

30/100

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

3

(DESTRUCTION OF RECORD RULES, 1990)

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Disposed date-4/5/01

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Disposed date-04/05/2001

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI.5

ORIGINAL APPLICATION NO. 23/2001

*Pradip Kalita*

Applicant.

versus

Union of India & Ors Respondents.

For the Applicant(s) *Mr. B.K. Sharma*  
*S. Sarma*  
*U.K. Gargi*

For the Respondents. *Dr. B.P. Todi, KVS.*

NOTES OF THE REGISTRAR

DATE

ORDER

This application is in form but not in time Condonation Petition is filed vide M. P. No. C.F. for Rs. 50/- vide IPO/BO No. 4.2/0.5/1 Dated 4.1.01

*Dr. Registrar.*

18.1.01

List the matter on 19.1.01 for Admission.

*U.K. Sharma*  
Member

*U.K. Sharma*  
Vice-Chairman

lm

19.1.01

List on 29.1.01 for admission.

Meanwhile Dr B.P.Todi, learned counsel for the respondents may obtain necessary instruction.

*U.K. Sharma*  
Member

*U.K. Sharma*  
Vice-Chairman

29.1.01

Heard Mr B.K.Sharma, learned Sr. counsel for the applicant and Dr B.P.Todi, learned counsel for KVS.

Application is admitted. Call for the records. Written statement be filed within two weeks.

List on 13.2.2001 for written statement and further orders.

*U.K. Sharma*  
Member

*U.K. Sharma*  
Vice-Chairman

pg

13.2.01

List on 15.3.01 to enable the respondents to file written statement.

*U.K. Sharma*  
Member

*U.K. Sharma*  
Vice-Chairman

lm

*It is proposed to*  
*present to members*  
*indicated this*

*by*  
*18/1/01*  
*for it*

12-2-2001

The learned applicant has not filed requisite copies.

2.3.2001

*Baro* Service & Notice  
to be issued to the  
respondent vide  
No. 899-884 dt. 12.03.01.  
*Baro*

15.3.01 List on 12.4.01 to enable the respondents to file written statement.

1 C. Ushar  
Member

Vice-Chairman

1m

12.4.01 List the matter for hearing on 3.5.2001 for hearing. In the meantime the respondents may file written statement.

Vice-Chairman

trd

3-5 Heard Shri A. K. Chaudhary, learned Counsel for the applicant at length. None appears for the respondent. Mr. S. Sharma, learned Counsel who also appears for the respondent expressed his disability to appear for the respondent. Heptagon a 4.5.2001 in presence of Dr. Todi.

M. K. Jey  
3-5

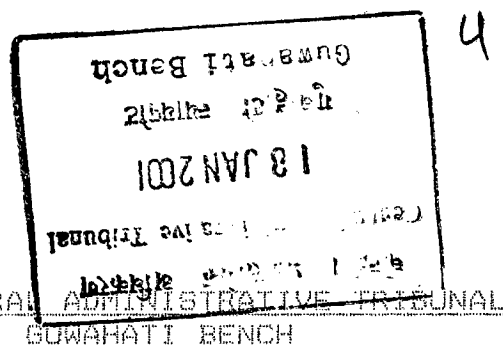
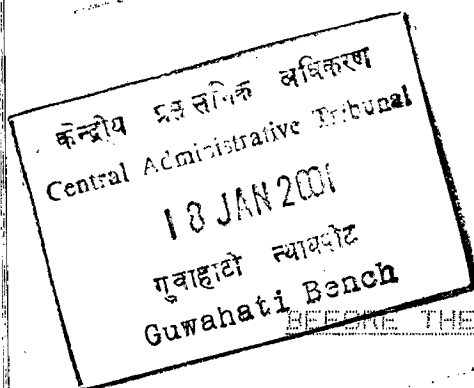
4.5.01 In view of the order passed in Misc. Petition No. 117 of 2001 this O.A. stands disposed of.

Vice-Chairman

1m

12.6.2001

Copy of the order has been sent to the D/Sec. for filing the same to the L/Sec. for the parties.



Title of the case :

DA No. 23/2001

BETWEEN

Shri Pradip kalita.

... Applicant

- versus -

Union of India & Ors.

... Respondents

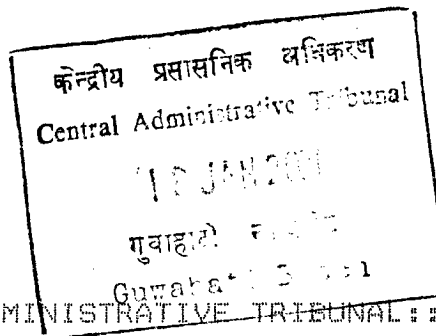
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Filed by :

Ujjal kr. Gowan  
Advocate

File : WB4\SS\pradip



Filed by:

The Appellant

through

Vijayal kr. Gowan

Advocate

18/1/2001

THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH  
GUWAHATI

O.A. No. 23 of 2001

BETWEEN

Shri Pradip Kalita,  
Upper Division Clerk,  
Kendriya Vidyalaya Maligaon,  
Guwahati.

... Applicant

AND

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Human Resource, development Central Secretariat, New Delhi-1,
2. The Chairman Kendriya Vidyalaya Sangathan, Nehru House, Bahadur Shah Zafar Marg, New Delhi.
3. The Commissioner Kendriya Vidyalaya Sangathan, JNS Campus New Delhi,
4. The Deputy Commissioner, (Academy), Kendriya Vidyalaya Sangathan, Sahid Jeet Singh Marg, New Delhi-16.
5. The Asstt. Commissioner Kendriya Vidyalaya Sangathan, Guwahati Region, Maligaon Guwahati-12.
6. The Principal, Kendriya Vidyalaya Maligaon, Guwahati-12.

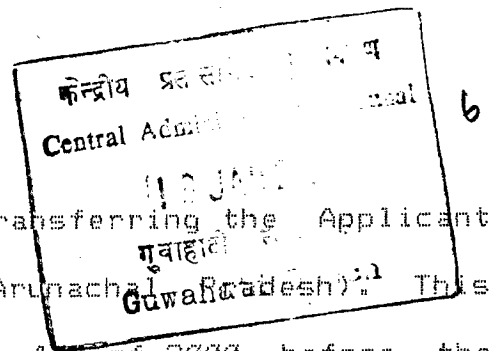
... Respondents

DETAILS OF APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE :

The present application is directed against the order of transfer of the Applicant as ordered by the Respondents under order No. F.12-1(DT)/2000-KVS(E:IV)

P. kalita



dated 4.12.2000 (Annexure- ) transferring the Applicant from Guwahati to Nirjuli (Arunachal Pradesh).<sup>1</sup> This applicant had filed O.A. No 432 of 2000 before the Hon'ble Tribunal challenging the aforesaid order of transfer and the Hon'ble Tribunal was pleased to dispose of the said O.A with a direction to the respondents to dispose of his representation. Presently a post of UDC is lying vacant in the Regional Office KVS Maligaon, and the respondents have expressed their helplessness for consideration of his case in absent of any categorical order from the Hon'ble Tribunal. Hence this application for an appropriate order to the respondents for consideration of his case against the said vacant post of UDC .

2. JURISDICTION OF THE TRIBUNAL :

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

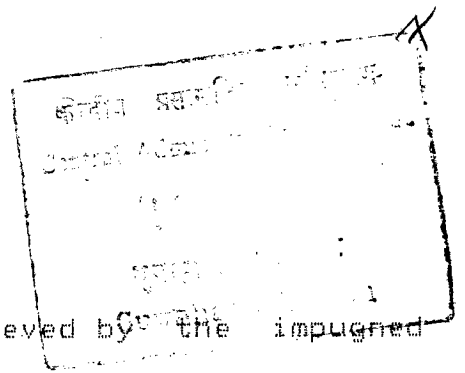
3. LIMITATION :

The Applicant further declares that the application is filed within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

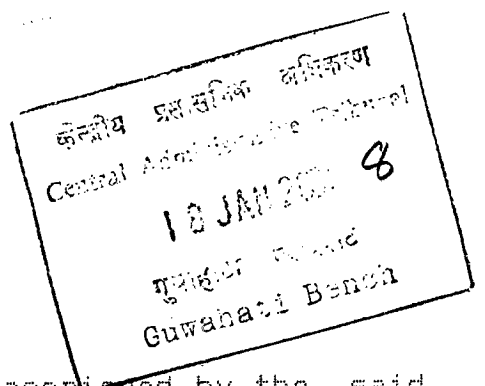
4. FACTS OF THE CASE :

4.1 That the Applicant is a citizen of India and as such he is entitled to all the rights and privileges as guaranteed under the Constitution of India.

