, or return bus fare whichever is less, will be paid. Cheaper return tickets should be purchase wherever those are available. No reservation charges will be paid your claim for the fare must be accompanied by rail/bus/steamer tickets in respect of fare paid for the onward journey. However, if the railway tickets are surrendered, the ticket number, issuing station and the amount of fare paid be noted on a sheet of paper, got attested by the ticket collector and produced. The address given in the application form only will normally be accepted for the purpose unless a change has already been communicated and also received in time.

6. In respect of candidates(SC/ST only) appearing for interview from abroad they can claim TA only from the nearest place of entry to India to the place of interview and back. They are not entitled to TA from the place of residence abroad to the place of interview in India. The travel expenses admissible will be paid by means of Crossed cheque or by cash if possible. No TA will however be paid if the admitted claim is Rs.20/- or less. If the Railway/Bus/Steamer ticket number is not produced in support of the claim on the date of interview, no payment will be made and no further correspondence will be entertained, if your claim is for more than Rs.20/- please bring a REVENUE STAMP with you to affix at the time of receiving the payment.

7. Kendriya Vidyalaya Sangathan employees attending the interview will have to apply for leave of the kind due for the purpose. The absence for attending the interview shall not be treated as on duty.

8. It is your responsibility to make proper arrangement for the receipt or redirdtion of communication addressed to you. No plea of non-receipt or late receipt of this communication for whatsoever reason shall be accepted for postponing the date of interview/for any other purposes.

Yours faithfully,


for Assistant Commissioner

the requisite number of stamps and folios.	requisite stamps and folios.	was ready for delivery.	Date of making over the copy to the applicant.
29/9/94	29/9/94	29/9/94	29/9/94

THE GAUHATI HIGH COURT

(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram & Arunachal Pradesh)

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

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

- versus -

Ms Shabnam Parween & ors ... Respondents

- PRESENT -

THE HON'BLE CHIEF JUSTICE MR VK KHANNA

THE HON'BLE MR JUSTICE SN PHUKAN

For the appellant
 Kendriya Vidyalaya

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

For the respondents/
 writ petitioners

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

contd...

Date of hearing
& Judgment : 13.9.94

JUDGMENT & ORDER
(oral)

Khanna, CJ -

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

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

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

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

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

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

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

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

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

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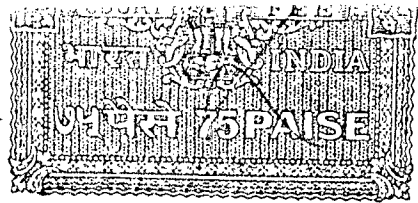
selection of candidates for ad hoc/temporary persons and as the present Selection Committee is being constituted by the Kendriya Vidyalaya Sangathan, he has to appear before the Selection Committee. That apart, learned counsel has further urged that it may amount to discrimination. We find force in the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

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

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

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

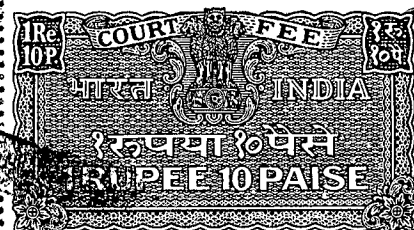
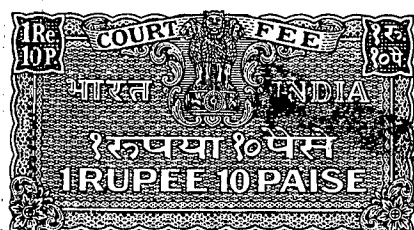
10. In view of this judgment dated 13th September, 1994 all Writ Appeal No 109 of 1994 and the connected Civil Rules are disposed of in terms of the observations made above. This judgment will form part of the records of all the connected Civil Rules also. Considering the facts and circumstances of the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

Sd/- S. N. Phaker Sd/- V. K. Khanna
Judge Chief Justice

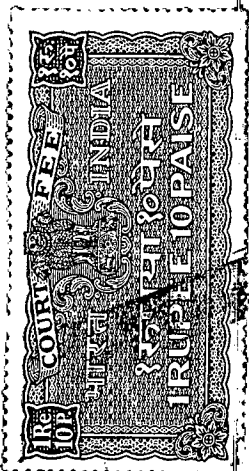
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For *deab Das*
Superintendent (Copy) 29 9.94
GAUHATI HIGH COURT
Authorized U/S 76 Act. 1 of 75

27/9/94.

