

50/100

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

(DESTRUCTION OF RECORD RULES, 1990)

**INDEX**

✓  
O.A./T.A No. 215/01.....

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SECTION OFFICER (Judl.)

Brahma  
7/2/17

FORM NO. 4  
(See Rule 42)

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

ORDER SHEET  
APPLICATION NO. 215.....OF 2001.

Applicant (S) Col T. K. Chakraborty

Respondent (S) 11.0.1 2003

Advocate for Applicants (s) Mr. B. C. Das

Mr. S. Dutta

Advocate for Respondent (s) Ms. U. Dutta

→ Kns.

Notes of the Registry

Date

Order of the Tribunal

5.6.01

Heard Mr. S. Dutta, learned counsel for the applicant.

The application is admitted.  
Call for the records.

List on 2-7-2001 for order.

1 C Ushan  
Member

Vice-Chairman

bb

2.7.2001

AB  
5/6/01

On the request made by Mr. S. Sarma, learned counsel appearing for the respondents four weeks time is granted to the respondents to file written statement.

List on 30-7-2001 for orders.

1 C Ushan  
Member

30.7.01

On the prayer of Mr S. Sarma, learned counsel for the respondents the case is adjourned to 30.8.01 to enable the respondents to file written statement.

1 C Ushan  
Member

Vice-Chairman

This application is in form  
but not in time ~~Condonation~~  
~~Petition~~ is filed not filed vide  
M. P. No. .... C F.  
for Rs. 50/- deposited vide  
IPO/BD No. 421282  
Dated 30.1.2001

h Dr. B. C. Das  
4/6/2001  
20

Requints filed.

Notice prepared and sent to  
D/S for time the Respondent  
No 1 to 6 by Regd A/D. vide  
G/No 2115 to 2120 dtd 18/6/01  
but Rs. 5/- for excess Respondent  
Charges not yet paid.

14/6/01

① Service report are still awaited,

By  
29.6.01

30.8.01x

Respondent no. 1 and 4 has filed the written statement

30.8.01

List again on 1/10/01 to enable the respondents to file written statement.

No. W/S has been filed.

By  
29.8.01

mb

1.10.01

No written statement so far been filed List on 16/11/01 to enable the respondents to file written statement.

Vice-Chairman

No. written statement has been filed.

By  
28.9.01

mb

16.11.01

List on 21/12/01 to enable the respondents to file written statement.

Vice-Chairman

No. written statement has been filed.

By  
15.11.01

mb

21.12.01

List on 24.1.2002 to enable the respondents to file written statement.

Member

Vice-Chairman

No. written statement has been filed.

By  
20.12.01

mb

24.1.02

Pleadings are complete. The case may now be listed for hearing. The applicant may file rejoinder, if any, within 2 weeks from today.

Member

Vice-Chairman

26.12.2001  
W/S submitted by the Applicant. Nos. 2 to 6.

List on 26.2.2002 for hearing.

W/S has been filed.

By  
23.1.02

mb

26.2.2002

Mr.S.Dutta, learned counsel for the applicant states that the applicant is filing a rejoinder within short time for which he requires some more time. Accordingly time granted and list the matter on 21.3.2002 for hearing.

Member

Vice-Chairman

No. Rejoinder has been filed.

By  
20.3.02

bb

Member

Vice-Chairman

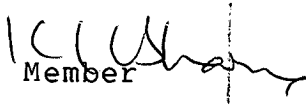
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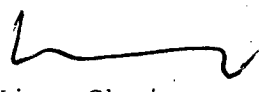
Date

Order of the Tribunal

21.3.2002

Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is allowed. No order as to costs.

  
Member

  
Vice-Chairman

nkm

Received Copy of the Order.  
S.D. Datta, Advocate  
10/4/02

10.4.2002

Copy of the Judgment handed over to the L/Advocates for the parties.

H.S.

Received by  
K.V.S.  
26/4/01

Notes of the Registry	Date	Order of the Tribunal

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 215 of 2001

Date of Decision.....21.3.2002

~~Shri Tapan Kumar Chakraborty~~ .....Petitioner(S)

Mr B.C. Das, Mr S. Dutta and

~~Mrs U. Dutta~~ ..... Advocate for the  
Petitioner(s)

-Versus-

~~The Union of India and others~~ .....Respondent(s)

~~Mr S. Sarma~~ ..... Advocate for the  
Respondent(s)

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 ?

Judgment delivered by Hon'ble : Vice-Chairman

K

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.215 of 2001

Date of decision: This the 21st day of March 2002

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

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

Shri Tapan Kumar Chakraborty,  
Resident of Kanakpur Part-II,  
Silchar, District- Cachar.

.....Applicant

By Advocates Mr B.C. Das, Mr S. Dutta and  
Mrs U. Dutta.

- versus -

1. The Union of India, through the  
Secretary to the Government of India,  
Department of Education,  
New Delhi.
2. The Commissioner,  
Kendriya Vidyalaya Sangathan,  
New Delhi.
3. The Chairman,  
Kendriya Vidyalaya Sangathan,  
New Delhi.
4. The Deputy Commissioner (Finance),  
K.V. Sangathan,  
New Delhi.
5. The Joint Commissioner (Admn.),  
Kendriya Vidyalaya Sangathan,  
New Delhi.
6. The Assistant Commissioner,  
Kendriya Vidyalaya Sangathan,  
Silchar Regional Office,  
Silchar.

.....Respondents

By Advocate Mr S. Sarma.

.....

O R D E R (ORAL)

CHOWDHURY.J. (V.C.)

This is an application under Section 19 of the Administrative Tribunals Act, 1985 assailing the order dated 29.1.2001 whereby the respondents rejected the representation of the applicant including his prayer for providing the benefit of stepping up of his pay with

reference to the salary drawn by his junior with retrospective effect.

2, We have heard Mr S. Dutta, learned counsel for the applicant and also Mr S. Sarma, learned counsel for the respondents at length.

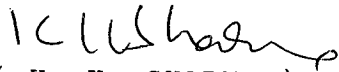
3. On consideration of the materials on record it is apparent that in the year 1992 a Limited Departmental Examination was conducted by the respondents on 11.7.1992. A select panel consisting of three persons was prepared for the post of Assistant during the year 1992 and the applicant was placed at serial No.2. However, the applicant was not appointed on the alleged ground that a vigilance case was pending. However, on 28.8.1995 the authority itself decided to promote the applicant since no chargesheet was issued against him on the basis of the result of the Departmental Examination held on 11.7.1992 like two other empanelled candidates for three vacancies of general category candidates. The applicant was offered the post of Assistant 1995 on the basis of select panel drawn in the year 1992 and he was given the seniority benefit. The aforesaid facts clearly indicated that the applicant ought to have been promoted in the year 1992 alongwith his juniors promoted on the basis of the departmental examination held on 11.7.1992. The authority partly corrected the same by giving him promotion with retrospective effect. Since the applicant is not responsible for the aforesaid conduct of the respondents, the applicant could not have been deprived from the salary and allowances for the aforesaid period. The principle of 'no work no pay' would not apply in such cases. It appears that the authority has already restored the seniority of the applicant. In the circumstances we are of the opinion that the respondents committed serious error in

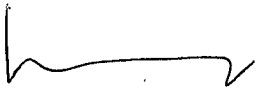
not.....

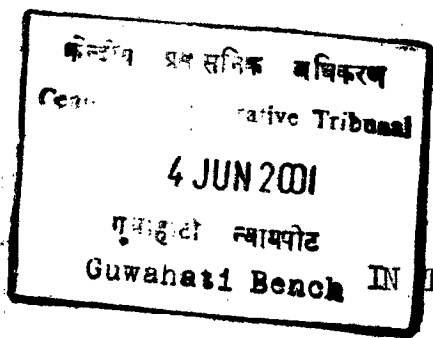


not providing the salary to the applicant for the aforesaid period. The respondents are accordingly directed to give the applicant all the benefits including the salary and allowances from 29.1.1992, i.e. from the date on which his juniors were given the promotion. In addition the respondents shall pay interest at the rate of 8% thereon. The respondents are directed to pay the dues of the salary to the applicant within three months from the date of receipt of the order.

4. 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



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH ::: GUWAHATI

( An application under Section 19 of the Administrative  
Tribunals Act, 1985 )

Title of the Case : O.A. No. 215 /2001

Tapan Kumar Chakraborty : Applicant .

- Vs -

Union of India & Ors. : Respondents.

I N D E X .

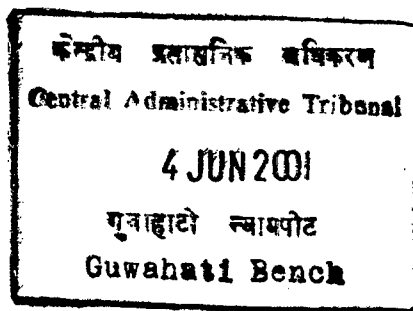
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Filed by

Swrajit Datta  
~~Surajit Datta~~  
Advocate

Date : 1st June 2001

Tapan K. Chakraborty



Filed by:-  
Suryajit Dinda  
Advocate  
01.06.2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

( An application under Section 19 of the Administrative  
Tribunals Act, 1985 )

O.A. NO. 215 /2001

Shri Tapan Kumar Chakraborty

Son of Late Motilal Chakraborty

Resident of Kanakpur Part-II

Silchar- 788 005, Dist. Cachar.

..... Applicant.

- Versus -

1. Union of India -

Through the Secretary to the  
Government of India, Department of  
Education, New Delhi - 110 001.

2. The Commissioner

Kendriya Vidyalaya Sangathan  
18, Institutional Area  
Sahid Jeet Singh Marg  
New Delhi - 16.

3. The Chairman

Kendriya Vidyalaya Sangathan  
18, Institutional Area  
Sahid Jeet Singh Marg  
New Delhi - 16.

Tapan K. Chakraborty /

4. The Deputy Commissioner ( Finance )  
K.V. Sangathan, 18, Institutional Area,  
Shaheed Jeet Singh Marg, New Delhi -16.
5. The Joint Commissioner ( Admn. )  
Kendriya Vidyalaya Sangathan  
18, Institutional Area  
Shaheed Jeet Singh Marg  
New Delhi - 16.
6. The Assistant Commissioner  
Kendriya Vidyalaya Sangathan  
Silchar Regional Office  
Hospital Road, Silchar-1.