P. Kalita



4.2 That the Applicant is aggrieved by the impugned order dated 4.12.00 by which he has been transferred from Guwahati to Nirjuli (Arunachal Pradesh). The said order has been issued by the respondents without considering the representation filed by the applicant prior to the issuance of the said order of transfer. It is noteworthy to mention here that the applicant prior to issuance of the aforesaid order of transfer dated 4.12.00 the applicant was constrained to move the Hon'ble Guwahati High Court by way of filing Civil Rule No. 4019/97 in respect of his promotion to the post of UDC from LDC. The Hon'ble High Court was pleased to dispose of the case with a direction to consider the case of the applicant for promotion to the post of UDC within a period of 4 weeks vide its order dated 28.8.97. Pursuant to the said order of the Hon'ble High Court, the respondents have issued an order vide No F.4-20(3)/96-KVS/E.IV/Vol. II dated 27.10.97 promoting the applicant to the post of UDC. In the mean time the applicant made a representation to the respondent No 4 with a prayer not to disturb his present place of posting highlighting his difficulties including the service of his wife as well as the academic session of his son. But ignoring the aforesaid factual position the respondents have issued the aforesaid impugned order dated 4.12.00. The said order of transfer is yet to be formally served on the applicant. The applicant immediately having come to know about the said order dated 4.12.2000 made a representation to the respondents praying for modification of the said order

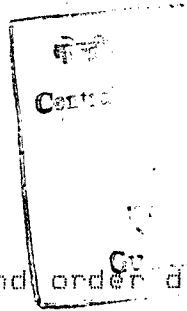


of transfer. The applicant being aggrieved by the said order of transfer had filed O.A. No'432 of 2000 before the Hon'ble Tribunal challenging the aforesaid order of transfer and the Hon'ble Tribunal was pleased to dispose of the said O.A with a direction to the respondents to dispose of his representation. Presently a post of UDC is lying vacant in the Regional Office KVS Maligaon, and the respondents have expressed their helplessness for consideration of his case in absent of any categorical order from the Hon'ble Tribunal. It is noteworthy to mention here that at the time of filing the O.A. 432 of 2000 , the applicant was not aware of the said vacancy and did not made any mention of the same and for that reason only the respondents have expressed their helplessness for such consideration and disposed of the representation of the applicant without mentioning the said vacant post. Hence this application for an appropriate order to the respondents for consideration of his case against the said vacant post of UDC .

This is the crux of the matter for which the applicant has come under the protective hands of this Hon'ble Tribunal seeking appropriate relief.

4.3 That the applicant is presently working as an UDC under the respondents. He being aggrieved by the action of the respondents for non-consideration of his case for promotion to the post of UDC, was constrained to move the Hon'ble High Court by way of filing Civil Rule No 4019 of 1997. The said Civil Rule was disposed of by



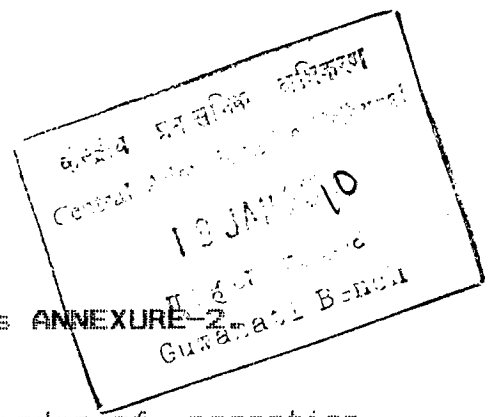


the Hon'ble High Court by Its judgement and order dated 28.7.97 directing the respondents to consider his case for such promotion to the post of UDC, fixing a time limit of 4 weeks.

A copy of the said Judgement and order dated 28.8.97 is annexed herewith and marked as **ANNEXURE-1.**

4.4. That the applicant pursuant to the aforesaid Judgement and order dated 28.8.97 passed by the Hon'ble High Court the respondents promoted the applicant to the post of UDC vide its order vide No F.4-20(3)/96-KVS/E.IV/Vol. II dated 27.10.97 and he assume duty on the same day as UDC. The case of the applicant before the Hon'ble High Court was that on promotion he was posted out side Guwahati and for that reason he had to forgo the said promotion at the first instance due to certain personal reasons. But in the Civil Rule the applicant prayed for his adjustment in the said promotional post (i.e. UDC) within Guwahati. It is pertinent to mention here that in the civil rule the applicant pointed out the fact about the service of her wife ,who is an employee of the 'Pragjyotish Gaolian Bank, Dharapur, Guwahati and the Hon'ble High Court was please to disposed of the matter considering the case of the applicant in the vacant post as pointed out by the applicant. The respondents considering the case of the petitioner adjusted him in the Kendriya Vidyalaya Maligaon, Guwahati , as UDC.

A copy of the joining report dated 27.10.97 is



annexed here with and marked as **ANNEXURE-2**

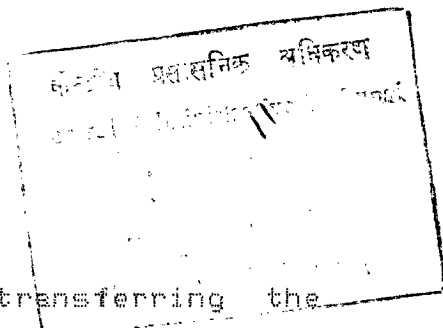
4.5 That pursuant to the aforesaid order of promotion dated 27.10.97, the Applicant took charge of the post of UDC, Kendriya vidyalaya, Maligaon, Guwahati. In the mean time the applicant made several representations stating therein the service of his wife and his 8 years old son who is studying at class-2 and with a prayer, not to transfer him out side Guwahati.

Copies of the representations dated 6.12.99 and 20.12.99 are annexed herewith and marked as **ANNEXURE-3 & 4** respectively.

4.6 That the applicants apart from the above representations made verbal requests to the authority concerned about his difficulties with a prayer not to disturb his service by way of transfer on the ground that his wife is an employees of Pragjyotish Gaolien Bank, Dharapur Branch, Guwahati. On the other hand the only son of the applicant is about 8 years old. In this connection mention may be made of the recommendation of 5th Central Pay Commission wherein it has been categorically stated about the posting of husband and wife in a same station using the expression "shall".

The Applicant craves leave of this Hon'ble Tribunal to rely and refer upon the said 5th Central Pay Commission recommendation at the time of hearing of this case.

4.7 That the Respondents without considering his such representation issued an order vide No. F.12-



1(DT)/2000-KVS(E):IV dated 4.12.2000 transferring the Applicant from Maligaon to Nirjuli in the same capacity as UDC. It is pertinent to mention here that the Applicant being a low paid employee should not have been transferred.

A copy of the order dated 4.12.2000 is annexed herewith and marked as Annexure-5.

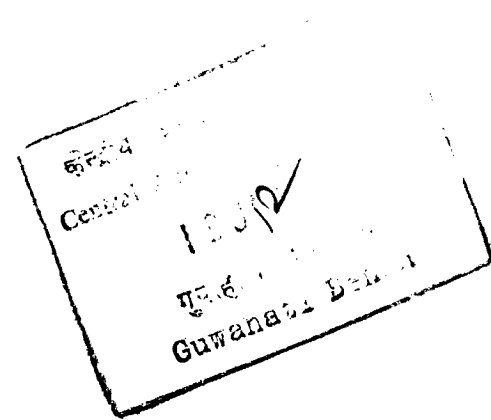
4.8 That the Applicant states that since he is on leave on medical ground therefore the said order dated 4.12.2000 is yet to be served on him officially. The Applicant on enquiry could come to know from a reliable source that the said transfer has been issued acting on a request made by one UDC working in the Kendriya Vidyalaya, Amerigaon, Guwahati for his transfer to Maligaon i.e. the place of posting of the Applicant.