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Cant-29-4



Filed by: *[Signature]*
3/8/95
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District : Itanagar(A.P)

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

(Civil Extra Ordinary Jurisdiction)

In the matter of :

Civil Rule No.16 of 1995

-And-

In the matter of :

An affidavit-in-opposition on
behalf of Respondents No.2 & 3.

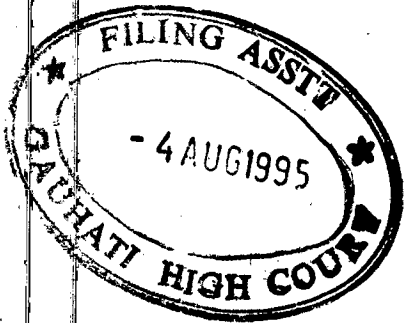
-And-

In the matter of :

Shri Krishna Singh - Petitioner

-Versus-

Union of India & Ors - Respondents



I, Shri M.K.Rao, presently working as Assistant
Commissioner, Kendriya Vidyalaya Sansthan, Guwahati
Region, Maligaon, Guwahati 11, aged about 51 years,
do hereby solemnly affirm and say as follows :

9700/24

Commissioner of Affidavits
GAUHATI HIGH COURT
Guwahati.

2.

1. That I am the respondent No.3 in the instant writ application. I am competent to file this affidavit on my personal behalf and on behalf of the respondent No.2 as authorised and I swear the same. I am also acquainted with the facts and circumstances of the case. Copies of the writ application having been served upon the respondents, I have gone through the same and understood the contents thereof. Save what has been specifically admitted in this affidavit, all the averments and submissions made in the writ petition may be taken to have been denied by the deponent.

2. That with regard to the statements made in Paragraphs 1 and 2 of the writ petition the deponent has no comments to offer. However, it is not correct that the petitioner is sufficiently qualified and trained to be appointed as Physical education teacher (PET). In this connection it would also be pertinent to state that mere possession of education qualification does not entitle the petitioner to be appointed as PET on substantive basis in the Kendriya Vidyalaya Santhan, hereinafter referred to as 'the KVS'.

3.

3. That save and except those which are matters of record of the case all the averments made in Paragraphs 3 and 4 of the writ petition are denied by the deponent. In this connection the deponent states that as per Provisions contained in Articles 39 and 41 of the Education Code of the Kendriya Vidyalaya Santhan, hereinafter referred to as Education Code, ^{Principals} ~~members~~ of the KVS has been deligated Powers to appoint teachers on adhoc or Part-time basis purely for a limited period when regularly selected teachers are not made available to the Vidyalaya by the Regional/ Central Selection Committee. As per provisions of Article 39 and 41 of the Education Code, the Petitioner was appointed as PET on adhoc basis for the period 9.12.91 to 30.4.92.

4. That with regard to the statements made in Para 5 of the writ petition the deponent states that the Petitioner was not appointed as PET on regular basis to continue in service beyond the specified period, by the competent authority. As stated above in the Preceeding Paragnaphs the appointment was on ad hoc basis Purely for a limited period. Be it stated herein that the respondent No.3 being the administrative

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head of the Gauhati Region of the KVS, is the competent authority to appoint teacher on regular basis as per instructions issued by the KVS headquarters from time to time. On the other hand ~~many~~ Principals of the KVS are authorised to appoint teachers on adhoc /part time basis after following certain procedure. The fact that the petitioner has been working in a regular and substantive post on adhoc basis does not per se confer any right to claim regularisation as a matter of right.