..... Respondents.

1. Particulars of Order(s) against which this application is made :

This application is made against the Memorandum dated 29.1.2001 issued under F.No.6-20/89-KVS(Estt-I) by the Deputy Commissioner ( Finance ) whereby the applicant's representation dated 21.11.2000 addressed to the Vice-Chairman, Kendriya Vidyalaya Sangathan, in the matter of non-payment of financial benefit for pay anomaly arisen due to supersession in promotion has been disposed of holding that there is no anomaly in extending benefit of pay fixation.

2. Jurisdiction :

The applicant states that the instant application is within the jurisdiction of this Hon'ble Tribunal.

Tajam No. Chakrabarty

3. Limitation:

The applicant further states that the instant application has been filed within the period of limitation as prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case :

4.1 That the applicant is a Citizen of India and as such entitled to the rights and privileges guaranteed under the Constitution of India.

4.2 That the applicant joined in the Kendriya Vidyalaya Sangathan ( for short, KVS ) as a Lower Division Clerk and was posted at Calcutta Regional Office. He is at present working as an Assistant in the Silchar Regional Office of KVS. It is stated that the <sup>service</sup> condition of the applicant is governed by the Education Code, Accounts Code and Administrative Circulars issued from time to time.

4.3 That prior to his posting at Silchar R.O. as Assistant, the applicant was serving as UDC in the R.O. , Calcutta. It was during the year 1988 that some of the junior colleagues of the applicant were given ad-hoc promotion to the post of Assistants and he was singled out and not given promotion due to the vindictive and oblique attitude of his superiors. During the year 1990-93, those ad-hoc promotions were confirmed and the vacancies were filled up denying the applicant his due promotion.

4.4 That according to the relevant rule for recruitment of Assistants, the applicant became eligible for promotion to the post of Assistant on 1.8.1988 upon his completion of four

Tapau K. Bhattacharya

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four years of regular service as UDC. In 1988, the Departmental Promotion Committee (for short, DPC) held its meeting for considering Ad-hoc promotion and some UDCs were given promotion in violation of the rules although some of them did not even complete four years of regular service. The applicant, though placed in Sl. No. 126 in the Seniority List, was superseded by one Shri Balkishan who was at Sl. No. 143 and Shri G.T. Bas who was at Sl. No. 157. There were two posts of Assistants created for Calcutta Regional Office in 1988 and was kept vacant. One Shri S. Chakraborty, placed in Sl. No. 124 was offered promotion but he did not accept it. The post therefore, remained vacant and surprisingly the applicant was not offered promotion inspite of his eligibility and being within zone of consideration for promotion. The applicant was denied promotion due to the biasness of Shri Puran Chand, the then Assistant Commissioner, Calcutta (now Joint Commissioner, ) towards him.

4.5 That the DPC sat again in the year 1990 and 1992 to consider promotion of UDCs to Assistant on the basis of seniority-Cum-fitness. Out of total 43 posts of Assistants in the Headquarters, 35 were filled up, keeping 8 vacant posts and out of 30 posts in the Regional Offices, only 13 were filled up keeping 17 post vacant. Out of a total of 25 vacant posts of Assistants, 3 were reserved for SC/ST whereas 22 posts lay unreserved. Out of such 22 posts, 60% ( i.e. 13 in number ) were to be filled up on promotion on Seniority-Cum-fitness basis and 40% ( i.e. 9 in number ) were to be filled up by departmental ~~exam~~ examination. Therefore, ~~again~~ the applicant being at Sl. No. 126 in the seniority list ~~fa~~ again fell into the zone

Tapas K. Chakraborty

of consideration for fitting up the former 13 vacancies inasmuch as promotion had already been offered to the candidates upto Sl. No. 123 in 1988. Unfortunately, the applicant was singled out and not given promotion and his juniors from Sl. No. 127 to 134 were given promotion.

4.6 That during the year 1992, the authorities by their letter dated 7.4.92, invited applications for filling up the existing vacancies of Assistant through departmental examination. The applicant duly submitted his application through proper channel which was duly checked and verified at the Headquarters and being satisfied, the authorities asked the applicant to appear in a written ~~xxx~~ test on 11.7.92. The applicant fared well in the said test and came out successful alongwith another candidate against unreserved category. But surprisingly, when the select panel was prepared, he was placed in the "Reserved Panel" for unknown reasons. Even in the year 1993, the DPC had recommended promotion on seniority-cum-fitness basis and the seniority number from 135 to 145 had been cleared for promotion whereas the applicants name had not been considered again without any reason.

4.7. That in the above circumstances, the applicant was made to draw  $\frac{1}{2}$  less salary than his juniors who were allowed to supersede him. The applicant made several representations to the authorities concerned to remove this discrimination but to no result. The authorities sat tight on the issue and remained silent and inactive. It is stated that the animosity and/or displeasure of the authorities towards the applicant was only because he had earlier challenged an improper and illegal transfer order in a writ proceeding before the Hon'ble Calcutta High Court

Tapan K. Ghosh

in C.O. No. 2687(W) of 1990 and had obtained an order of stay keeping the said transfer order in abeyance. The Respondent Authorities had also been subjected to contempt proceedings for wilful violation of the Hon'ble Court's Order.

4.8 That as stated above, the respondents were not considering the applicant's promotion to the post of Assistant in spite of the fact that there were vacancies at Calcutta and moreover his juniors were already promoted. The applicant, feeling aggrieved at such discriminatory treatment of the ~~respondents due to sheer discriminatory treatment of the respondents~~ respondents due to sheer vindictiveness, approached the Hon'ble Calcutta High Court in C.O. No. 246(W)/1994 praying, inter alia, for a direction upon the respondents to promote him to the post of Assistant with posting at Calcutta.

4.9 That during pendency of the said case, the respondents promoted the applicant to the post of Assistant vide order dated 15.9.95, however, posting him to Regional Office, Silchar from Regional Office, Calcutta. The applicant accepted that offer in compelling circumstances without prejudice to his rights and contentions made in C.O. No. 246(W)/1994 pending before the Hon'ble Calcutta High Court. The applicant conveyed his acceptance vide letter dated 25.9.95 addressed to the Assistant Commissioner, R.O., Calcutta and subsequently joined at Silchar <sup>and since then has</sup> been continuing at Silchar.

4.10. That the applicant states that in the meantime, the juniors who had superseded him in promotion on an ad-hoc basis in the year 1988, were regularised in the post of

Tapan K. Bhattacharya



Assistant w.e.f.29.1.1992. As a result of such illegal supersession on ad hoc basis as well as on regular basis, the applicant was placed below his juniors in the seniority list and was made to draw lesser salary than his junior. He was, thus, deprived of the benefit on seniority and pay parity in the cadre of Assistant. It is stated that the authorities, while issuing the offer of promotion on 15.3.95, did not take into consideration this aspect of the matter and consequently neither protected the applicants seniority by giving the promotion retrospective effect nor took any action to maintain pay parity.

4.11 That being aggrieved, the applicant ~~and~~ submitted representations on 26.12.95 and 14.8.96 to the respondent no. 2 praying, inter alia, for granting him the seniority benefit and pay parity ~~as~~ so as to remove the pay anomaly that had arisen due to the aforementioned illegal supersession. Consequently, the respondents issued letter no. F.9.3/96-KVS(E.I) dated 5.2.97 and thereby published the revised seniority list of Assistant. In the said seniority list all the persons who are junior to the applicant, but superseded him earlier, were placed below vide seniority no. 79 to 123. As a result of this, the juniors to the applicant amongst others, namely, Shri J.K. Gupta and Shri Bal Kishan were placed in seniority position no. 83 and 108 respectively. But, since they had illegally superseded the applicant earlier, they continued to draw more salary than him.

The applicant dates that he is not having legible copy of the abovementioned seniority list and therefore is unable to annex the same with this application the Hon'ble Tribunal, may therefore, be pleased to direct the respondents to produce the same, if need be.

Tapan K. Sakraborty

4.12 That the applicant states that although his seniority position in the grade of Assistant was restored with the issuance of the abovementioned letter dated 5.2.97 and the seniority list, the respondents did not confer him the benefit of due seniority in the grade of Assistant by antedating his promotion and also did not give him the benefit of pay parity. Situated thus, the applicant again submitted a representation on 10.6.98 to the Senior Administrative Officer, KVS, New Delhi, giving the details of refixation of pay required to be done in his case to remove the pay anomaly.

A copy of the said representation dated 10.6.98 is annexed herewith as Annexure - 1.

4.13 That thereafter, Section Officer, KVS, New Delhi vide letter dated ~~11.6~~ 16.7.98 asked the respondent no.6 to forward the certified photocopy of the service book of the applicant to the Headquarters so as to enable examination of the representation of the applicant regarding pay anomaly. Thereafter, the certified photocopy of the service book of the applicant was forwarded from the office of the respondent no.6 vide letter dated 23.7.98.

Copies of the said letters dated 16.7.98 and 23.7.98 are annexed herewith as Annexure - 2 & 3 respectively.

4.14 That during this period, similar cases of pay anomaly/stepping up of pay in the revised scale were reported from various other Regional Offices and those matters were brought to the notice of the authorities at Headquarters. Thereupon, the Senior Accounts Officer vide his letter dated ~~24.11.98~~ 24.11.98 issued instruction to all the Regional Offices

*Tajau Kir. Khanabadi*

and clarified that the cases of stepping up of pay, fixing increment etc. be determined with reference to seniority list and not on the basis of date of joining.

A copy of the said letter dated 24.11.98 is annexed herewith as Annexure -4.

4.15 That even thereafter the matter did not proceed any further and was kept pending without any reason. In that circumstance, the applicant again took up the matter with the Sr. Admv. Officer vide his representation dated 30.12.98 which was duly forwarded by the respondent no.6 vide letter dated 30.12.98, but failed to receive any response. This was followed by another letter dated 25.3.99 issued by the respondent no.6 requesting early settlement of the claim of the applicant, but the matter remained un-attended. The applicant, therefore, submitted a representation on 19.6.99 to the respondent no.2 with the hope that his grievances would be redressed. But surprisingly, the latter turned a deaf ear to the same.