4.9 That the Applicant highlighting his grievances made a representation on 11.12.2000 to the concerned authority for cancellation/modification of the order dated 4.12.2000.

A copy of the representation dated 11.12.2000 is annexed herewith and marked as Annexure-6.

4.10 That the Applicant begs to state that the impugned order dated 4.12.2000 although have been issued in public interest, in fact the said order have been issued pursuant to a request made by the incumbent working in the Kendriya Vidyalaya, CRPF Amerigaon, Guwahati.

4.11 That the Applicant begs to state that presently



his wife is working as a cashier, Pragjyotish Gaolien Bank, Dharapur Branch, Guwahati. The son of the Applicant Shri Bhaskardeep Kalita is presently studying in Class II in the St. Vibekananda English Academy, Maligaon, Guwahati and he is aged about 7 years. It is therefore the Applicant further begs to state that in view of the recommendation made by the 5th Central Pay Commission, the Respondent ought not to have issued the order of transfer more so when the fact has already been narrated by the Applicant through his earlier representations.

4.12 That the Applicant begs to state that under the Respondents certain guidelines have been maintained, regarding transfer and posting mention of which has been made in the impugned order dated 4.12.2000. As per the said transfer guidelines maintained by the Kendriya Vidyalaya Sangathan the incumbent having worked less than 5 years of service should not be transferred. But in the instant case the Respondents have violated their own guideline and hence the impugned order cannot sustain in the eye of law.

4.13 That the Applicant begs to state that prior to issuance of the impugned order dated 4.12.00, the respondents issued an order dated 17.10.00 transferring some similarly situated employees like that of the applicants, namely one Sri B.K. Das, but till date he has not been released from his present place of posting i.e, Maligaon on his own request. However, the respondents till date has not yet disposed of the

P. Kalita

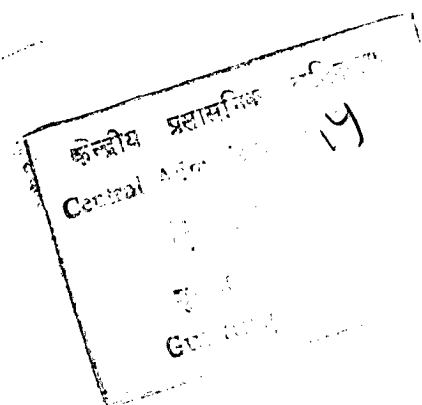
representation filed by the applicant and pending disposal of his such representation issued the order of transfer without any prior intimation to him.

4.14. That the applicant begs to state that the respondents have issued the order of transfer without applying their mind as well the various guidelines issued by the Govt. of India and hence the said order dated 4.12.00 is not sustainable in the eye of law. In this connection mention may be made of the transfer policy issued by the respondents.

A copy of the said transfer policy is annexed herewith and marked as **ANNEXURE-7**

4.15. That the applicant begs to state that the applicant being a low paid employee, the respondents ought not to have issued the order of transfer dated 4.12.00 which is violative of the various guidelines of the Govt. of India and hence the said order is not sustainable in the eye of law and liable to be set aside and quashed.

4.16 That the applicant begs to state that respondents have maintained certain transfer guidelines for transfer and posting and in the said transfer and posting guidelines there has been specific mention regarding safeguards to the low paid employees like that of the applicant. On the other hand the applicant being situated in the middle of the gradation list and there being sufficient seniors and juniors, hence the action of the respondents in issuing the impugned order dated 4.12.00 picking the applicant is illegal and



liable to be set aside and quashed.

4.17. That the applicant being aggrieved by the said order of transfer had filed O.A. No 432 of 2000 before the Hon'ble Tribunal challenging the aforesaid order of transfer and the Hon'ble Tribunal was pleased to dispose of the said O.A with a direction to the respondents to dispose of his representation. Presently a post of UDC is lying vacant in the Regional Office KVS Maligaon, and the respondents have expressed their helplessness for consideration of his case in absent of any categorical order from the Hon'ble Tribunal. It is noteworthy to mention here that at the time of filing the O.A. 432 of 2000, the applicant was not aware of the said vacancy and did not made any mention of the same and for that reason only the respondents have expressed their helplessness for such consideration and disposed of the representation of the applicant without mentioning the said vacant post. Hence this application for an appropriate order to the respondents for consideration of his case against the said vacant post of UDC.

The applicant craves leave of the Hon'ble Tribunal to produce the copy of the Judgement and order dated 14.12.2000 passed in O.A. No 432 of 2000 at the time of hearing of the cases.

4.18. That the applicant has thereafter filed a representation to the Asstt. Commissioner, KVS on 19.12.2000. The applicant in the said representation has expressed all the relevant points. The applicant

could come to know that the respondents have disposed of the said representation against him, but since the applicant is on LTC on Medical leave could not obtain any such order. 4.19 That the Applicant begs to state that till date the Applicant has not been issued with the order of transfer and its subsequent orders formally but he apprehends that at any moment the Respondents may issue the said order of transfer formally to him along with the release order without first considering his representation. It is in view of this facts, the Applicant prays before this Hon'ble Tribunal for an appropriate interim order directing the Respondents not to give effect the order of transfer dated 4.12.2000 during the pendency of this OA. In fact after the disposal order (which is yet to be served upon the applicant) another incumbent has been posted to the post of UDC which was holding by the applicant. As stated above the Applicant is yet to be served with the copy of the order dated 4.12.2000 and its subsequent orders formally as well as till date no release has also been issued to the Applicant. On the other hand till date atleast number of posts are vacant. Therefore there will be no difficulties for the Respondents to accommodate the Applicant. The order of transfer has been issued violating the various guidelines issued by the Ministry concerned and hence it is a fit case for granting interim order directing the Respondents not to give effect the operation of the impugned order dated 4.12.2000 and/or to consider his against the vacant post of UDC which is presently lying

P. Kalita

vacant in the Regional Office KVS Maligaon, till date disposal of this OA. In the event if the interim prayer is not granted, the Applicant will suffer irreparable loss and injury.

4.20 That this application has been made bonafide and for securing the ends of justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that the action of the respondents in not considering the representation of the Applicant before issuance of the impugned order dated 4.12.2000 is illegal and arbitrary and hence the impugned order is liable to be set aside and quashed.

5.2 For that the impugned order dated 4.12.2000 having been issued in gross violation of various guidelines issued by the Ministry concerned and so also the principles of natural justice, same is liable to be set aside.

5.3 For that the wife of the Applicant being an employee of a recognised Bank at Guwahati and his son being a minor, the guideline issued by the 5th Central pay Commission covers the case of the Applicant and issuance of the impugned order dated 4.12.2000 is perse illegal and liable to be set aside and quashed holding the same being violative of above recommendation.

5.4 For that the impugned order being violative of Article 14 and 16 of the Constitution of India, same is not sustainable and liable to be set aside.



5.5 For that there being a statutory provision of the Kendriya Vidyalaya Sangathan regarding transfer and posting of the employees and the Applicant since has not complete yet 5 years service in his present place of posting, the Respondents ought not to have issued the impugned order more so when the facts were made clear to the Respondents.

5.6. For that the Respondents have acted illegally in issuing the order although stated to be issued in the interest of public but in fact same has been issued in the behest of some vested interest circle and hence same are liable to be set aside and quashed.

5.7 For that there being so many senior as well as junior officers presently working in the Guwahati Region, the Respondents ought not to have picked the Applicant without any basis more so when his case is pending consideration before the higher authority.

5.8 For that in any view of the matter the impugned order is not sustainable and the Applicant is entitled to the reliefs sought for in this OA.

The Applicant craves leave of this Hon'ble Tribunal to advance more grounds both factual as well as legal at the time of hearing of this case.