5. That the deponent emphatically denies the correctness of the statements made in para 6 of the writ application.

6. That the deponent denies the correctness of the statements made in para ~~17~~ 7 of the writ petition. In this connection the deponent states that appointment of teacher on adhoc /part time basis ^{are made} upto end of academic session i.e. upto 30th April of a year till regular incumbent joins whichever is earlier. Be it stated herein that academic session in the KVS start from first May of the of the Preceeding year to 30th April of the succeeding year.

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5.

7. That save and except those which are matters of record of the case, all the averments made in paragraph 8 of the writ petition are denied by the deponent. The Petitioner was never appointed continuously as PET, but was appointed for the second time as PET on 25.7.92 on adhoc basis afresh after following the prescribed procedures.

8. That with regard to the statements made in Para 10, 11, & 12 of the writ petition the deponent states that the petitioner was continuing in the said adhoc post of PET by virtue of interim order passed by this Hon'ble Court in Civil Rule No. 2765/92 and thereafter by virtue of the order dated 6.1.93 whereby it was directed that the writ petitioner shall continue in the service as adhoc teacher till they are replaced by regularly selected teachers. However, the adhoc service of the Petitioner has since been terminated with effect from 21.2.95, after he failed to qualify for the interview held on 28.12.94 and 29.12.94 pursuant to the advertisement dated 6.11.94. Therefore the contentions of the petitioner that he had acquired indefeasible right to the post in question is denied by the deponent.

6.

9. That save and except those which are matters of record of the case all the averments made in Para 13 and 14 of the writ petition are denied by the deponent. In this connection the deponent states that in pursuance of the ~~order~~ judgment and order dated 13.7.93 passed in Writ Appeal No.76/93 the respondent authority framed a scheme for regularisation of services of adhoc /part-time teachers vide Office order No.F.16/237/92-KVS (RO.II) dated 26.7.94. The said scheme was approved by this Hon'ble Court vide order dated 13.9.94 Passed in Writ Appeal No.109/94. Pursuance thereof the special advertisement dated 6.11.94 was issued inviting applications from eligible adhoc / part time teachers of KVS for regularisation of their services. In the said advertisement eligibility criteria were also laid down.

10. That with regard to the statements made in Para 15 of the writ petition the deponent states that the petitioner applied for the Post of PET in the Kendriya Vidyalaya Santhan in response to the special advertisement dated 16.11.94 issued as per the direction of

this Hon'ble Court contained in order dated 13.9.94 passed in Writ Appeal No.109 /94 . Since the Petitioner did not fulfil the eligibility criteria stipulated in the said advertisement, the petitioner was not called for interview. Admittedly, the petitioner did not serve for at least 6 months in an academic session at the time of approaching this Hon'ble Court in C.R.No.2765/92.

11. That save and except those which matters of record of the case, all the averments made in Paragraphs 16 and 17 of the writ petition are denied by the deponent. In this connection the deponent states that the petitioner was inadvertantly issued a call letter from the office of the respondent No.2, but since the mistake came to the notice of the respondent No.3, he issued letter No.8-9/KVS(GR)/94-21304-305 dated 20.11.94 to the petitioner intimating him about cancellation of his call letter earlier issued to him as admittedly the petitioner did not fulfil the eligibility stipulated in the scheme as well as in the advertisement.

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8.

A copy of the said letter dated
21.12.94 is annexed hereto and
marked as Annexure-I.

12. That with regard to the statements made in paragraph 18 of the writ petition the deponent begs to state that the averments made in the said Paragraph are contradictory inasmuch as the petitioner is estopped to challenge the validity of the special advertisement dated 16.11.94 after having accepted the order dated 13.9.94 passed in Writ Appeal No.109/94. The contention of the Petitioner that "second condition laid in the advertisement that a candidate ~~Candidate~~ should have to serve at least for a period of 6 months on adhoc /Part time basis ~~at~~ ~~the~~ in an academic sessions at the time of approaching ~~the~~ Hon'ble Gauhati High Court has no rational basis, the decision is arbitrary." The entire case of the Petitioner seems to be on a misconceived notion. The Petitioner was not called for the interview held on 28.12.94 and on 29.12.94 in pursuance of the Special Advertisement issued by the respondent in

