

GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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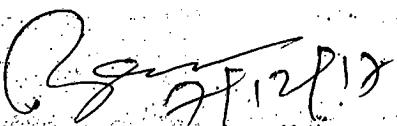
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SECTION OFFICER (JUDI.)

FORM NO. 4
(See Rule 42)IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::::::: GUWAHATI

ORDER SHEET

Original APPLICATION NO ... 242 ... OF 2001.

Applicant (s) K. M. Singh

Respondent (s) Union of India Govt

Advocate for Applicants (s) Mr. S.C. Datta Roy, Mr. A.K. Roy

Advocate for Respondent (s) CGSC, KVS, Mr. Md. Majumdar,

Notes of the Registry	Date	Order of the Tribunal
1. 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. 66720272 Dated 4.7.2001	9.7.01 By Register 4/7/2001	The application is admitted, call for the records. Issue notice on the respondents as to why the interim order as prayed for shall not be granted, returnable by 28.7.2001. List on 30.7.2001 for order.
2. Notice prepared and sent to DIS for giving the Respondent No 1 to 4, by Regd Ad. vide D.I. No 2547/1/2001 dtd 13/7/01 11/7/01.	30.7.01 pg 293 9/7/2001	Mr S. Sarma, learned counsel for the respondents prays for time to file written statement. List on 30.8.2001 for order.
3. No written statement has been filed. 29/8/01	30.8.01 mb	List again on 1/10/01 to enable the respondents to file written statement.

(2)

(2)

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

No written statement has been filed.

By
28/9/01

Vice-Chairman

No written statement has been filed.

mb

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

By
15.11.01

IC Usha
Member

Vice-Chairman

No written statement has been filed.

mb

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

By
20.12.01

No written statement has been filed.

mb

24.1.02 Sri M.K.Mazumdar, learned counsel appearing for the respondents, prays for time to file written statement. Prayer is allowed. List on 22.2.2002 for order.

Enter the name of
Sri M.G.Mazumdar in the
Order sheet.

By
25/1/02

Office to show the name of learned counsel for the respondents in the cause list.

IC Usha

Member

Vice-Chairman

No WLS has been filed.

By
21.2.02

mb

22.2.02 Mr.S.Sarma, learned counsel appearing on behalf of respondent No.1 prays for time to file written statement. None appeared for the other respondents. Last occasion Mr. M.K.Mazumdar, learned counsel prayed and stated that they were representing the respondents. No power so far is filed by them for the respondents. A VOKALATNAMA was filed by Mr.B.Benarjee, Mr.S.C.Biswas, Mr.K.Bhattacharyee, Mr. M.K.Mazumdar and Miss R.Begum on behalf of Mr. D.Singh, Jt. Commissioner (Admn.), but the Joint Commissioner is not a party. Other respondents may take necessary steps and file their affidavits. Gentd/-

(3)

B

O.A. No.242 of 2001

Notes of the Registry

Date

Order of the Tribunal

Notes of the Registry	Date	Order of the Tribunal
	22.2.02	<p>Mr. S.Sarma, learned counsel appearing on behalf of respondent No.1 prays for time to file written statement. None appeared for the other respondents. Last occasion Mr.M.K. Mazumdar, learned counsel prayed and stated that they were representing the respondents. No power so far is filed by them for the ^{other} _{respondents}. A VOKALATNAMA was filed by Mr.B.Benarjee, Mr.S.C.Biswas, Mr.K.Bhattacharyee, Mr. M.K.Mazumdar and Miss R.Begum on behalf of Mr. D.Singh, Jt. Commissioner (Admn.) but the Joint Commissioner is not a party. Other Respondents may also take necessary steps and file their written statement, if any.</p>
No written statement has been filed.	22.3.02	<p>List on 22.3.2002 for order.</p> <p><i>C C Sharma</i> <i>[Signature]</i> Member Vice-Chairman</p>
No. of S has been filed.	22.3.02	<p>List on 22.4.02 to enable the Respondents to file written statement.</p> <p><i>C C Sharma</i> <i>[Signature]</i> Member Vice-Chairman</p>
	22.4.2002	<p>It has been stated by Mr.I.Gogoi that he is instructed by Mr.S.C.Dutta Roy and A.K.Roy, learned counsel for the applicant not to press the application at this stage. Also heard Mr.M. K.Mazumdar, learned counsel for the respondents.</p> <p>Considering the facts and circumstances of the case the application is dismissed as not pressed.</p> <p>No order as to costs.</p> <p><i>Vice-Chairman</i> <i>[Signature]</i></p>