6. DETAILS OF REMEDIES EXHAUSTED :

The Applicant declares that he has no other alternative and efficacious remedy except by way of

P. Kalita

filing this application.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT :

The Applicant further declares that no other application, writ petition or suit in respect of the subject matter of the instant application is filed before any other Court, Authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them. The Applicant had earlier filed a writ petition being WP(C) No. 3611/2000 in the Gauhati High Court and the same has been withdrawn 22.9.2000 with liberty to approach the Hon'ble Tribunal. Thus this OA.

8. RELIEFS SOUGHT FOR :

Under the facts and circumstances stated above, the Applicant prays that this application be admitted, records be called for and notice be issued to the Respondents to show cause as to why the reliefs sought for in this application should not be granted and upon hearing the parties and on perusal of the records, be pleased to grant the following reliefs :

8.1 To set aside and quash the Annexure-5 order dated 04.12.00 with all consequential benefits and to allow the applicant to continue in his present place of posting or any place in Guwahati in the light of aforesaid transfer guidelines.

8.2 To direct the respondents to consider the case of the applicant against the vacant post of UDC

presently lying vacant in the Regional Office KVS Maligaon.

8.3 Cost of the application.

8.4 Any other relief/reliefs to which the Applicant is entitled to and as may be deemed fit and proper by the Hon'ble Tribunal.

9. INTERIM ORDER PRAYED FOR :

Pending disposal of the OA the impugned order dated 4.12.00 (Annexure-5) may be suspended directing the Respondents to allow the Applicant to continue in his present place of posting and/or to consider the case of the applicant against the vacant post of UDC lying vacant in the Regional Office KVS Maligaon.

10. ....

The application is filed through Advocate.

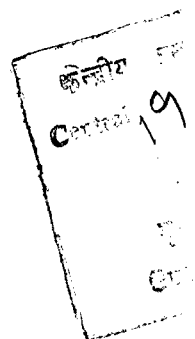
11. PARTICULARS OF THE I.P.O. :

- i) I.P.O. No. : 56 421051
- ii) Date : 4/1/2001
- iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

P. Kalita



VERIFICATION

I, Shri Pradip Kalita, aged about 40 years, son of Sri Rabi Ram Kalita, resident of West Gotanagar Maligaon, at present working as U.D.C In the K.V. Maligaon, Guwahati, do hereby solemnly affirm and verify that the statements made in paragraphs 4.1, 4.2, 4.6, 4.8, 4.10 to 4.13, 4.15 to 4.19 & 5.1 to 5.8 are true to my knowledge ; those made in paragraphs 4.3, 4.4, 4.5, 4.7, 4.9, 4.14 are true to my information derived from records and the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the 18 th <sup>wg</sup> day of ~~December 2000~~. January 2001

Pradip Kalita

प्रमाणित की जाए आवेदन की तिथि Date of Application for copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की तिथि तिथि Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तिथि Date of delivery of the requisite stamps and folios.	तिथि, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तिथि Date of making over the copy to the applicant.
29/8/97	1/9/97	1/9/97	1/9/97	1/9/97

-15-

ANNEXURE-1

THE GAUHATI HIGH COURT

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

CIVIL APPELLATE SIDE

Appeal from Civil Rule No. 40/9 of 1997

Shri Preadip Kalita

Appellant  
Petitioner

Versus

Union of India & Ors. Respondent

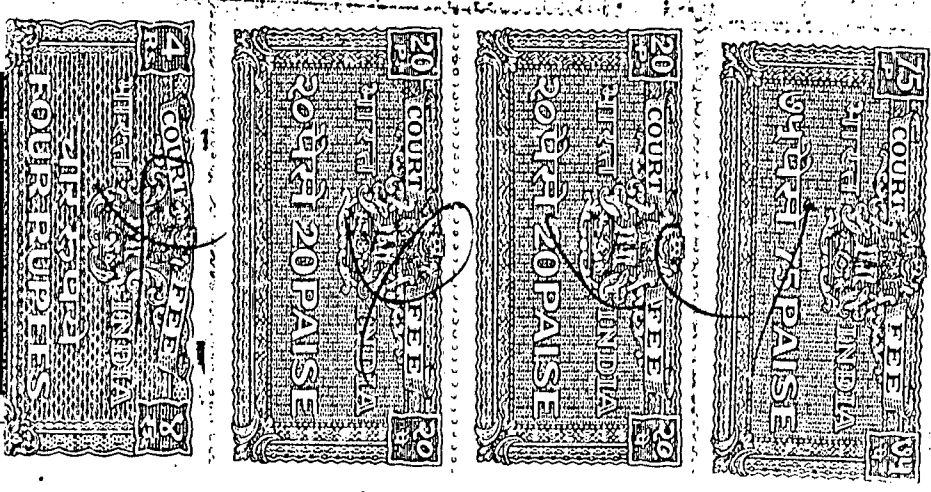
Opposite-Party

Appellant Mr. B.K. Sharma.

Petitioner Mr. D.S. Bhattacharya, Advocate

Respondent Central Govt. Standing Council,

Opposite-Party



Attested  
W. G. G.  
Advocate

21

-18-  
-16-

3.

IN THE MATTER OF :-

Shri Pradip Kalita,  
S/O. Shri Rabi Ram Kalita,  
Rly. Qt. No. 285 A,  
West Gota Nagar, Maligaon,  
Assam.

.... Petitioner.

VS.

1. The Union of India,  
represented by the Secretary  
to the Govt. of ~~Assam~~ India,  
Ministry of Education,  
New Delhi.

The Commissioner.

2. The Kendriya Vidyalaya Sangathan,  
18, Institutional Area N. Delhi-16  
Maligaon, Chhaya Bhawan, Guwahati-11.

3. The Assistant Commissioner,  
Kandriya Vidyalaya Sangathan,  
Maligaon, Chhaya Bhawan, Guwahati-11.

4. The Principal,  
Kandriya Vidyalaya, Maligaon,  
Guwahati-11.

.... Respondents.

The humble petition of the above-named  
petitioner, -

Advocate

Serial  
No.

Date

Office notes, reports, orders or proceedings  
with signatures

Present

Hon'ble Mr. Justice D.N. Choudhury

28.8.97

By this writ petition the petitioner seeks for a direction to the respondents to consider the case of the petitioner for promotion to the post of U.D.C. in Kendriya Vidyalaya, Maligaon.

Heard Mr. BK Sharma, learned counsel for the petitioner and Mr. KN Choudhury, learned CGSC for the respondents.

The petitioner Shri Pradip Kalita is working as L.D.C. in Kendriya Vidyalaya since 5th May '84 and on 28.7.94 on the recommendation of the Departmental Promotion Committee (DPC) the petitioner was promoted to the post of U.D.C. in the pay scale of Rs. 1200/- to 2040/- in the Kendriya Vidyalaya Sangathan, vide order dated 28.7.94 (Annexure-A). The petitioner due to



Office of Advocate

Serial  
No.

Date

Office notes, reports, orders or proceedings  
with signatures

reasons did not accept the said promotion at that time. Thereafter, the case of the petitioner was again taken up when post of U.D.C. fell vacant, as will appear from the communication dated 9.4.97 (Annexure-B) sent by the Principal, Kendriya Vidyalaya, Maligaon, to the Assistant Commissioner, Kendriya Vidyalaya Sangathan, whereby the ACRs etc. of the petitioner were forwarded for further action. According to the petitioner one post of U.D.C. is lying vacant presently and he is eligible for promotion to the said post. He now apprehends that the post will be filled up by transferring person from other place instead of promoting him to the said post.

As a matter of fact, petitioner submitted a representation before the Principal, who by his letter dated 30.7.97 forwarded the same to the Assistant Commissioner, Kendriya Vidyalaya Sangathan.

From the facts narrated above it thus appears that there is a vacancy in the post of UDC and the petitioner is eligible to be considered for the post.