Copies of the representation dated 30.12.98 and letter dated 25.3.99 are annexed herewith as Annexure- 5 and 6 respectively.

4.16 That the applicant states that inspite of making repeated demands regarding early settlement of his claim, neither his representations were disposed of nor claim for due seniority benefit and pay parity/stepping up of pay etc. was redressed. The applicant, having no alternative, submitted a representation on 17.2.2000 to the Vice Chairman, KVS detailing the relevant provisions and particulars and his entitlement thereunder and also, seeking his intervention in the matter. But, the respondents took no initiative to attend the grievances of the applicant. The applicant

Tapan K. Ghosh

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ultimately took up the matter with the Joint Secretary ( P&G ), Department of Education, Ministry of Human Resource Development, Govt. of India, through his representation dated 21.6.2000 with a copy to the Director and Chief Welfare Officer, Ministry of Personnel etc. took up the matter with the respondent no.2 vide their letter dated 14.7.2000 requesting immediate action.

Copies of the aforesaid representation dated 21.6.2000 and the letter dated 14.7.2000 are annexed herewith as Annexure - 7 & 8 respectively.

4.17 That subsequently, the Senior Administrative Officer, KVS, New Delhi, through his letter dated 18.7.2000 requested the Assistant Commissioner, Regional Office, to furnish information in respect of Assistant/Audit Assistant in his office in the prescribed proforma as given through the letter of the Sr. Admv. Officer dated 31.3.2000 . It may be pertinent to mention here that in the meantime, the respondent authorities had given the applicant the benefit of seniority in the grade of Assistant w.e.f. 29.1.92, the date of regularisation of his juniors. However, the benefit of pay parity as claimed by the applicant was not given to him. Nevertheless, the respondent no.6 vide his letter dated 7.8.2000 furnished the detailed particulars of the Assistant/Audit Assistant to the Sr. Admv. Officer. Alongwith the said letter dated 7.8.2000, the respondent no. 6 also forwarded a representation of the applicant dated 1.8.2000 regarding stepping up of his pay.

Copies of the representation dated 1.8.2000 and letter dated 7.8.2000 are annexed herewith as Annexure - 9 and 10 respectively.

4.18 That the applicant states that even thereafter

Tapan K. Baskarthy

nothing was done and instead the respondents issued an order on 13.11.2000 transferring him from R.O. Silchar to KVS (HQ), Delhi in violation of the rules. The applicant, being aggrieved submitted representations to the respondent no.2 and the Vice Chairman KVS on 17.11.2000 and 21.11.2000 challenging the transfer order and also praying for removal of the pay anomaly that had arisen due to illegal supersession in service. But, nothing fruitful came to him. It may be stated herein that in the meantime the applicant challenged the said illegal order of transfer before this Hon'ble Tribunal in O.A. No. 423/2000 whereupon the Hon'ble Tribunal stayed operation of the transfer order. The said original application is presently pending before this Hon'ble Tribunal. However, subsequent to filing of the said original application before this Hon'ble Tribunal, the respondent no.4 issued the impugned order dated 29.1.2001 rejecting the claim of the applicant on the plea that he had been extended the benefits of pay fixation as per rules and there is no anomaly.

A copy of the aforesaid order dated 29.1.2001  
is annexed herewith as Annexure - 11.

4.19. That the applicant states that the plea of the respondents for rejection of his due claim is highly illegal, unreasonable and unjustified in the facts and circumstances of the case. It is stated that the respondents have denied him his due promotion in time without any cogent reason and have illegally allowed his juniors to supersede him. As a result of this, his juniors are drawing higher pay than him. In the facts and circumstances of the case, the applicant is entitled to have his pay fixed with reference to the salary of Sri Balkrishan and Sri G.T. Baa and in terms of his representation dated 10.6.98

Tapen K. Chakraborty

(Annexure -1). The action of respondents in denying the applicant his due benefit is wholly arbitrary and unfair and they are therefore liable to be directed by this Hon'ble Tribunal in this respect.

4.20 That the applicant states he has been unreasonably discriminated against in the matter of promotion and consequent grant of financial benefits due to the whimsical and fanciful action of the respondents. It is stated that in similar circumstances financial benefits were paid by the respondents to similarly situated persons who were superseded by their juniors in promotion. To name a few, Sri U.C.P. Sharma, Ex-Principal, K.V. No.1, Imphal and Sri T.I. Singh, Ex-Principal, K.V. Umrangthu, were given the financial benefits. The applicant states that the present case is a star example of arbitrariness, unfairness and unreasonableness of an action to which he has been subjected to. The Hon'ble Tribunal, may therefore, be pleased to issue appropriate directions to the respondents in this regard.

4.21 That this application is filed bonafide and in the interest of justice.

5. Grounds for relief with local provisions :

5.1 For that, the action of the respondents in issuing the impugned order dated 29.1.2001 rejecting the claim of the applicant for removal of pay anomaly is arbitrary, unreasonable and illegal and therefore the impugned order is liable to be set aside.

5.2 For that, the respondents have deprived the applicant from the benefit of pay parity without any basis and therefore are liable to fix his

Tapan K. Chakraborty

-13-

salary with reference to the salary of his juniors, namely, Sri Bal Kishan and Sri G.T. Baa.

- 5.3 For that, the respondents have & illegally and unreasonably denied the applicant his due promotion in time inspite of his being within the zone of consideration and allowed his juniors to supersede him and therefore they are liable to antedate the applicant's promotion while refixing his salary.
- 5.4 For that, the applicant has been deprived of promotion in time without any fault of him but for the oblique attitude of his superiors and therefore he is entitled to have his promotion antedated and to draw the difference of salary with retrospective effect.
- 5.5 For that, due to the illegal supersession in promotion, the juniors are drawing higher salary than the applicant and in view of this the salary of the applicant is required to be refixed to remove the pay anomaly that has arisen in the case which if not done, would cause undue hardship to the applicant.
- 5.6 For that, due to the illegal action and vindictive attitude of the respondents in denying the applicant promotion in time, he has been subjected to financial loss inasmuch as he has been made to draw lesser salary than his juniors and in this view of the matter the respondents are liable to pay him the arrear difference of salary in the grade of Assistant.

Tapan K. Chakraborty

5.7 For that, in view of the ~~app~~ instruction dated 24.11.98 (Annexure-4) issued by the respondent authorities, the applicant being senior is entitled to have his pay stepped up in order to remove the pay anomaly that has arisen in his case.

5.8 For that, the applicant has been discriminated against without any cogent reason in the matter of payment of financial benefits inasmuch as the same benefit has been conferred on the other similarly situated persons.

5.9 For that, the action of the respondents is violative of equality clause enshrined in the Constitution of India and is against the Principles of natural justice.

5.10 For that, in any view of the matter, the impugned order is bad in law and liable to be set aside.

6. Matter not previously filed or pending before any other Court/Tribunal.

The applicant declares that he has not previously filed any case involving the matter of the instant application and as such no case involving the present matter in dispute is pending before any other Court/Tribunal.

7. Details of Remedies Exhausted :

The applicant states that he had represented to the respondents on the present matter in dispute seeking grant of refixation/stepping up of pay, but the same has been turned down by the impugned order dated 29.1.2001.

Tapan K. Bhattacharya



8. Reliefs Prayed for :

Under the facts and circumstances of the case, the applicant prays for the following reliefs :

8.1 That the impugned order dated 29.1.2001 rejecting the claim of the applicant for grant of financial benefit and the benefit of pay fixation be set aside.

8.2 That the respondents be directed to step up refix the pay of the applicant with reference to the salary drawn by his juniors with restrospective effect.

8.3 That the respondents be directed to pay the applicant the arrear amount of difference of pay consequent to refixation of his pay and consequential benefits due to pay revision w.e.f. 1.1.96 alongwith interest @ 12% per annum thereon.

8.4 Costs of the application.

8.5 Any other relief(s) to which the applicant is entitled under law and equity.

9. Interim Relief Prayed for :

The applicant does not pray for any interim relief in this case. He, however, prays for early hearing of the same.

10. ....

This application is filed through an Advocate.

Tafau K. Chakraborty.

11. Particulars of I.P.O.

Date and No. of I.P.O. : 5G 421983 ~~and~~.

Place of Issue : G.P.O. Guwahati.

Payable at ; G.P.O., Guwahati.

12. List of enclosures :

As per Index.

Verification.....

Tapan K. Chakraborty.

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

I, Shri Tapan Kumar Chakraborty, son of late Motilal Chakraborty, aged about 45 years, resident of Kanakpur Part-II, Silchar, Dist. Cachar, do hereby verify and declare that the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this 10 th day of May 2001.

Tapan Kumar Chakraborty  
Signature.

To  
Sri K. N. Singh,  
Senior Administrative Officer,  
(Estt- I)  
Kendriya Vidyalaya Sangathan,  
New Delhi-16.

(THROUGH PROPER CHANNEL)

Date:- 10.06.98.

Speed Post

Subj:- Refixation of Pay as a result of supersession in promotion  
and removal of Pay Anomaly in respect of Sri Tapan Kumar  
Chakraborty, Asstt. R.O. Silchar.

Sir,

Here-in-below is submitted the details of differences in pay caused due to supersession in promotion in respect of Sri T. K. Chakraborty, Assistant, R.O. Silchar. Consequent upon implementation of 5th Pay Commission's report and order of Hon'ble High Court, Delhi (regarding pay scale of 1640-2900 for Assistant & others), the differences in pay arisen in respect of Sri T. K. Chakraborty and other employees (who are junior to him) as detailed in list may please be removed with effect from 15.6.88 and order for payment of arrears may kindly be issued at an early date.