compliance of the judgment and order dated 13.9.94 referred to above as admittedly the petitioner did not fulfil the eligibility criteria of 6 months service in an academic session. The petitioner is seems to be under the belief that having minimum qualification as Prescribed in the Education Code is by itself sufficient to claim regularisation. Mere Possession of the Prescribed educational qualification to apply for the Post of PET does not per se confer any vested right upon the Petitioner who claim regularisation. More so, in view of the scheme for regularisation framed by the respondent and as approved by this Hon'ble Court, Criteria for regularisation has to be read in the context of the said scheme framed by and the qualification Prescribed under the Education Code. It is once again reiterated that by the Pronouncement of the order dated 13.9.94 in Writ Appeal No. 109/94 the scheme thus approved has become final and can not be reopened by the Petitioner at this stage as is sought to be done by way of this writ petition.

13. That with regard to the statements made in paragraph 19 of the writ Petition the deponent states that the scheme for regularisation was formulated with the approval of this Hon'ble Court and therefore the question of striking down the same does not arise. As a matter of fact the petitioner is estopped from challenging the validity of the scheme at this belated stage. As per the direction of this Hon'ble Court, all exercise with regard to regularisation of service on adhoc/part time teachers has since been completed, the services of those teachers who were found eligible as per the scheme and recommended for regular appointments by the selection committee, have since been regularised. The orders of termination in the remaining case including that of the Petitioner have also since been issued after having failed to qualify for the interview. Therefore, no illegality and/or irregularity have been committed by the respondents in terminating the service of the petitioner vide order dated 21.2.95. If the petitioner's contention is to be accepted then there would be no finality of litigations.

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11.

14. That with regard to the statements made in paragraphs 20, 21, 22 and 25 of the writ petition the deponent states that no illegality and/or irregularity has been committed by the respondent in not calling the petitioner for interview and thereafter terminating his service. Therefore, the actions of the respondents, ^{which} are based on relevant consideration and can not be construed as arbitrary, discriminatory and/or violative of Articles 14 and 16 of the Constitution.

15. That in the facts and circumstances stated above, it is respectfully submitted that the writ petition is devoid of any merit and is liable to be dismissed with cost.

16. That the statements made in this Para and in paragraphs 1, 2, 4, 5, 6, 8, 13 & 14 are true to my knowledge, those made in Paragraphs 3, 7, 9, 10, 11 and 12 being matter of records, are true to my information derived therefrom which I believe to be true and the rest are my humble submissions.

Identified by
Mannil Das.

Advocate's clerk.
4-8-95.

MACHAVARAPU KOTESWARA RAO

Machavarapu Koteswara Rao
04/8/95

Deponent.

Subscribed and sworn to before me this 4th day of August 1995

The declarant is identified by Sri. Mannil Das. (Adv.) Personally

Known to me I certify that I read over and explained the contents to the declarant and that the declarant seemed perfectly to understand them.

[Signature]
Commissioner of Affidavit,
Gauhati High Court
Disputes Bench

Annexure - 1

केन्द्रीय विद्यालय संगठन

Phone 26003

KENDRIYA VIDYALAYA SANGATHAN

Regional Office : Sankardev Path, Pub. Sarania
Guwahati-781005
Chariali, 12.

Malignant

No. F. 8-9/KVS (GR)/94-1/306-305

U.C.P.

Dated 21/12/94

MEMORANDUM

On further scrutiny of his/her application for the post of P. T. T. it has been observed that he/she does not fulfil the conditions for being called for interview.

Hence, the interview call letter No. 8-9/KVS/42/94 dated 8/12/94 issued by this office stands cancelled.

Sh. Krishan Singh
Kendriya Vidyalaya
P. Box No. 123
Hemrajur J.O.H.

(H. K. RAO)
ASSISTANT COMMISSIONER

Copy to the Principal KY No. 11 Hemrajur with one request to inform the candidate concerned.

ASSISTANT COMMISSIONER