Notes of the Registry	Date	Order of the Tribunal

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

O.A.NO. 242 /2001

Shri Krishna Mohan Singh

.....Applicant

- VERSUS -

Union of India & others

.....Respondents

I N D E X

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For office use :-

Signature -

Date -

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

O.A.NO. _____/2001

BETWEEN

Shri Krishna Mohan Singh,
S/O Late Buleshwar Singh,
At present working as Principal i/c,
Kendriya Vidyalaya, CRPF Group Centre,
Khatkhati, Dist- Karbi Anglong (Assam)

.....Applicant

-AND -

1. Union of India ,represented by
the Commissioner, Kendriya
Vidyalaya Sangathan,
18, Institutional Area,
Saheed Jeet Singh Marg,
New Delhi.
2. The Assistant Commissioner,(Admn)
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Saheed Jeet Singh Marg,
New Delhi.
3. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office,
Hospital Road, Silchar,
Dist- Cachar, (Assam)
4. Shri Kailash Ch. Jain,(PGT),Kendriya Vidyalaya,
Ankleswar, Gujarat.Respondents

1. Particulars of order against which this application
is made

Unnecessary harassment started by the
respondents immediately after the order dated 7.6.2001
passed in O.A.NO.42/1999 and 107/2001 and with that
intention issued the order dated 12.6.2001 by the
Respondent NO.2 appointing the Respondent NO.4 to the
post of the applicant without posting him to any other
alternative post .

X
Filed by the applicant
through -
Advocate
Ashok Kr. Roy

2. Jurisdiction :

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

3. Limitation :

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

4. Fact of the case :

i) That the applicant was initially appointed as a Primary Teacher in Kendriya Vidyalaya under Patna Regional Office in July 1977. Thereafter he was appointed to the post of Trained Graduate Teacher on 12th November, 1979 and post Graduate Teacher on 19th October, 1984 under the same Patna Regional Office and then transferred to Orissa.

ii) That while the applicant was working as Post Graduate Teacher in Meghabatuburu in Orissa, he was served with a charge sheet under Rule 14 of C.C.S (CCA) Rules vide NO. E.13-32/KVS-BFSR/87/4078 dated 6.11.1987. Though the said charge sheet was issued as far back as in the year 1987, nothing was done by the respondents for about fourteen years and kept the matter hanging.

iii) That during this long period, he was appointed as Principal, Novodaya Vidyalaya, Madhupur, on two years deputation and thereafter he was posted as principal incharge, Kendriya Vidyalaya, Tuli (Nagaland) vide order dated 26.11.1997.

kmf
Copy of order dated 26.11.97 is annexed as Annexure - A.

iv) That during the period of his principalship at Tuli in Nagaland the applicant appeared in the Departmental Examination conducted by the Kendriya Vidyalaya Sangathan , Training Centre , New Delhi on 27th ,28th and 29th December, 1997 for the posts of Principal , Vice Principal and he came out successful in the said examination and his name appeared at Sl.NO. 7 of the list of successful candidate ,

v) That after having been qualified in the Departmental Examination the applicant applied for the post of principal in Kendriya Vidyalaya Sangathan on 3rd March , 1998 and accordingly he was called for interview on 11.8.1998 and in the said interview the applicant ,to the best of his knowledge and information ,did well and all the members of the Selection Committee appeared to be satisfied.

vi) That ,most surprisingly when the list of successful ~~exa~~ candidates was prepared and published ,the name of the applicant was not there in the panel. On enquiry in the office the applicant came to know that he was not selected by the Selection Committee for the post of principal on the ground that one enquiry was pending against him.

vii) That being aggrieved ,the applicant approached this Hon'ble Tribunal by filing Original Application NO 42 of 1999 with a *Affection* prayer to direct the respondent to consider the case of the applicant for the post of principal.

viii) That during the pendency of the said original application, i.e., on 19th February 2001 , the Assistant

Silchar Regional Office issued a memorandum under NO 3-3/99-KVS(SR)/16232-33 withdrawing the chargesheet dated 6.11.1987 allegedly on technical error. On the same day the said authority issued another Memorandum of charges under NO. F.3-3/2000-01/KVS(SR)/16234 -36 asking the applicant to submit written statement within 10 days of the receipt of the Memorandum of charges.

One copy of Memorandum ~~of~~ NO. 3-3/99-KVS(SR)/16232-33 dated 19.2.2001 is annexed herewith as Annexure - B.