In the facts and circumstances of the case, the respondents are directed to consider the case of the petitioner for being promoted to the post of UDC alongwith with other similarly situated persons in accordance with law. While



g by Office or Advocate



*5. min. minute.*  
*1-4-97*

Serial No.	Date	Office notes, reports, orders or proceeding with signature
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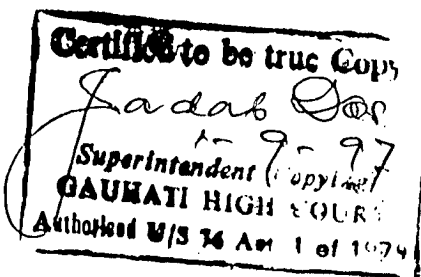
(28.8.97)  
 contd

consideration that earlier the petitioner was promoted to the post of UDC but for personal reasons he could not avail that chance <sup>also</sup> and that his personal problem is over by now.

The respondents are directed to complete the exercise within 4 weeks from today and during this period they shall not fill up the post of UDC of Kendriya Vidyalaya, Maligaon, <sup>which is presently held by</sup> by persons other than the petitioner.

Petition stands disposed of accordingly.

Sd/- D.N. Choudhury  
*Judge*



*AB*  
*1/9/97*



-23-  
-24-

GUWAHATI G.P.O. (781001)  
SP EE781441821IN भारतीय डाक  
Counter No:2, OP-Code:HPO  
To: S B CHATURVEDI, DELHI-10  
NEW DELHI, PIN:110  
From: P KALITA, GHY  
Ht: 122 cms  
Date: 06/12/1999 / 17:45  
INDIA POST  
ANNEXURE - 3

From :- Mr. Pradip Kalita,  
Upper Division Clerk  
Kendriya Vidyalaya,  
Maligaon, Guwahati-11

To,  
The Deputy Commissioner (Academy)  
Kendriya Vidyalaya Sangathan,  
Shahidjeet Singh Marg,  
New Delhi-16

( Through Proper Channel)

Dated 6th December '99

Sub :- Abeance of Mutual request transfer from K.V.Maligaon to K.V.CRPF, Amerigog, Guwahati or any other Kndriya Vidyalaya

Respected Sir,

I have the honour to invite your kind attention to the subject cited above and submit the following facts for favour of your kind necessary action please.

That Sir, since my promotion was offered from L.D.C. to U.D.C. after completion of 14 years of regular service, there after I have been working as U.D.C. at Kendriya Vidyalaya, Maligaon, Guwahati, since 27th October, 1997.

That Sir, I would like to inform you that I came to know from reliable source that one station senior most U.D.C. of Kendriya Vidyalaya, Maligaon (Mr. B.K.Das) had applied for mutual request transfer from K.V.Maligaon to K.V.CRPF Amerigog vide Principal K.V.Maligaon letter No. KVM/99/444 - Dated 23/9/99 addressed to your good office through Mr. Assistant Commissioner K.V.S. Guwahati Region for seeking permission of the mutual transfer to save and to avoid surplus at K.V. Maligaon. In this connection, at present two sanctioned post of U.D.C. are holding the position as per previous student enrolment beyond 1600. On the otherhand one post of U.D.C. would be withdrawn/ decrease in terms of KVS(H.O.) New Delhi D.O. of the Commissioner letter No. F.1-1/99-KVS(O&M)/ dated 20/8/99 and another 2nd letter No. F.1-1/2000-01/KVS(O&M)/ dated 01/10/99 Besides, as the new proposal have been approved in the Board of Governor's meeting for fixation of staff sanction for the academic year 2000-2001 in the number of having upto 3 section Class I to X for one UDC listed at Annexure-I, as per KVS(H.O.) New Delhi letter referred above. Moreover, I conception of apprehend, if the mutual transfer would be come into effect by your good office, it will be injustice for me as junior U.D.C. at K.V.Maligaon and my legal entitlements may not be deprived from legitimate

That Sir, my wife is a Regional Rural Bank employee serving in Praggyotish Gaonlia Bank, Dharapur Branch, Guwahati, which is nearest from my duty place. (A Copy of the service certificate from the employer is enclosed for your kind perusal).

That Sir, my ailing father more than 60 years old who is residing with me has been suffering from Asthma with hypatension last three years is under treatment at the consulting Doctor's (A copy of the medical treatment certificate from authorised Medical Attendant is enclosed herewith for your ready reference).

That Sir, my son 7 years old is studying in private School in St. Vivekananda English Academy, Maligaon, Guwahati-11 to the standard-I (one) Division. I am the eldest son and now only bread earner of my family as well, as my 55 years old mother are wholly dependent upon me.

That Sir, your small favour will be great blessing to me and help me render my best services to the KVS at K.V. Maligaon, being free from big worries of domestic life and acute personal problems.

Needless to mention that if I am shifted to any other place I will be put to lots of inconvenience and discomforts your kind favour is solicited.

In view of the facts, stated above, I earnestly request you to look into the matter personally so that mutual transfer of station senior most U.D.C. from Kendriya Vidyalaya, Maligaon to another K.V.'s kept abeyance untill further implementation of new staff sanction order for the academic year 2000-2001 in pursuance of your KVS(H.Q.) New Delhi letter referred above as the Annual Regional request transfer has already been done according to computerised priority list. As per criteria. For which that act of your kindness I shall be ever remain grateful to you.

Thanking you in anticipation.

Enclos :-

1. One photostat copy of service certificate in respect of my wife.
2. One photocopy of medical treatment certificate from authorised medical attendant in respect of my father.

Advance copy forwarded for information & necessary similar action to :-

1. The Assistant Commissioner Kendriya Vidyalaya Sangathan, Regional Office, Guwahati Region, Maligaon Chariali Guwahati-12 for kind information & necessary action please.

Yours faithfully,

*Pradip Kalita*  
06/12/99  
( PRADIP KALITA )

Smt. Hira Kalita (Bharali)  
W/o Shri P Kalita (UDC) K V Maligaon  
Cashier  
Pragjyotish Gaonlia Bank  
Dharapur, Guwahati-33 (Assam)

The Commissioner,  
Kendriya Vidyalaya Sangathan,  
18, Institutional Area,  
Shahidjeet Sing Marg,  
New Delhi-16

Dated, 20th December '99

Subject: Postponement of mutual request transfer from  
K V Maligaon to K V CRPE, Amalgog, Guwahati  
in respect of Mr B K Das (UDC) and Smt M.  
Bhattacharjee (UDC)

\*\*\*\*\*

Respected Sir,

I have the honour to invite your kind attention to the subject cited above and submit the following facts for favour of your kind necessary action please

That Sir, I, Smt. Hira Kalita Bharali wife of Shri P Kalita has been serving as Regional Rural Bank employee under Pragjyotish Gaonlia Bank Dharapur, Guwahati, Assam (A copy of the service certificate is enclosed herewith for your kind perusal) which is 10 k m distance from my duty place where I am residing with my husband at Govt. accommodation allotted in favour of my husband alongwith my 7 years minor child as well as my ailing poor health parents-in-law who are residing with me and wholly dependent upon us.

That Sir, my husband Shri P Kalita has been working in Kendriya Vidyalaya Maligaon, Guwahati as UDC since 27th October, 1997.

That Sir, my son 7 years old is studying in private school in St Vivekananda English Academy, Maligaon, Guwahati. to the standard-I.

That Sir, I am the low-paid earning member, only bread earner of my family as well as my ailing father more than 60 years old who has been suffering from Asthma with hypotension is still under treatment at the consulting doctor's (A copy of the medical treatment certificate is enclosed herewith for your kind perusal) so I can't residing alone as a lady at the present situation.

Contd.. 2/-

Received  
22/12/99  
Attested  
M. K. Das  
Private

84-26-  
// 2 //

29

That Sir, I would like to inform you that I came to know from reliable source that one station senior most UDC of Kendriya Vidyalaya Maligaon of Mr B K Das had applied for mutual request transfer from K.V Maligaon to K.V.CRPF, Amerigoy, Ghy. for seeking premission of mutual transfer to save and to avoid surplus at K V Maligaon (However, a copy of the representation dtd 6/12/99 is enclosed herewith for your ready reference submitted by Shri P Kalita, UDC of K V Maligaon in respect of my husband)

Moreover, I conception of apprehend if the mutual transfer would be come in to effect by your good office it will be very injustice for me as the legal entitlements may not be deprived from legitimate rights. Needless to mention that if my husband shifted to any other place from K V Maligaon I will be put to lots of inconvenience & discomforts your kind favour is solicited

In view of the facts stated above, I earnestly request you to look into the matter personally so that mutual transfer of senior most UDC (Mr B.K Das) kept postpone untill further implementation of new staff sanction requirement for the academic year 2000-2001 in accordance of your KVS (HQ) New Delhi letter as mentioned in my husband representation as per enclosed herewith For which that act of your kindness I shall be ever remain grateful to you.