Sl. No.	Name	Dt. of joining as			A.I. Seniority			Pay drawn as				REMARKS	
		UDC	Adhoc	Regular	No. as	UDC	Asstt.	UDC	Asstt.	Asstt.	Asstt.		
													Asstt.
1	2	3	4	5	6	7	8	9	10	11	12	13	
1.	Mr. Balkishan.	16.1.85.	17.10.88	3.1.94	143	29	108	1260/-on 16.10.88.	1400-17.10.88.	1640-17.10.88.	-	**** Sl. No. 1, 2 & 3 were allowed to superseed in violation of rules. Sl.No. 1 & 2 were promoted superseeding Sri T. K. Chakraborty, UDC, on adhoc basis as Asstt. although Reservation rules do not apply for promotion on adhoc basis as per Govt. of India's instruction & 6375-1.1.96. orders of the Apex Court, there 6550-3.1.96. thereby denied promotion to 6725-3.1.97. Sri T. K. Chakraborty without 6900-3.1.98. any cogent reason and lapse on his part. Hence Sri T.K. Chakraborty is entitled for benefit of promotion on adhoc basis w.e.f. 15.06.88. The objection for supersession in promotion and fixation of seniority filed by Sri T. K. Chakraborty was admitted and seniority position has been corrected placing Sl.1, 2. & 3 after Sri T.K. Chakraborty vide Sr.list. No.F.9-3/96-KVS (E-I) dtd. 05.2.97 which was issued in continuation of Sr.list circulated vide letter No. F.9-3/89-KVS (E-I) dtd. 16.1.90	
			on adhoc promotion	****					(on adhoc promotion) 1650-3.1.94. (promotion regularised on 3.1.94) 1700-03.1.95. 1750-03.1.96.	2000-03.1.94.	-		
2.	Mr. G.T. Baa.	2.4.85.	15.6.88	29.1.92.	157	30	99	1260/-1.4.87. 1290/-1.4.88.	15.6.88-1400 1.6.89- 1440 1.6.90- 1480 1.6.91- 1520 1.6.92- 1560 1.6.93- 1600 1.6.94- 1650 1.6.95-1700/-	1640-15.6.88. 1700-1.6.89. 1760-1.6.90. 1820-1.6.91. 1880-1.6.92. 1940-1.6.93. 2000-1.6.94. 2060/-1.6.95.	1.1.96-6375/- 1.6.96-6550/- 1.6.97-6725/-	-	
			on adhoc promotion	****									
3.	Mr. J.K. Gupta.	Not known	N/A	7.1.93	Not known	-	83	Not known	Not known	1640/-7.1.93. 1700/-7.1.94. 1760/-7.1.95.	1.1.96- 5500/- 7.1.96- 5675/- 7.1.97- 5 850/- 7.1.98- 6025/-	-	
4.	Mr. T.K. Chakraborty.	01.8.84.	promotion due wef 06/88 denied.	30.10.95.	126	-	79	1200/-4.10.88.	30.10.95-1520/- 01.2.96- 1600/-	1640/-30.10.95. 1700/-01.10.96. 1760/-01.10.97.	1.1.96-5500/- 1.10.96-5675/- 1.10.97-5850/-	-	
				Offer on selection denied in 1992 & allowed Sri J.K. Gupta to superseed.									

Contd. P/2

Pay of Sri T. K. Chakraborty, Asstt., should be refixed/stepped up as follows.

With effect from	Assistant 1400-2600/-	Assistant 1640-2900/-	Assistant 5500- 9000/-
15.6.88.	1400/-	1640/-	
01.6.89.	1440/-	1700/-	
01.6.90.	1480/-	1760/-	
01.6.91.	1520/-	1820/-	
**			
01.6.92.	1560/-	1880/-	
01.6.93.	1600/-	1940/-	
***			
03.1.94.	1650/-	2000/-	
03.1.95.	1700/-	2060/-	

\*\* Promotion of Sri G.T.Bas was regularised  
w.e.f. 29.1.92.

\*\*\* Promotion of Sri Balkishan was regularised  
w.e.f. 03.1.94.

01.1.96- 6375/-.  
03.1.96- 6550/-.  
03.1.97- 6725/-.  
03.1.98- 6900/-.  
with DNI on 01.1.99.

Consequent upon implementation of 5th Pay Commission's report and Hon'ble High Court's order (regarding 1640-2900 pay scale for Assistant) the pay of Sri T. K. Chakraborty, Asstt. should be fixed as stated above at the earliest.

It is pertinent to mention here that the case has been lying unsettled since last ten years. The case of supersession has since been admitted and correction in seniority list has since been made by KVS (H.Otrs), differences in pay arisen and emanated from denial of promotion w.e.f. 15.6.88 Without any lapse on the part of Sri T. K. Chakraborty, Asstt., the long pending case may please be settled as requested for without further delay.

Yours faithfully,

*(Signature)*  
(Tapan Kumar Chakraborty)  
Assistant  
K.V.S., R.O. Silchar.

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

ANNEXURE-2

F.No.6-25/84-KVS(E.I)

Dated: 16.7.98

The Assistant Commissioner,  
Kendriya Vidyalaya Sangathan,  
Regional Office,  
Silchar.

Subject: Refixation of pay as a result of supersession in  
promotion and removal of pay anomaly in respect  
of Shri Tapan Kr.Chakraborty, Asstt.KVS, R.O.Silchar.

\*\*\*\*\*

Sir,

I am to refer to your letter No.F.PF-TKC/95-KVS(SR)/  
2051 dated 11.6.98 on the subject cited above and to say  
that the certified photocopy of service book of Shri Tapan  
Kr.Chakraborty, Assistant of KVS, Regional Office, Silchar  
may be forwarded to this office to examine his representation  
regarding removal of pay anomaly.

Yours faithfully,

*R.K.*

(R.K.SHARMA)  
Section Officer

KENDRIYA VIDYALAYA SANGATHAN  
REGIONAL OFFICE::: SILCHAR-1

No.F. PF-TKC/95-KVS(SR)/3893

Dated:- 23-07-1998

To

Speed Post

Shri R.K.Sharma,  
Section Officer(E-I)  
Kendriya Vidyalaya Sangathan, Hqrs.  
New Delhi-16.

Sub: Refixation of pay as a result of super session in  
promotion and removal of pay anomaly in respect of  
Shri Tapan Kr. Chakraborty, Asstt.K.V.S.R.O., Silchar.

Sir,

With reference to your letter No. F. 6-25/84-KVS(E.I)  
dated 16-7-98 on the subject cited above, certified photocopy  
of service book (Vol.I & II) of Shri Tapan Kumar Chakraborty,  
Assistant of KVS, R.O., Silchar are sent herewith for further  
necessary action at your end.

Yours faithfully,

R.P. Gupta 23/7/98

Encl:-As stated

( P.R.L. GUPTA )  
EDUCATION OFFICER  
FOR ASSISTANT COMMISSIONER.

Annexure - 4

Kendriya Vidyalaya Sangathan ( Hqrs )  
18, Institution Area,  
Shaheed Jeet singh Marg,  
New Delhi - 16.

No. F. 19-13/98/KVS/Audit.

Dated : 24.11.98

The Assistant Commissioner,  
Kendriya Vidyalaya Sangathan,  
Regional Office,  
PATNA.

Sub: Stepping up the pay in the revised scale clarification-  
regarding.

Sir,

I am to refer to your office letter No. F.8-15/97/  
KVS/RR/A/cs dated 11.8.98 on the subject cited above and to  
confirm that stepping up/anto dating and fixing increment  
in terms of Note-6 under Rule 7 of CCS (Revised Pay) Rules  
1997, be determined with reference to seniority list and not  
on the basis of date of joining.

This issues with the approval of Dy. Commissioner ( Fin.).

Yours faithfully,

Sd/-

( J.S. TALWAR )

SENIOR ACCOUNTS OFFICER

Copy to :

The Assistant Commissioner, Kendriya Vidyalaya Sangathan all  
the Regional Offices for information and guidance.

Sd/-

SENIOR ACCOUNTS OFFICER.

Tapen K. Chakraborty.



Date:- 30-12-98

Speed Post

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To

Shri K.N. Singh,  
Sr. Administrative Officer (Estt.)  
Kendriya Vidyalaya Sangathan, Hqrs,  
New Delhi.

Sub: Refixation of Pay as a result of supersession in Promotion and removal of pay anomaly in respect of Shri Tapan Kr. Chakraborty Asstt. Kendriya Vidyalaya Sangathan, Regional Office, Silchar.

Sir,

Please refer to office letter No.F.PF-TKC/95-KVS/BR/2051-52 dated 11-06-1998 of Asstt. Commissioner, R.O., Silchar forwarding therewith my representation dtd. 10-06-98 on the subject cited above. In response to your letter No.F.6-25/84-KVS(E-I) dtd. 16-07-98 certified copy of service books of mine were sent to you on 23-07-98 vide letter No.F.PF-TKC/95-KVS(BR)/3893. I have not yet been favoured with any decision.

In this connection I beg to draw your kind attention to letter No.F. 19-13/98-KVS/Audit dtd. 24-11-98 of Sr. A/cs Officer clarifying that stepping up/ante dating and fixing increment in terms of Note-6 under rule 7 of GCS (Revised Pay) Rules 1997, be determined with reference to seniority list and not on the basis of date of joining (Copy enclosed).

Seniority numbers of Shri J.K. Gupta, Sri G.T. Baa and Shri Balkishan as Asstt. are 83, 99 and 108 respectively. My seniority number is 79. In terms of clarification since all of them are junior to me in the post of Asstt. (1) my pay should be stepped up with reference to my junior Shri Balkishan w.s.f. 1-1-96 in revised scale of pay.

(II) my pay should also be stepped up with reference to my junior Shri G.T. Baa w.s.f. 15-06-88 in pre-revised scale of Asstt. & increased scale of Asstt. as per High Court order.

You will please appreciate that the matter has been lying pending for settlement for pretty long time. I, therefore, appeal to your kind honour to expedite decision in this regards.

Enclo: As stated.

Yours faithfully,

(T.R. CHAKRABORTY)

ASSTT.

KVS:R.O.:SILCHAR:111

Copy to:-

1. The Grievance Officer, KVS, R.O., Silchar - with the request to take up
2. The Central Grievance Officer, KVS, Hqrs, New Delhi - the matter for early settlement of long pending issue.

(T.K. CHAKRABORTY)

ASSISTANT

KVS:11 R.O.:1111 SILCHAR:11111

\*\*\*\*\*



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# केन्द्रीय विद्यालय संगठन

## KENDRIYA VIDYALAYA SANGATHAN

केन्द्रीय कार्यालय  
अदालत रोड  
सिलचर-788001

Regional Office  
Hospital Road  
Silchar-788001

पत्रांक  
F. No. : PF.TAC/95-KVS(SR)/11066-67

दिनांक  
Dated: 25-3-99  
Speed Post

To

Shri K.N.Singh,  
Senior Admn.Officer(Estt.)  
Kendriya Vidyalaya Sangathan  
NEW DELHI-16.