One copy of the Memorandum of charges dated 19.2.2001 is annexed herewith as Annexure - C

ix) That the applicant states that the charges brought against him under aforesaid memorandum dated 19.2.2001 are the same as were issued under Memorandum dated 6.11.1987 and there are no difference qualitatively and /or otherwise .

x) That being aggrieved ,the applicant again filed another Original Application NO. 107 of 2001 before this Hon'ble Tribunal.

xi) That both the cases were taken together by this Hon'ble court for hearing on 7.6.2001 and disposed of the same by a common order dated 7.6.2001 quashing and setting aside the impugned order dated 19.2.2001 and the charge sheet dated 19.2.2001. In the said order this Hon'ble Tribunal has also directed to consider the case of the applicant for ~~xxx~~ the post of principal.

One copy of the said order dated 7.6.2001 is annexed herewith as Annexure- D

xii) That immediately on getting the copy of the aforesaid order on 8.6.2001, the applicant flew to Delhi and handed over the copy of the order to the Commissioner and requested to consider his case for the post of principal.

xiii) That on 11.6.2001 the applicant again ~~went~~ went to the office of the Commissioner and from the reliable source came to know that the commissioner will not even agree to allow the applicant to work as principal in charge any more and not to speak of consideration for regular post of principal. He also came to know that within one or two days order would be issued in that respect.

xv) That on the very next day i.e., on 12.6.2001 the respondent issued one order /letter appointing one Shri Kailash Chandra Jain to the post of the applicant as principal on deputation ,Kendriya Vidyalaya ,Khatkati directing the said person to join by 30.6.2001. Be it stated here that though in the said letter the respondent No. 4 has been appointed to the post ~~of~~ in which the applicant has been working at present , nothing has been stated regarding ~~next~~ posting of the applicant nor any other simultaneous order has been issued in that regard till date.

Copy of the order /letter dated 12.6.2001 is annexed herewith as Annexure - E.

Any
xvi) That the applicant states that as this Hon'ble Tribunal has passed the order dated 7.6.2001 directing

the respondents to consider the case of the applicant for the post of principal, the respondents should comply with the order of this Hon'ble Tribunal. But in the instant case, the respondents have taken the view not to allow him to work as principal any more, as has been learnt from the reliable source and also to harass him and with that intention, the respondent NO. 2 has issued the order / letter dated 12.6.2001, immediately on getting the order of this Tribunal without giving any direction about the posting of the applicant.

xvi) That the applicant has been working as principal incharge in the present school since January 1999 and in all the year his immediate reporting officer i.e., the chairman gave him either excellent or outstanding certificate due to his duty and hence the respondent should allow him to continue to work as principal till consideration of his case as per the direction of this H'n'ble court. But in the instant case, the respondent has determined to remove him from the post of principal and hence without issuing any transfer order to any other post of principal to the applicant, the respondent issued the appointment order of the Respondent NO. 4 to the post of principal in which the applicant has been working.

Some copies of certificate are annexed herewith as Annexures - - F series.

xvii) That the respondents are determined to remove the applicant from the post of principal and hence they issued the appointment order of the Respondent on deputation basis and after his joining, they will revert the applicant

W.M

to the post of Post Graduate Teacher ~~and~~ .

xviii) That the applicant also states that he was also appeared in the interview for the post of principal (Deputation) on 8th May 2001 , but his name has not been included on the alleged ground of pendency of departmental proceeding which was the subject matter of O.A.NO. 42/99 and 107 /2001 before this Hon'ble Tribunal.

xix) That the applicant states that though the Respondent NO. 4 has been asked to join by 30.6.2001 , but till date he has not joined . The applicant also learnt that the Respondent NO.4 has requested fifteen days more time to joine in the new post .

xx) That being aggrieved with the action and ~~attitude~~ attitude of the respondent , the applicant approach this Hon'ble fribunal by filing this application on the following grounds .

5. Grounds :-

i) For that the impugned order is illegal in as much as no simultaneous order regarding appointment /posting of the applicant has been issued with intention to harass him and keep him hanging position .

ii) For that from the office of the commissioner , the applicant learnt that immediately after joining of the Respondent NO.4 ; the authority will revert the applicant to the post of PGT and will not consider his case for regular promotion to the post of principal on the ground that there is no provision of promotion to the post of principal from PGT .