Thanking you,

Yours faithfully,

Date :

Encl:- As above.

*Bharali*  
(Smt.Mira Kalita (Bharali)).

Copy to:-

- 1) The Asstt. Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Guwahati-12 for his kind information and necessary action please.
- 2) The General Manager, Pragjyotish Gaonlia Bank Head Office, Nalbari for his kind information please.
- 3) The General Secretary, REVINSTSA (HQ), Delhi with a request you kindly to intervene the matter with KVS(HQ) authority as soon as possible so that legitimate rights may not be deprived

*Bharali*  
22/12/99  
(Smt.Mira Kaliga (Bharali)).

25-27

ANNEXURE - 5

14 (AC)

30

Kendriya Vidyalaya Sangathan

(Esstt. IV Section)

18, Institutional Area,

Shaheed Jeeb Singh Marg,

New Delhi - 110 016

No. F.12-1(DT)/2000-KVS(ESIV) Dated: 4.12.2000

TRANSFER ORDER

In accordance with the provisions contained in para 10(1) of the Kendriya Vidyalaya Sangathan's transfer guidelines, the transfer of the following U.D.C. is hereby ordered in public interest with immediate effect:-

Sl. No.	Name	Transferred From KV	Transferred To KV
---------	------	---------------------	-------------------

1 2

S/Shri

J.D.C.

01 PM John

02. OP Gupta

03. Ashok Budhwani

04. Narayan Ch.Das

05. RR Prasad

06. Rajesh Kr.

07. P Kalita

08. SD Devangan

09. AK Sharma

10. RC Sharma

11. Nirmal Kr. Walla

No.1 Jalahalli

No.1 Bhopal

No.2 Indore

Dum Dum

CRPF Durgapur

3BRD Chandigarh

Maligaon

No.3 Korba

No.4 Jaipur

Nagrota

Palampur

Tumkur

No.4 Gwalior

No.3 Itarsi

Dholcherra

Farakka

Juboh

Ninjuli

SECL Chanpuri

BRF Jodhpur

Jyotipuram

Balich

Contd..P.2/-

Attested  
16 Jan  
Advocate

OFFICE OF THE COMMISSIONER  
GOVT. OF INDIA  
MINISTRY OF FINANCE  
NEW DELHI

GOVT. OF INDIA

(VI) 3/2/74-1405 (TO) 1-51.5 00

-2-

2	3	4	5
12. Rattan Chand	No. 2 Pathankot	Nangalbhury	
13. Rakesh Pandey	Manauri	Jagdishpura	
14. V.K. Mishra	Chakari, Kanpur	AFS Binuj-1	
15. P.K. Shukla	Gomtinagar	Gondal	
16. D. Jawanarji	Alwaye	No. 4 Cochin	
17. CP Singh	No. 1 Gaya	Bokaro Thermal	
18. RS Yadav	No. 1 Barauni	Khadia	
19. SK Verma	Burkhunda	Mokamaghat	
20. Bijoy Kumar	No. 1 Patna	Singharai	
21. P Saikia	No. 1 Tezpur	Mohanbari AFS	
22. R. Yadav	BHU Varanasi	Dibyapur	
23. M. Kachhap	Nankum Ranchi	Chandrapura	
24. RN Prasad	Samastipur	Muzaffarpur	
25. RK Phukan	NO. 1 Dinjan	Rupa	
26. Bal Mukand Sain	No. 3 Jhansi	Talbehat	

(Twenty Six cases Only)

This issues with the approval of Competent Authority.


(P.K. Aggarwal)  
Cy. Commissioner (Finance)

20/2/74



Copy to:

- 1- The teacher/employee concerned.
- 2- The Principal, of the Vidyalaya from where the teacher/employee has been displaced. The concerned teacher/employee may be relieved immediately. In case the said teacher/employee is a female or physically handicapped as per the standard guidelines framed by Govt. of India, the said teacher/employee should not be relieved. Intimation to this effect should be sent to corresponding Vidyalaya/ both the Regional Offices/ KVS(HQ) immediately so that further appropriate action can be taken. Representation of the teacher also should be sent to KVS(HQ) for records.
- 3- The Principal of the Kendriya Vidyalaya to where the teacher/employee has been transferred for information and necessary action. In case of receipt of information as indicated at Sl.No.2 above, the teacher/employee from his Vidyalaya should not be relieved and the matter be reported to this office forthwith to enable KVS(HQ) for locating another teacher/employee from the displacement zone.
- 4- The Asstt. Commissioner, KVS, All Regional Offices.
- 5- The General Secretaries of recognized service Associations of KVS.
- 6- O.S.D. (H.R.M.)
- 7- O.S.D. (Def.).
- 8- All Dy. Commissioners/ Asstt. Commissioners/Sr. Admn. Officers/ Audit Officers and Education Officers of KVS(HQ).
- 9- E.A to the Commissioner, KVS.
- 10- Guard file/Notice Board.

  
(Dr. E. Prabhakar)  
Education Officer

From,

Mr. P. Kalita,  
U.D.C.  
K.V. Maligaon, Guwahati-11

To,

The Commissioner,  
Kendriya Vidyalaya Sangathan,  
18, Institutional Area,  
Shahidjeet Sing Marg,  
New Delhi-16.

Dated 11th December 2000

Sub :- Postponement of transfer on public interest  
and modification of transfer order within  
greater Guwahati City.

Sir,

I have the honour to invite your kind attention to the subject cited above and submit the following facts for favour of your kind necessary action please.

1. That I, have been working as UDC since 27th October, 1997 at K.V. Maligaon, Guwahati.

That Sir, I came to know from reliable source that I have been posted at K.V. Nirjuli Arunachal Pradesh on public interest as per your direction.

That Sir, my wife is an employee of Pragjyotish Goniia Bank under Regional Rural Bank has been working at Dharapur Guwahati-33 (Assam) (A copy of the Service certificate is enclosed herewith for your kind perusal)

That Sir, my Eight years minor child is studying in St. Vivekananda English Academy Maligaon, Guwahati to the standard -II. Under secondary Board of Education Assam as there is no any look after my son so that future education life may not be hamper.

That Sir, my ailing father more than 60 years old who is residing with me has been suffering from Asthma with Hypertension last four years still under treatment at the consulting Doctors. (A copy of the Medical treatment Certificate is enclosed herewith)

That Sir, I am the low-paid earning member, only bread earner of my family as well as my ailing mother, so they are can't stay without helping of myself and proper care. Moreover I would like to inform you that there is a provision contained in fundamental rule both husband and wife are employees may be posted to the nearest to the station as per rule. Needless to mentioned that if I am shifted to any other place from Guwahati City I will be put to lots of inconvenience & discomfort your kind favour is solicited. In this connection, I had already submitted in my previous application dated 06/12/99. (A photocopy of the same is enclosed herewith for your kind perusal).

*Attested  
U.K. Guin  
Advocate*

That Sir, I am to bring to your kind attention one post of UDC is likely to be vacant at Kendriya Vidyalaya, CRPF, Amerigog, Guwahati. Who has been transferred to Kendriya Vidyalaya, Maligaon as per your good office direction.

In view of the facts stated above I earnestly request you to look in the matter personally so that my request transfer may please be posted within greater Guwahati city. For which that act of your kindness I shall be ever remain grateful to you.

Thanking you in anticipation.