Sub: Refixation of pay as a result of supersession in  
promotion and removal of pay anomaly in respect of  
Shri Tapan Kumar Chakraborty, Assistant, KVS, RO, Silchar.

Sir,

Please refer to this office letter of even no. dated-  
30-12-98 on the subject cited above.

Decision from KVS has not yet been received by this  
office. You are requested to please expedite the matter for  
settlement of the long pending issue..

Yours faithfully,

( P.R.L.GUPTA.)  
EDUCATION OFFICER  
OF EG, ASSTT. COMMISSIONER.

Copy to:

✓ Shri Tapan Kumar Chakraborty, Asstt. KVS, RO, Silchar  
for information.

OF EG, ASSTT. COMMISSIONER.

Date:- 21.6.2000.

To

Shri Sumit Bose,  
Jt. Secretary(P & G),  
Deptt. of Education,  
Ministry of H.R.D.,  
Room No.117, C-Wing,  
Shastri Bhawan,  
New Delhi-110001.

(Through proper channel)

Sir,

Sub:- Redressal of Public Grievances pending for last TWELVE YEARS at K.V.S.(H.Qtrs).

Ref:- Supersession in promotion from UDC to Assistant in June, 1988;- Removal of pay anomaly in fixation of Pay w.e.f. 01.6.'88 & 01.1.96 and release of payment thereof.

With due deference and humble submission I beg to submit the following facts for your kind perusal, information and necessary intervention to redress my grievances pending for last twelve years at K.V.S. Head Quarters. I moved from pillar to posts, appealed to all the authorities for settlement of the genuine grievances but in vain. Hence, this appeal.

1. I was superseded on promotion from UDC to Assistant by my juniors Sri Bal Kishan and Sri G. T. Baa in 1988 (vide seniority no.126,143,157 of All India Sr. List of UDC- Annexure-I). Although there was no statutory rule for reservation in promotion on adhoc basis they were promoted in violation of rules for promotion/eligibility. It has also been upheld by the various Courts that "RESERVATION RULES DO NOT APPLY FOR PROMOTION ON ADHOC BASIS".

2. As a result of supersession I was forced to draw less salary than my juniors w.e.f. June'88. My representation regarding supersession in promotion was not considered.

3. I was further superseded in January'92 by my juniors on the plea of non-availability of ACRS at KVS(H.Qtrs) and my juniors Seniority No.127 to 163 of UDCs vide Annexure-I were promoted on regular basis and were allowed to draw more salary than me. The representation submitted by me regarding supersession in promotion and removal of pay anomaly arisen therefrom since June'88 was not considered without any cogent reason and my juniors were placed on top in Seniority List of Assistant (vide Seniority No. 29, 30 of Page-6 of Seniority list attached - Annexure-II).

4. Based on my representation all my juniors who were allowed to supersede me on promotion in 1988 and 1992 were placed down below in the seniority list vide seniority No.79 to 123 of Seniority List of Assistant issued as per KVS letter No. F.9-3/96-KVS(E-I) dtd. 5.2.97 (Copy enclosed-Annexure-III), admitting thereby the supersession in promotion was done by KVS authorities illegally in violation of prescribed rules that caused denial of my rightful claim of promotion w.e.f. 01.6.88.

5. My service Book was requisitioned from R.O. Silchar on 16.7.98 vide letter No.F.6-25/84-KVS(E-I) for considering due claim. (Annexure-IV). Service Book's certified photocopy was sent to S.O. (E-I) on 23.7.98 vide letter No.PF.TKC/95-KVS(SR)/3893 (Annexure-V).

6. Repeated requests made by me and the A.C. Silchar since then for settlement of the genuine claim admissible under rules have been ignored and proved futile. Copies of correspondences are enclosed as Annexures -VI/VII).

Contd. P/2

7. Vide letter No.F.19-13/98/KVS/Audit dtd. 24.11.98 the Sr. Accounts Officer has confirmed that stepping up/antedating and fixing increment in terms of Note-6 under rule 7 of CCS (Revised) Pay Rules, 1997, be determined with reference to Seniority List and not on the basis of date of joining (Annexure-VIII). Seniority number of Sri Tapan Kx. Chakraborty, Sri G.T.Baa and Sri Bal Kishan are 27, 47, 56 respectively as per seniority list of Assistant circulated by KVS on 10.3.99 (Annexure-IX).

8. Copies of orders passed by various Courts in connection with payment of arrears for supersession in promotion with retrospective effect are enclosed for kind perusal and ready reference. (Annexures- X/XI).

9. For supersession in promotion financial benefits were paid by KVS to Sri U.C.P. Sharma, Ex-Principal, K.V. No.1, Imphal and Sri T. I. Singh, Ex-Principal, K.V. Umrongshu as per orders of the Hon'ble High Court, Guwahati, whereas the same benefit has not been given to me inspite of standing orders of the Hon'ble Court that "JUDGEMENT PASSED IN REM, NOT IN PERSONAM".

10. From the date of my first appointment in KVS on 04.5.78 till the date of release of promotion on 15.9.95 no disciplinary case was pending against me and no charge-sheet was served upon me. As such, there is no cogent reason for non-settlement of due claim pending w.e.f. 01.6.86.

11. Since 1996 the A.C. Silchar has been projecting the issue in each quarterly progress report of Public grievances for settlement of the long pending issue at KVS (H.Qtrs). Till date the grievances have not been redressed due to some unknown reason best known to the authorities of KVS.

12. In terms of extant rules, orders passed by various Courts including the Apex Court, G.O.I. decision, I am entitled for financial benefit for supersession in promotion w.e.f. 01.6.88 and consequential benefits due to pay revision w.e.f. 01.1.96.

Your kind honour will please appreciate that "TWELVE YEARS" is sufficient time to settle the issue under reference. But it is a matter of great regret that the matter could not be finalised by the authorities of August Organisation like K.V.S. so far, resulting thereby pecuniary sufferings to me w.e.f. 01.6.88 besides impeccable effect on the morale of the employees without any cogent reason.

I, therefore, humbly appeal to your kind honour to look into the issue personally and please settle the long pending issue at your end calling files from KVS (H.Qtrs) and on the basis of documents enclosed herewith so that admissible dues are released to me without further delay. To ease the settlement of the issue the representation dated 10.6.98 (enclosed herewith) showing differences in pay arisen as a result of supersession in promotion may please be perused (Annexure-XI).

Encls:- As stated.

- Copy to:- Shri S. Gopal,  
Director & Chief Welfare Officer,  
D.P.A.R., Room No.384,  
Lok Nayak Bhawan, N.Delhi.
2. Shri P. K. Tiwari,  
G. G. O. & Dy. Commissioner (Trg.),  
K. V. S. New Delhi.-16.
3. The Assistant Commissioner,  
K. V. S. R.O. Silchar.

Yours faithfully,  
*(Signature)*  
(Tapan Kumar Chakraborty)  
Assistant, K.V.Sangathan,  
R.O. Silchar, Hospital Road-  
788001, Dist.Cachar, Assam.

- For kind information & necessary action please at the earliest for redressal of long pending grievances.

- do-  
- do- Advance copies are sent to the Jt.Secy(P&G)

MHRD & The Director & CWO, DPAR to avoid delay.

*(Signature)*  
(Tapan Kumar Chakraborty).

FAX : 011-3012432 (N.B.)  
011-3013142 (E.O.)  
011-4624821 (L.N.B.)  
011-6107962 (Trg. Div.)  
011-4361230 (P.E.S.B.)

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No. 9/2/2000-Welfare

भारत सरकार

GOVERNMENT OF INDIA

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

कार्मिक और प्रशिक्षण विभाग

DEPARTMENT OF PERSONNEL & TRAINING

नई दिल्ली

NEW DELHI, dt 14.6.2000

ANNEXURE-8

To

The Commissioner  
(Kind Attn: Sh.H.M.Cairae)  
Kendriya Vidyalaya Sangathan,  
18, Institutional Area,  
Shaheed Jeet Singh Marg,  
New Delhi-110 016.

Subject: (1) Redressal of public grievances pending for last  
twelve year at K.V.S.(H.Qtrs.)

(2) Admissibility of D.H.R.A. in respect of Sh.Tapan  
Kr. Chakraborty, Assistant, K.V.S., R.O., Silchar-  
Appeal for kind clarification thereof.

Sir,

I am directed to forward herewith a copy each of  
letters dt. 21.6.2000 and 14.6.2000 received from Shri Tapan Kr.  
Chakraborty, Asstt. KVS, RO, Silchar on the subjects noted  
above and to request to take appropriate action at your end  
under intimation to this Department.

Yours faithfully,

(J.S.BHATIA)

Under Secretary to the Govt. of India  
Phone 4698700

17 III 2000

Copy forwarded for information to:

Sh.T.K.Chakraborty, Asstt. K.V.Sangathan, R.o., Silchar,  
Hospital Road, Distt. C-achar, Assam. PIN-788 001.

Date: 01.0.2000

To  
 Sri K. N. Singh,  
 Sr. Administrative Officer,  
 Kendriya Vidyalaya Sangathan,  
 New Delhi-16.

Subj:- Stepping up of pay of Assistants/Audit Assistants-  
 consequent upon the revision of pay scales.

Sir,

With reference to your letter No.P.20-7/2000-KVS (R-1) dated 31.3.2000 and 18.7.2000 on the subject cited above I am submitting herewith a copy of my representation dated 10.6.98 addressed to you duly forwarded by the A.C., Silchar, giving details of pay fixation required to be done as a result of supersession in promotion initially on adhoc basis w.e.f. June'88 and on regular basis w.e.f. 29.1.92.

In this connection it is pertinent to mention that though I was offered appointment for promotion through selection from panel prepared in Dec'92, I was given the seniority benefit of promotion from 29.01.92, the date of regularisation of my juniors who were allowed to supersede me on promotion on adhoc basis in June'88 and subsequently on regular basis w.e.f. 29.01.92.

In terms of clarification issued by Sri J. S. Talwar, Sr. A/c Officer, stepping up/ ante dating and fixing increment in terms of note 6 under rule 7 of CCS (Revised Pay) rules 1997, be determined with reference to seniority list and not on the basis of date of joining vide letter No. F.19-13/98/KVS/Audit dated 24.11.98. (Copy enclosed for ready reference).

Accordingly, my pay is required to be stepped up w.e.f. June, 1988 and thereafter from 29.01.92 and 01.1.95 in revised scale of pay of Assistant.

You are requested to finalise the long pending issue without further delay. In this regard kindly refer to letter No.9/2/2000-Welfare dated 14/17.7.2000 and 26.7.2000 of the Under Secretary to the G.O.I., D.O.P.T., New Delhi. (Copy enclosed for ready reference).

Orders of the Hon'ble Court in the case of Radheyshyam Gupta & Ors Vs U.O.I. & Ors - O.A.No.1241 of 1997 and Surinder Kr. Sharma Vs The Lt. Governor, Delhi & Ors - O.A.No.453 of 1998 regarding payment of financial benefit with retrospective effect for deprivation of promotion & supersession in promotion may be referred to, (Copy enclosed for ready reference) and may be read with the orders of the Court that "Judgement passed in rem, not in personam."

Yours faithfully,

(Tapan Kr. Chakraborty).  
 Assistant  
 K. V. S. R.O. Silchar.

Copy to:-

The Assistant Commissioner,  
 K. V. S. R. O. Silchar-

You are requested to forward this letter alongwith relevant enclosures and representation dtd.10.6.98 to the Sr. A.O., KVS (H. Qtrs) alongwith information sought for on the subject cited above under kind intimation to me.

(Tapan Kr. Chakraborty)

Encls:- As stated.

दस्तावेज  
Phone

34081 (AC) with P.O.  
34339 (AC) Resi  
34154 (AO)  
45717 (EO)

-29-

केन्द्रीय विद्यालय संगठन

ANNEXURE - 10

KENDRIYA VIDYALAYA SANGATHAN

केन्द्रीय विद्यालय संगठन  
आचार्य भवन,  
नई दिल्ली - 110011

Regional Office  
Hospital Road,  
Gurgaon - 750001

पत्रांक  
F No.

1-2/2000-KVS(SR)/ 6569

दिनांक

Dated: 07.8.2000.

Speed Post.

To

Shri K.N. Singh,  
Senior Administrative Officer,  
Kendriya Vidyalaya Sangathan,  
New Delhi - 16.

Sub

Stepping-up of Pay of Assistant/Audit Asstt.  
consequent upon the revision of Pay Scale.

Sir,

With reference to your letter No.F.20-7./2000-KVS(E.I)  
dated 18.7.2000 on the above mentioned subject I am to enclose  
herewith the Particulars of Assistant/Audit Asstt. in the prescribed  
format for necessary action at your end.

In this connection I am to enclose herewith a  
representation dtd. 1.8.2000 in respect of Sh. T.K. Chakraborty,  
Assistant for consideration.

Yours faithfully,

Enclos:  
As stated.

(P.R.L. GUPTA )  
EDUCATION OFFICER  
OFFG. ASSTT.COMMISSIONER.

ASST. JUDICIAL SANGATHAN : REGIONAL OFFICE-SILCHAR.

Sl. No.	Srt. No.	Name of the official	Date of appointment	Pay as on 31.12.85 (prevised scale)	Date of increment (prevised scale)	Pay fixed as on 01.01.86 (revised scale)	Date of next increment	Leave without pay other than on medical ground	Whether promotion/Direct	Remarks
1	2	3	4	5	6	7	8	9	10	11
01	22	Sri A.K.Sarma, Ex- now Supdt. of A/Cs.	1/1 14.2.84	470 (As A/A)	14.2.85 effective from 3.5.85	1640/-	14.2.86	-	Promotion selected through Deptt. Exam.	
02	109	Sri A. Bhattacharjee Ex-A/A/Asstt. now Supdt. (Admn.)	25.9.92 as A/A.	340 (As UDC in School cadre) 1640/- w.e.f. 23.9.92	03.5.85 (effective from 1.5.85) 23.9.92 effective from 01.5.93	1200/-	5/86 23/9/93	-		
03	28	Sri S. Chakraborty A/A	16.4.84 as Asstt.	440/-	16.4.85 (effective from 1.8.85)	1640/-	16/4/86 effective from 1.4.86	-	Promotion-Selected through Deptt. Exam.	Joined as Audit Assistant on 6.12.84. Relieved this RO on 20.12.84. 20.12.84 Def. 77
04	74	Sri S.C. Jain appointed as adhoc basis 5.10.84 as Audit Asstt.	16.5.86	440/-	01.10.86	1640/-	05/10/86 effective from 01.10.86	-	Promotion	
05	100	Sri H.N. Projapati A/A	27.01.92	330 (As UDC) 1640/- w.e.f. 27.1.92	27.2.85 (effective from 01.1.93)	1200/-	02/86 07.1.93 effective from 01.01.93	-	Direct	
06	127	Sri N.L. Sen A/A	25.11.93	404 Rs. 1640/- as A/A w.e.f. 25.11.93	01.3.86 (effective from 01.11.94)	1350/-	25.11.94 effective from 1.11.94	-	Direct	
07	136	Sri B. Singha A/A	10.3.94	(Rs. 1640/- w.e.f. 18.3.94)	18.3.95 w.e.f. 1.3.95	1250 w.e.f. 04.10.88	10/89 18.3.95 w.e.f. 01.3.95	-	Direct	
08	27	Sri T.K. Chakraborty Assistant	30.10.95 as Asstt.	30.10.95- Rs. 1520/- as Asstt. in scale of 1400-2600. Rs. 1640/- in the scale of Rs. 1640-2900/- as UDC-Rs. 340/- as on 31.12.85	01.2.96 as Asstt.	Rs. 1200/- as UDC	01.2.85 as UDC	NIL	Promotion (through Departmental Examination)	Through he was offered appointment on selection through departmental examination held in 1992, he was given the seniority benefit w.e.f. 29.1.92 the date of regularization of his status who were promoted on adhoc basis in 1988. Representation dated 01.03.92 & 10.6.92 of Sri T.K. Chakraborty clarifying the details of pay to be stepped up as a result of supersession in promotion are enclosed.
09	45	Sri B.S. Sharma Assistant	21-7-88 as Asstt.	Rs. 350/- as UDC	1st Feb '86	Rs. 1250/- as UDC	1st Feb '86	NIL	Promotion	Pay of Sh. B.S. Sharma is to be stepped up with reference to Sh. Balkrishan Srt. No. 5 w.e.f. 1-1-86 in the scale of 1640-2900 and in the scale of 5500-9000 w.e.f. 01-01-95.



Annexure- 11

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

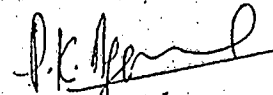
F.NO.6-20/84-KVS(Estt-1)

Dated: 29.01.2001.

MEMORANDUM

The representation dated 21.11.2000 regarding appeal for modification of Transfer order No. F.11-6/99-KVS(Estt-I) dated 13.11.2000 and redressal of grievances regarding injustices done in the matter of non-payment of DHRA admissible under rules and Non-Payment of financial benefit for pay anomaly arisen due to supersession in promotion w.e.f. June 1998 of Shri Tapan Kumar Chakraborty, Assistant, KVS, RO, Silchar has been considered sympathetically by the competent authority and the decision arrived at is communicated to him as under :

- (1) He has been transferred from KVS,RO, Silchar to KVS,RO, Delhi in consideration of his request for transfer on completion of the prescribed tenure at KVS,RO, Silchar. His request for modification of his transfer from KVS, RO, Delhi to KVS ,RO, Calcutta could not be acceded to in view of the Para 18(d) of transfer guidelines.
- (2) Necessary decision regarding non-payment of DHRA has already been communicated to him vide letter number F.8-3/97-KVS/Audit/372 dated 15.7.97.
- (3) He has been extended the benefits of fixation of Pay as per rules and there is no anomaly in this case.



(P.K. Agarwal)

Dy. Commissioner(Fin.)

29/01/2001.

Shri Tapan Kumar Chakraborty,  
Assistant,  
KVS,RO, Silchar.

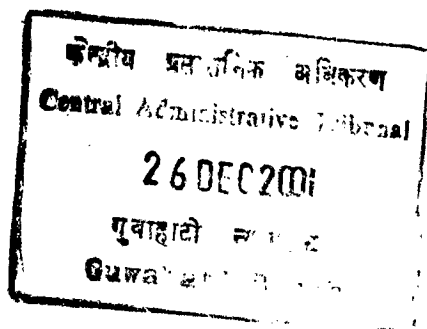
Copy to: Assistant Commissioner, KVS(RO) Silchar.

Attested  
Cmra  
Advocate  
04/06/2001

88-

Dy. Commissioner(Fin.)

97



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH  
AT GUWAHATI

Original Application No. 215/2001.

Sri Tapan Chakraborty

... Applicant

-VERSUS -

Union of India and ors.

..... Respondents

The Respondents Nos 2 to 6 above named beg to file  
their Written Statement as follows :-

1. That all the averments made in the original Application (hereinafter referred to in short as the application) are denied by the answering respondents save and except what has been specifically admitted herein and what appears from the records of the case.

2. That with regard to the statements made in paragraph 1,2,3,4.1 and 4.2 of the application the answering respondents has no comments.

3. That with regard to the statements made in paragraph 4.3 of the application the answering respondents begs to submit as follows. The applicant was posted as U.D.C at Regional Office, Silchar. During the year 1988 his juniors i.e., Sri Balkishan & Sri G.T Bar were given promotion

against the vacancy for SC & ST category respectively. No other UDC junior to the applicant was given Adhoc promotion during the year 1988.

4. That with regard to the statements made in paragraph 4.4 of the application, the answering respondents begs to submit as follows. During the year 1988, 13 vacancies ( 2 SC/ 3ST/ 8 General) of Assistants were filled on Adhoc basis in KVS (HQ) and Regional Offices from the feeder cadre of UDC of KVS (HQ) and Regional Offices. Sri Balkishan at Sl. No.143 belongs to SC Community was promoted on Adhoc basis as against the reserve vacancy of SC. Sri G.T Bar at Sl.No. 157 belongs to ST community and was promoted on adhoc basis against the vacancy of ST category.

5. That with regard to statements made in paragraph 4.5 of the application the answering respondents begs to reiterate what has been stated in the preceding two paragraphs of the Written Statement.