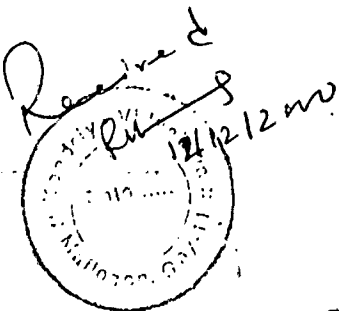
Yours faithfully,

( Pradip Kalita )

- Enclos :-
1. One photocopy of the Service Certificate ( in respect of my Wife)
  2. One photocopy of Medical treatment certificate (in respect of my father)

3. one previous application dt 06/12/99

1. Advance copy forwarded for information and similar necessary action please.
2. The Asstt. Commissioner, KVS Guwahati Region, Maligaon Chariali, Guwahati-12 for immediate necessary action please with a request that application may be forwarded for onward transmission to KVS (H.O.) New Delhi for taking action.
3. The Principal K.V. Maligaon, Guwahati-11 for necessary action please with a request to forward the application to the Asstt. Commission. KVS, Guwahati Region for further action.



( Pradip Kalita )



Personal copy.

TRANSFER GUIDELINES

In supersession of existing guidelines/orders on the subject, it has been decided that transfers in the Kendriya Vidyalaya Sangathan will hereafter be made as far as practicable in accordance with the guidelines indicated below:

2. In these guidelines unless the context otherwise requires:
  - i) "Commissioner" means Commissioner, Kendriya Vidyalaya Sangathan including any officer thereof who has been authorised or delegated to exercise all or any of the powers and functions of the Commissioner;
  - ii) "Performance" means
    - a) Where the Annual Confidential Report(s) is/are available in the concerned Regional office, the assessment of teacher as reflected in his Annual Confidential Report for the last three years preceding the year in which transfers are taken up;
    - b) Where the Annual Confidential Report(s) for last three years or any of the last three years is/are not available in the concerned Regional Office for whatever reason, the assessment by the Assistant Commissioner of the Region from where transfer is being sought on the work and conduct of the teacher for the year(s) in respect of which the ACR(s) is/are not available.
  - iii) "Sangathan" means the Kendriya Vidyalaya Sangathan
  - ✓ iv) "Service" means the period during which a person has been holding charge of the post in the Sangathan on a regular basis
  - ✓ v) "Station" means any place or a group of places within an urban agglomeration.
  - vi) "Stay" means service at a station excluding the period or periods of continuous absence from duties exceeding 30 days (45 days in case of N.E. Region, Sikkim and A&N Islands) at a stretch other than on training or vacation.
  - vii) "Teacher" means all categories of teachers in the employment of Sangathan and includes Vice-Principals and Principals but does not include Education Officers and above.
  - viii) "Tenure" means a continuous stay of three years in North Eastern Region, Sikkim, A&N Islands and listed hard stations (Note. While calculating the aforesaid stay of three years, the period or periods of continuous absence from duties exceeding thirty days (45 days in case of N.E. Region, Sikkim and A&N Islands) at a stretch other than on maternity leave, training or vacation shall be excluded.

Attended  
W. K. G.  
Advocate

ix) "Year" means a period of 12 months commencing on 1st April

Unless the context otherwise indicates.

- a) words importing the singular number shall include plural number and vice-versa;
- b) words importing the masculine gender shall include the feminine gender.

3. In terms of their all India transfer liability, all the employees of the KVS are liable to be transferred at any time depending upon the administrative exigencies/grounds; organisational reasons or on request, as provided in these guidelines. The dominant consideration in effecting transfers will be administrative exigencies/grounds and organisational reasons including the need to maintain continuity, uninterrupted academic schedule and quality of teaching and to that extent the individual interest/request shall be subservient. These are mere guidelines to facilitate the realization of objectives as spelt out earlier. Transfers cannot be claimed as of right by those making requests nor do these guidelines intend to confer any such right.

4. The maximum period of service at a station shall generally not exceed three years in the case of Assistant Commissioners and five years in case of Principals/Education Officers. They are, however, liable to be transferred even before completion of the aforesaid period, depending upon organisational interest or administrative exigencies, etc. Principals with outstanding record in terms of their performance as reflected in ACRs and CBSE results may be retained in a Kendriya Vidyalaya even after completion of five years as aforesaid to promote excellence in the Vidyalaya.

5. Apart from others, the following would be administrative grounds for transfers

- (i) A teacher is liable to be transferred on the recommendation of the Principal and the Chairman of the Vidyalaya Management Committee of the Kendriya Vidyalaya.
- (ii) Transfer of spouse of a Principal to a Kendriya Vidyalaya at the station where the Principal is working or nearby, but not the Vidyalaya where he is a Principal.

6. As far as possible, the annual transfers may be made during summer vacations. However, no transfers, except those on the following grounds shall be made after 31<sup>st</sup> August

- i. Organisational reasons, administrative grounds and cases covered by para 5.
- ii. Transfers on account of death of spouse or serious illness when it is not practicable to defer the transfer till next year without causing serious danger to the life of the teacher, his/her spouse and son/daughter.

(3)

iii. Mutual transfers as provided in para 12

7. Priority for transfers on request shall follow the descending order of combined weightage to be calculated in terms of entitlement points for organisational reasons/interests as also the individual needs and request of the teachers seeking transfers in accordance with para 8 below.

Provided that transfers sought on account of death of spouse within a period of two years of death and medical grounds as per para 9 will be placed en bloc higher than others listed in para 8 of these Guidelines

8 (i) Organisational reasons/interest shall be classified and assigned entitlement points as under

- (a) Transfer from places where tenure is involved (see para 2(viii) of these Guidelines) 20
- (b) Performance

RATING OF PERFORMANCE	ENTITLEMENT POINTS
Outstanding	10 for each year
Very Good	6 for each year
Good	4 for each year
Average	0 for each year
Unsatisfactory	(-)10 for each year

(ii) Needs denoted by the following reasons shall be assigned entitlement points as given against each

S No	REASONS/GROUND	ENTITLEMENT POINTS
A	Blind and orthopaedically handicapped persons. The standards of physical handicap will be the same as prescribed by the Govt. of India for sanction of Conveyance allowance	15
B	SPOUSE CASES	
(i)	Where spouse is a Sangathan employee	20

(ii)	Where spouse is a Central Government employee	18
✓ (iii)	Where spouse is an employee of autonomous body or PSU under Central Government	15
(iv)	Where spouse is an employee of State Government or its autonomous body or PSU	12
(v)	Other spouse cases	10

**Note for 'Spouse Cases' :**

The aforesaid points will be awarded only where the teacher seeks transfer to a station (a) other than the one where he/she is currently posted and (b) where his/her spouse is posted or nearby. This condition, i.e. (b) will, however, not apply in those cases where the spouse of the teacher is posted to a non-family station provided the transfer is sought to a place nearest to the station where his/her spouse is posted.

C	Unmarried/divorced/judicially separated/widowed ladies	12
D	General Cases which are not covered by A-C above	10
E	Stay at the station from where the transfer is being sought,	1 for each year of stay exceeding three years subject to a maximum of 20 points

OR

Teachers who have less than 2 years to retire

20

9. For the purpose of calculation of entitlement points in respect of medical grounds as mentioned in the Proviso to para 7 of these Guidelines, such illnesses of teacher himself/herself or his/her spouse and dependent son/daughter alone as may be prescribed by the Commissioner will be considered as medical ground for transfer.

Note A son will be deemed to be dependent till he starts earning or attains the age of 25 years, whichever is earlier or suffers from permanent disability of any kind (physical or mental) irrespective of age limit. A daughter will be deemed to be dependent till she starts earning or gets married irrespective of age limit.

(5)

10(1) Where transfer is sought by a teacher under para 8 of the guidelines after continuous stay of 3 years in NE & hard stations and 5 years elsewhere at places which were not of his choice, or by teachers falling under the Proviso to para 7 of these Guidelines, or very hard cases involving human compassion, the vacancies shall be created to accommodate him by transferring teachers with longest period of stay at that station provided they have served for not less than five years at that station. Provided that Principals who have been retained under para 4 to promote excellence, would not be displaced under this clause.

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

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

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

11. In order to effect transfers in terms of para 8 and 10 of these Guidelines, two priority lists shall be prepared and operated as under:

✓ (a) First priority list shall list all the applications received for transfer in terms of paras 7 and 8 showing the entitlement points against each applicant. This priority list shall be operated against the vacancies available during normal course for being filled up.