6. That with regard to the statements made in paragraph 4.6 of the application the answering respondents begs to submit as follows. In the year 1992 Limited Departmental Competitive examination was conducted by KVS (Headquarter) on 11.7.92. A select panel consisting of three names was drawn for the post of Assistants during the year 1992 and the applicant was placed at Sl. No.2. Since a vigilance case was

92  
1993 SC 100  
Bar.

pending against the applicant the offer of appointment was not issued to him and was kept in abeyance. On 28.8.95 it was decided that since no charge sheet was issued against the applicant he was entitled to get promotion like other candidates empanelled based on the results of the Departmental test held on 11.7.92, i.e., like the other two empanelled candidates for 3 vacancies of general candidates. The applicant was then offered the post of Assistant in 1995 on the basis of select panel drawn in the year 1992 and he has been given seniority benefit.

The applicant did not work for a single day as Assistant before he joined as Assistant at KVS (R.O), Silchar on 30.10.1995, he is not entitled to any monetary benefit like stopping up of pay etc., based on the 'No Work No Pay' principle. It is further submitted that the name of the applicant was considered for regular promotion on the basis of seniority cum fitness by the Departmental Promotion Committee along with other candidates in the year 1993, and 1995 in its meetings held on 27.12.1993 and 11.01.95 separately. On both the occasions the DPC did not find him fit for promotion and so he was not offered promotion. Hence the applicant is not entitled to stepping up of pay in the revised scale.

of

Extracts note sheets in support of the above submissions is annexed herewith and marked as Annexure:-1.

7. That with regard to the statements made in paragraph 4.7 of the application the answering respondents begs to submit that the name of the applicant was considered for promotion to the post of Assistant as has already been mentioned in the preceding paragraph.

8. That with regard to the statements made paragraph 4.8 of the application the answering respondents begs to submit that the applicant's name was duly considered for promotion as stated in the preceding paragraphs.

9. That with regard to the statements made in paragraph 4.9 of the application the answering respondents begs to submit that the averment made by the applicant that he was promoted to the post of Assistant with posting at Regional Office, Silchar from Regional Office, Calcutta is denied. He was offered appointment to the post of Assistant with reference to his performance in Departmental Examination with posting at Regional Office, Silchar while he was posted in the Regional Office, Patna.

10. That with regard to the statements made in paragraph 4.10 of the application, the answering respondents begs to submit as follows. The averment of the applicant regarding illegal suppression in promotion on adhoc as well as on regular basis is denied. The name of the applicant was duly considered for promotion as already stated in preceding

the paragraph 6 of this written statements and was no offered appointment to the post of Assistant on the basis of Departmental Examination due to the disciplinary proceedings pending against him. He has been given seniority benefit in the cadre of Assistant of KVS (HQ) and Regional Offices as per the select panel (Departmental Examination).

11. That with regard to the statements made in paragraphs 4.11 and 4.12 of the application, the answering respondents begs to submit as follows. The applicant has been given seniority benefit in the cadre of Assistant of KVS (HQ) and Regional Offices as per the select panel of Departmental examination. Sri Bal Kishan who belongs to SC community was promoted on adhoc basis as Assistant against the reserved vacancy w.e.f. 17.10.88, subsequently his services were regularised accordingly w.e.f. 3.1.94. Thus, Sri Bal Kishan has been promoted as Assistant on adhoc basis against the reservation point for SC category earlier to the applicant (who was not found fit for promotion by DPC on two occasions in 1993 and 1995) and was accordingly drawing higher pay to virtue of adhoc services rendered by him in the grade of Assistant. Also, the applicant was working as UDC in the pre-revised scale of Rs.1200-2040/- before joining the post of Assistant on selection through departmental examination whereas Sri J.K Gupta was working as Head Clerk in Kendriya Vidyalaya in the pre-revised scale of Rs.1400-2300/- before joining the post of Assistant. Hence, the applicants plea that Sri Bal Kishan and Sri J.K Gupta who

were junior to him are drawing more pay does not stand for consideration.

12. That with regard to the statements made in paragraphs 4.13, 4.14, 4.15 and 4.16 of the application the answering respondents while reiterating and reaffirming the statement made above denies the correctness of the same.

13. That with regard to the statements made in paragraph 4.17 of the application the answering respondents begs to submit as follows. A general letter was issued to the Assistant Commissioners of all the regions to submit the information in respect of Assistants and Audit Assistants of their regions for consideration of antidating the date of increment in terms of Rule 8 Proviso 2nd of CCS revised pay Rules 1986 of seniors with respect to their juniors. Also as already submitted in paragraph 12 of this Written Statement, Sri J.K Gupta immediate junior to the applicant was drawing higher pay in his pre-promoted post of Head Clerk and, therefore, the applicant cannot claim parity of pay with reference to the pay drawn by Sri Gupta from time to time.

14. That with regard to the statements made in paragraph 4.18 of the application the answering respondents begs to submit that the applicant has been extended the benefit of fixation of pay as per rules mentioned in paragraph 12 above. He has been transferred from Regional Office, Silchar to Regional Office, Delhi in public interest

since he was making representations and bringing outside pressure for his transfer from Regional Office, Silchar.

15. That with regard to the statements made in paragraphs 4.19 and 4.20 of the application the answering respondents begs to submit that the case of anomaly in fixation of pay has been examined by the competent authority. The applicant has been given the benefit of fixation of pay as per rules and there is no anomaly in his case. He has been informed of the position vide letter No.F.6-20/84-KVS(E.1) dated 29.1.2001 (Annexure 11 of the Original Application).

16. That with regard to the statements made in paragraph 4.21 of the application the answering respondents has no comments.

17. That with regard to the statements made in paragraphs 5.1 to 5.10, the answering respondents begs to submit that the grounds made by the applicant in the said application are not tenable in the eye of law. The applicant has been extended the benefit of fixation of pay as per rules and there is no anomaly in his case. There is no violation of the equality clause enshrined in the Constitution of India or the principles of natural justice.

18. That with regard to the statements made in paragraphs 6 and 7 of the application the answering respondents begs to state that the applicant is put to the strictest



proof of the correctness of the statements made therein.

19. That under the facts and circumstance stated above, it is respectfully submitted that the challenge in the instant application is denied of merit and as such is liable to be dismissed with cost.

20. That with regard to the statements made in paragraphs 8 and 9 of the application, the answering respondent beg to state that taking into consideration statements and submissions made by the applicant as well as well as the relevant rules and also taking into consideration the statements made by the respondents in the preceding paragraph the present Original Application deserves to be dismissed with costs.

..... Verification

VERIFICATION

I, Shri Deo Kishan Saini, Son of Sri C. L. Saini, aged about 53 years, presently working as the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Guwahati Region, Maligaon Chariali, Guwahati-12, do hereby verify that the statement made in paragraphs 1-3, 5, 7-10, 12, are true to my knowledge and those made in paragraphs 4, 6, 11 & 13 are based on records.

And I sign this verification on this the 20th day of DEC, 2001 at Guwahati.

Place : Guwahati

Deo Kishan Saini  
DEPONENT

Date :

Plan for 1976

D. P. is the person below (F/A-014  
F/B) On both the occasions,  
the D.P. did not give a  
S. Tapan Kumar Chakraborty for per-  
mission to the post of Asst.

3. S. Tapan Kumar Chakraborty  
appeared in the Repl. Exam for Asst-  
held on 11-7-92 and he was No.  
2 in the select panel. He was then  
offered as per the V.P. case contemplated  
against him.

4. Since no charge sheet has  
been served upon S. Tapan Kumar  
Chakraborty, U.D.C, K.V. R.O Calcutta.  
as per V.P. Section Time is 23.6.75 on  
pro-para, he is to be offered as per  
to the post of Asst on the basis  
Repl. Examination held on 11-7-92,  
and his seniority in the post  
Asst is to be allocated on the

20/10/92

From pre-post  
basis of rank obtained in  
examination

Director being the  
authority for the post of Asst  
Mag. only for the purpose of  
the

22/9/95

DCCP/ Gm  
22/8/95

IG (Admin)

Ref. above

In terms of the instructions issued by the  
Department of Personnel vide ON No 22011/4/91-Estt. (A)  
dated 14-9-92, since no charge sheet was served on Sh.  
Tapan Kumar Chakraborty, he is entitled to get  
promotion like other candidates who are empanelled  
based on the results of the Departmental test held on  
July 1992 for the post of Assistant i.e. like the other  
two empanelled candidates for the 3 vacancies of  
General Candidates.

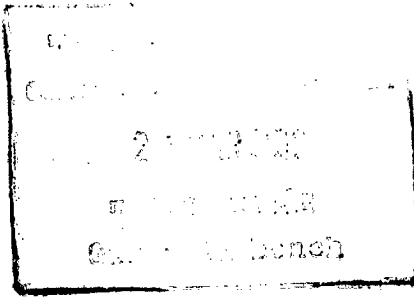
The promotion of Sh. Tapan Kumar Chakraborty  
is accordingly approved. He will not be posted to  
Regional Office Calcutta

DCCP/ Gm  
22/8/95  
SAG

C. Bheemanna  
28 August 1995

3326/SC/KA  
22/9/95  
698/SC  
22/8/95  
RP

30/10/01



Filed by:-  
Swarajit Deka  
Advocate  
19.09.02

IN THE COURT OF THE JUDGE IN CHARGE GUWAHATI BENCH

GUWAHATI BENCH : GUWAHATI

O.A. No. 215 / 2001

Shri Tapan Kumar Chakraborty

.....Applicant

-VS-

Union of India and others

.....Respondents

A-1990 SC100

IN THE MATTER OF :

Affidavit-in-reply of the applicant to the Written statement submitted by the respondent nos. 2 to 6;

AFFIDAVIT - IN - REPLY

I, Shri Tapan Kumar Chakraborty, son of late Motilal Chakraborty, aged about 46 years, resident of Kanakpur Part-II, Silchar -5, the applicant in this application, do hereby solemnly affirm and say as follows :

1. That I have received a copy of the written statement filed by the respondents above named. I have gone through the same and having understood the contents thereof, beg to submit my reply as hereunder contained.
2. That the contents of the written statement are generally denied save and except what have been specifically admitted in this rejoinder affidavit and those borne out by the records of the case.
3. That with regard to the statements made in paragraphs 1 and 2 of the written statement, I have no comment to make thereon.
4. That I dispute the correctness of the statement made in paragraph 3 of the written statement and beg to state that I was never posted as UDC at R.O., Silchar. On 15.09.95, I was promoted to the post of Assistant and was posted at R.O., Silchar from R.O.,

Calcutta. I further beg to say that my seniority position as UDC was at Sl. No. 126 whereas Sri Balkishan and Sri G.T. Baa were at Sl. Nos. 143 and 157 respectively. In the panel of UDCs recommended and approved on 19.05.1988 by the then D.C. (Admn.) for promotion to the post of Assistant on ad-hoc basis, the name of Sri Balkishan did not appear. He was not considered for promotion on 19.05.1988. The Hon'ble Tribunal may, if feel necessary, be pleased to direct the respondents to produce the relevant records for perusal. It may be stated herein that for promotion on ad-hoc basis, seniority was the only criterion in as much as reservation rules do not apply in such case. But the promotion of the applicant was kept withheld by Sri Puran Chand, the then D.C. (Admn.), out of his sheer biasness and vindictive attitude towards the applicant and instead his juniors were promoted. The applicant was deprived of working in the promotional post in spite of his being within the zone of consideration and as such he is entitled to the difference of salary with effect from June 1988.

A copy of the offer of promotion-dated 15.09.95 is annexed herewith as Annexure-R1.

5. That with regard to the statements made in paragraph 4 of the written statement, I beg to say that at the relevant time, there were 13 (thirteen) vacancies of Assistant which were to be filled by giving ad-hoc promotions in the year 1988. On 19.05.88, the following UDCs were considered for promotion on ad-hoc basis in order of seniority-cum-fitness:

✓ 1. Sri D. K. Tandon	- Regional Office, Lucknow	- General
✓ 2. Sri S. K. Sharma	- KVS (HQ)	- do
3. Sri Dheer Singh	- do	- SC
✓ 4. Sri R. K. Rastogi	- Regional Office, Chandigarh	- General
✓ 5. Sri A. C. Thomas	- KVS (HQ)	- do
✓ 6. Smti P. Mathur	- do	- do
✓ 7. Sri R. S. Sharma	- do	- do
✓ 8. Sri A. K. Agarwal	- do	- do
9. Sri P. N. Kharak	- Regional Office, Bhopal	- SC
10. Sri L. T. Parmar	- do, Ahmedabad	- do
11. Sri S. Chakraborty	- do, Calcutta	- General - <u>Refused</u> X
✓ 12. Sri Ram Prasad	- do, Jaipur	- do
13. Sri N. M. Rao X	- do, Madras	- do - Not approved
14. Sri T. K. Chakraborty	- do, Calcutta	- do
15. Sri G. T. Baa	- do, Delhi	- ST

The case of Sri N. M. Rao was not approved in file but all other cases were approved on 19.05.88 by the then D. C. (Admn.). It is stated that Sri S. Chakraborty at Sl.

No. 11 was offered promotion but he refused. Due to rejection of Sl. No.13 and non-acceptance of promotion by Sl. No. 11, I ought to have been offered promotion against available two vacancies but the same was denied and my junior Shri G. T. Baa was offered promotion who joined as Assistant on ad-hoc basis on 15.06.1988. Moreover, one Sri K. K. Sharma was promoted to the post of Superintendent (Admn.) in June, 1988 resulting into availability of two vacancies. But even then, I was not promoted with an oblique motive and instead, my junior Sri Balkishan was offered promotion who joined on 17.10.1988. In this context, I beg to say that since reservation rules do not apply for promotion on ad-hoc basis, there was no scope for super session. Besides, as per rules for promotion on regular basis, vacancies might be earmarked as 2 (two) for SC (i.e. 15% of 13 posts), 1 (one) for ST (i.e. 7 ½ % of 13 posts) and rest 10 (ten) posts for General. In view of the fact that there were already 3 (three) SC candidates in the list above for promotion on ad-hoc basis, there was no scope for offering promotion to another SC candidate namely, Sri Balkishan whose name was not at all considered for promotion on 19.05.88.

6. That with regard to the averments made in paragraph 6 of the written statement I beg to dispute the correctness of the contention raised in paragraphs 4.6 of the original application and further beg to say that on 19.05.88 when the panel for considering ad-hoc promotions were considered, there was no disciplinary case pending against me. The plea of the respondents for not considering my promotion due to pendency of the proceeding is nothing but an eye-wash. I categorically say that during the entire period from 1988 till the issuance of offer of promotion, there was no disciplinary case pending against me and I was never served with any memo or charge sheet in that regard.

I further beg to say that the rule of "no work, no pay" as has been pleaded by the respondents in the written statement, shall not apply in my case in as much as I was illegally deprived of the benefit of working against the promotional post due to the vindictive attitude of the respondents and in this view of the matter I am entitled to the benefits of promotion and pay parity with effect from 15.06.1988, the date when my immediate junior was promoted.

7. That with regard to the statements made in paragraphs 7 and 8 of the written statement, I beg to say that from the facts of the case narrated above, it is apparent that

the respondents have meted out a hostile discrimination in not offering me the benefit of promotion and pay parity. It is also evident that the case of the applicant was not duly considered in arbitrary exercise of power. The respondents are therefore liable to be directed in appropriate manner by this Hon'ble Tribunal and the original application deserves to be allowed.

8. That with regard to the statements made in paragraphs 9 of the written statement, I beg to state that the respondents have made a statement contrary to the records of the case. The Annexure-R1, as annexed to this rejoinder affidavit, makes it abundantly clear that the posting of the applicant as Assistant was from R.O., Calcutta to R.O., Silchar.

9. That with regard to the statements made in paragraph 10 and 11 of the written statement, I beg to reiterate the statements made in paragraphs 3, 4 and 6 of this rejoinder affidavit and further beg to rely upon the same at the time of hearing. I further beg to say that since Sri Balkishan was not at all considered for promotion on 19.05.88 and his name did not figure in the panel prepared and approved on 19.05.88, his promotion was illegal and unjustified. Sri Balkishan and Sri G.T. Baa were illegally allowed to supersede the applicant on promotion and to draw more salary with effect from 16.10.88 and 15.06.88 respectively. Moreover, issuance of the offer of promotion to Sri J.K. Gupta who was junior to the applicant in the select panel was unreasonable and unjustified. As the juniors of the applicant were given promotion and benefit unduly, the applicant is also entitled to the benefit of pay protection and seniority as prayed for in the original application.

10. That with regard to the statements made in paragraph 13 of the written statement, I beg to state that in view of the circumstances narrated in the original application it is apparently clear that the name of the applicant was included in the list of cases of Assistant/Audit Assistant forwarded to the Head Quarters. But his case has not been considered in arbitrary exercise of power in spite of the existence of clear clarification of the respondents (vide Annexure-4 to the O.A.).

11. That with regard to the statements made in paragraph 14 and 15 of the written statement, I dispute the correctness of the same and beg to reiterate the statements made in paragraphs 4.18, 4.19 and 4.20 of the original application. I further beg to say that the representations filed by me have been arbitrarily rejected by the respondents.



12. That with regard to the statements made in paragraphs 17, 18, 19 and 20 of the written statement, I beg to state that the contentions of the respondents have no force much less, any legal force in it and the same are liable to be rejected and the impugned order dated 29.01.01 is accordingly liable to be set aside. The Hon'ble Tribunal may, therefore, be pleased to grant the relief prayed for in the original application.

13. That the statements made in this rejoinder affidavit are true to my knowledge and the same is filed bona fide and in the interest of justice.

And I sign this on this 12th day of February 2002.

*Tapam Kumar Chakraborty*

DEPONENT

Identified by:

*Surajit Datta*

Advocate

Solemnly affirmed and declared by the Deponent

*Surajit Datta*  
ADVOCATE

No.F. 2-17/95--KVS (Estt.I)

Dated : 15/9/95

M E M O R A N D U M

SUBJECT : OFFER OF APPOINTMENT TO THE POST OF ASSISTANT.

With reference to his/~~KVS~~/performance in Departmental Examination for the post mentioned above. Sh Tapan Kumar Chakraverty, U.D.C. is hereby informed that he/~~KVS~~ has been selected for apptt. against a temporary post of Assistant in the pay scale of Rs. 1400-40-1600-50-2300-~~Rs. 60-2600/-~~. His/~~KVS~~ initial pay will be fixed as admissible under the KVS Rules. Besides pay, he/she will be entitled to draw allowances as admissible from time to time. The other terms and conditions of service governing the appointment are as laid down in the Education Code for Kendriya Vidyalayas as amended from time to time. He/She is initially posted as Kendriya Vidyalaya Sangathan R.O. Silchar.

2. He/She will be on probation for a period of two years which may be extended by another one year by the competent authority for the reasons to be recorded in writing.
3. The Courts at Delhi alone have the jurisdiction to decide any dispute or claim arising out of or in respect of the service or pay/other contract arising out of this offer of appointment.
4. If Sh Tapan Kumar Chakraverty, UDC accept the offer on the terms and conditions stipulated he/she should send his/her acceptance immediately on receipt of this memorandum and join the aforesaid office. Acceptance should reach the undersigned in any case by 04-10-95. If the offer is not accepted by the said date or after acceptance if the appointee does not report for duty at the KVS, R.O. Silchar by 09-10-95 this offer will be automatically treated as withdrawn and no further correspondence will be entertained.

(R.N.SHARMA)

Sr. Administrative Officer  
for Jt. Commissioner (Admn)

Shri Tapan Kumar Chakraverty,

U.D.C.,

KVS, R.O. Calcutta.

Copy to :-

1. The Asstt. Commissioner/~~KVS~~ K.V.S., R.O. Calcutta.  
In case Sh Tapan Chakraverty, U.D.C. accepts the offer of appointment on the above terms and conditions, he/she should be relieved immediately to enable him/her to join his/her new posting.
2. The Asstt. Commissioner, KVS, R.O. Silchar.  
The date of joining of the appointee may be intimated to this office telegraphically. In case he/she does not report for duty by the stipulated date, this office should be informed.
3. RP-I Section (4) Cash Section (5) Personal file.

Sr. Administrative Officer