✓ (b) Second priority list will be maintained in respect of cases of transfer in terms of para 10 of the guidelines listing all the applications as also the entitlement points of each applicant in terms of priorities given in para 8 of the guidelines. The applicants included in this priority list alone will be accommodated by transferring teachers with the longest period of stay at that station provided they have served for not less than 5 years from the date of joining at that station. For this purpose a list of persons who have served for 5 years or more at the stations shall be prepared by the Assistant Commissioners of the respective regions and displayed.

12 Mutual transfer may be permitted on satisfaction of the Commissioner but such cases will be taken up on completion of annual transfers as per clause 8 and completed by 30<sup>th</sup> September.

13. Intra and inter-regional transfers may, as far as practicable, be made simultaneously.



40 (6) - 37 -  
14 Upon promotion or direct recruitment as Principals/ Education Officers/Assistant Commissioners, an officer shall necessarily be posted to a different State other than the one where he is posted or domiciled, as the case may be, subject to availability of vacancies. Subject to availability of vacancies and other administrative reasons those who are due to retire within next three years may not be posted outside their home state if their service at the same station prior to promotion does not exceed three years.

15 A teacher on promotion shall necessarily be posted out of the Region where he is currently posted. However, a lady teacher may on promotion be posted within the same Region but a district or two away from the existing place of posting, subject to availability of vacancy.

16 Transfer TA will be regulated as per orders of the Government of India on the subject

17 Assistant Commissioner will be competent to change the headquarters of a teacher on administrative grounds to any place within the region as deemed fit and direct him to discharge his duties there. The Assistant Commissioners shall report forthwith the case with full facts to the Commissioner for confirmation or directions.

18 Notwithstanding anything contained in these guidelines,

- (a) a teacher or an employee is liable to be transferred to any Kendriya Vidyalaya or office of the Sangathan at any time on short notice on grounds mentioned in clause 5 and 6 (i) of these guidelines.
- (b) the Commissioner will be competent to make such departure from the guidelines as he may consider necessary with the prior approval of the Chairman.
- (c) the request of a teacher may be considered for transfer to a station in respect of which no other person has made a claim or request even if such teacher has not submitted the application in the prescribed proforma at the time of annual transfer or within the time limit prescribed for the purpose.
- (d) Following cases will not be considered for transfer
  - (i) cases of Education Officers/Assistant Commissioners for transfer without completing three years' stay at the place to which they were posted upon promotion.
  - (ii) cases where a teacher, Education Officer, or Assistant Commissioner was transferred on grounds mentioned in paras 5(i), 6 and 7 of these guidelines will not be considered for transfer without completing 5 years' stay at the station to which they were so posted.

- 38—
- (iii) Principals, Education Officers and Assistant Commissioners will not be transferred back to the same station from where they were transferred earlier on completion of period as specified in para 4 above unless a period of three years has elapsed.
- (iv) cases of fresh postings whether on direct recruitment or on promotion unless they complete three years of stay at the place of their posting except that, in case of women teachers, the request for posting to a place of choice can be considered after stay of one year. This will not, however, be applicable in cases covered by paras 5, 6, and 7(i) of these Guidelines.

19. These Guidelines shall mutatis mutandis apply to non-teaching staff to the extent applicable.

20. If any difficulty arises in giving effect to these guidelines, the Commissioner may pass such orders as appears to him to be necessary or expedient for the purpose of removing such difficulty.

21. If any question arises as to the interpretation of these guidelines, it shall be decided by the Commissioner

22. The attention of all the employees is invited to Rule 55(27) of the Education Code and rule 20 of the CCS(Conduct) Rules which provide as under:

(i) As per Rule 55(17) of Education Code:

"No teacher shall represent his grievance, if any, except through proper channel, nor will he canvass any non-official or outside influence or support in respect of any matter pertaining to his service in the Vidyalaya "

(ii) As per Rule 20 of CCS(Conduct) Rules:

No Govt. servant shall bring or attempt to bring any political or other outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under KVS

If the above provisions as mentioned at (i) and (ii) above are contravened, the following actions shall follow.

- (a) That the name of the applicant will be removed from the priority list and he/she will be debarred for three years from being considered for transfer without any further reference to the teacher
- (b) That the teacher will be open to disciplinary proceedings as per rules.

✓

To,  
The Asstt Commissioner,  
Kendriya Vidyalaya Sangathan.  
Guwahati Region.  
Maligaon.

Date. 19.12.00

*(Through proper channel)*

Sub :- Order dated 14.12.00 passed in  
O.A. No 432 of 2000 passed by the  
Hon'ble Central Administrative  
Tribunal.

Sir,

With due deference and profound submission, I  
beg to state the few following lines before your honour  
for kind consideration and necessary action thereof.

**BRIEF FACTS.**

That initially I was appointed as an LDC and  
subsequently I was promoted to the post of UDC. How-  
ever, the for posting in the said upgraded post I had to  
approach the Hon'ble High Court by way of filing Civil  
Rule 4019 of 1997, and the Hon'ble High Court after  
hearing the parties to the proceedings was pleased to  
dispose of the said Civil Rule with a direction to post  
me in the vacant post of UDC at Maligaon KV. The order  
of the Hon'ble High Court was dully implemented posting  
me at the Maligaon KV in the post of UDC and on  
27.10.97 I submitting my joining report resumed my duty  
as UDC.

That apprehending my transfer, I myself as  
well as my wife in the month of 99 Dec made representa-  
tions praying for my continuation in the KV Maligaon.  
The apprehensions as reflected in the aforesaid repre-  
sentations dated 6.12.99 and 22.12.99 were of certain  
request transfer case where I expressed that my inter-  
est may be jeopardised. But to that effect I was never  
given, any kind of intimation. Rather I could come to  
know about my order of transfer and also I could come  
to know that the same has been issued not in the public  
interest but for some other employees ignoring my  
claim.

That situated thus I was constrained to move  
the Hon'ble Tribunal by way of filing O.A. 432 of 2000  
wherein the Hon'ble Tribunal was pleased to dispose of  
the said O.A. taking into consideration the 5th Central  
Pay Commission Recommendation. As per the direction of  
the Hon'ble Tribunal my this letter may be treated as  
my representation, praying for cancellation of the  
transfer order dated 4.12.2000 on amongst the following  
grounds;

**GROUND.**

A) That the order of transfer has not been  
issued in the interest of public rather same has been  
issued acting on the request made by some other em-  
ployee.

*Contd page = 2*

B) That since there has been already an order of the Hon'ble High Court, directing me not to disturb, the issuance of the order of transfer dated 4.12.00 leads to contempt of Courts Proceedings and that is also my pleaded case before the Hon'ble Tribunal.

C) That there being various Office Memorandum issued by the Govt of India emphasising the need for posting husband and wife in a single station and also there being a stamp of approval by the 5th Central Pay Commission Recommendation, the order of transfer should not have been issued more so when the said fact was made it known to the authority concerned.

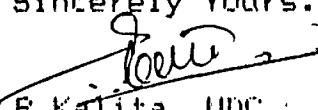
D) That my wife being a Bank Employee serving in Guwahati the order of transfer should not have been issued in violation of the guidelines mentioned above. Apart from that my son being below 10 years of age the O.M issued by the Govt India covers my case, wherein direction has been issued for strict compliance of the same.

E) That since I made representations regarding my continuance in Guwahati is pending disposal the order of transfer should not have been issued which is per se illegal.

In view of the aforesaid facts and circumstances I pray your honour not to transfer me from my present place of posting and allow me to continue till my son attains the majority.

Thanking You,


Sincerely Yours.

  
P. Kalita, UDC.  
KV Maligaon.

Enclo:- The copy of the order dated 14.12.00 passed by the Hon'ble Tribunal in O.A No 432/00.

Copy to :- 1. ~~to~~ The Principal, Kendriya Vidyalaya, Maligaon. Guwahati-11. for immediate compliance as per order dated 14.12.00 passed in O.A. No. 432 of 2000 passed by the Hon'ble Central Administrative Tribunal Guwahati.

*Personal copy*

  
19/12/2000  
P. Kalita, UDC.  
KV Maligaon.