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iii) For that the intention of the respondents to harass the applicant is very much clear from the fact that they are going to replace him by appointing one person on deputation basis and not by a regularly appointed principal and hence the same is not sustainable.

iv) For that the action of the respondent is illegal, whimsical and arbitrary and hence is not maintainable.

v) For that as this Hon'ble Tribunal has directed the respondents to consider the applicant for the post of principal, the respondent should comply with the order first, but in the instant case they are determined ~~to~~ not to allow the applicant to work as principal on incharge basis any more.

vi) For that the action of the respondent is violative of fundamental rights of the applicant as has been guaranteed under Article 14, 16 and 21 of the Constitution of India.

vii) For that at any rate the action of the respondents is not maintainable in the eye of law.

6. Details of remedies availed :

That the applicant declares that he has taken recourse to all the remedies availed to him but failed to get justice and hence there is no other alternative efficacious remedy open to him other than to approach this Hon'ble Tribunal.

7. The matter not previously filed and /or pending before any court :

That the applicant further declares that

he has not previously filed any application, writ petition or suit regarding the matter before any court, authority or any other bench of this Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. Relief sought for :

Under the fact and circumstances stated above the applicant prays for the following relief :

- i) To quash and set aside the order /letter dated 12.6.2001 (Annexure - E). ✓
- ii) To direct the respondent to allow the applicant to continue as principal till consideration of his case as per direction made in O.A.NO 42/1999 and O.A.NO. 107/2001 by this Hon'ble Tribunal.
- iii) To direct the respondents not to harass the applicant unnecessary .
- iv) To grant any other relief as Your Lordships may deem fit and proper.
- v) Cost of the application.

9. Interim relief , if any :

Under the fact and circumstances , the applicant prays that Your Lordships may please to pass necessary order staying the operation of order /letter dated 12.6.2001 (Annexure - E)

10.

11. Particulars of Indian Postal Order :

i) I.P.O.NO : 6G 770777

ii) Date of Issue : 4-7-2001 . iii) Payable at : Gundwahar

12. List of enclosures :

As stated in the Index.

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VERIFICATION

I, Shri Krishna Mohan Singh, son of Late Baleswar Singh, aged about 51 years, presently staying at Khatkhati in the district of Karbi Anglong, Assam and am applicant in the instant application do hereby solemnly verify that the statements made in paragraphs 1 to 4 and 6 to 12 of the application are true to the best of my knowledge and ~~xxxix~~ belief and the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the 1st day of July 2001 at Guwahati.

Place : Guwahati

Date : 1-7-2001

Krishna Mohan Singh

— DEponent —

KENDRIYA VIDYALAYA SANGATHAN,
18, Institutional Area, Sector 22, Singh Marg,
New Delhi - 16.

P.No.7-5/97-KVS/lett.11

Dated 26.11.97.

K.E.M.O.S.A.M.D.P.M.

Shri K.M. Singh, PGT(History), Kendriya Vidyalaya,
Mokumagh (Bihar), on repatriation from the Navodaya
Vidyalaya Samiti, is hereby posted as Incharge Principal
of Kendriya Vidyalaya, Tuli (Nagaland) until further orders.

Shri V.K. Gupta,
Assistant Commissioner (Admn.),
Shri K.M. Singh, PGT(History),
C/o Smt. Usha Rani Singh,
PGT(History),
Kendriya Vidyalaya, T.O., Deraudi,
Distt. Nagaland - 79317.

Copy for Information to :-

1. The Chairman, KVS, Kendriya Vidyalaya, Tuli, the date of joining of Shri K.M. Singh may please be reported to this office.
2. The Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Silchar.
3. The Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Patna. The service record of Shri K.M. Singh complete in all respects may please be forwarded to the Assistant Commissioner, KVS, No, Silchar under intimation to this office.
4. The Principal, Kendriya Vidyalaya, Mokumagh, Bihar.
5. The Section Officer (lett.11), K.V.S. (Hrds.) New Delhi.
6. General file.

Shri
Asstt. Commissioner (Admn.).

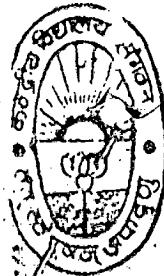
Attested by

Attn
Dated
01/12/97

Phone - { 34009 (AC) with F.
 34139 (AC) P.M.
 34154 (AO)
 45737 (EO)

(\$)

01



केन्द्रीय विद्यालय संगठन

KENDRIYA VIDYALAYA SANGATHAN

केन्द्रीय विद्यालय
 अरपाल रोड,
 सिल्चर - 788003

Regional Office
 Hospital Road,
 Silchar - 788001

प्रधानक
 F. No. 13-3/99-KVS(SR) / 16232-33

दिनांक
 Dated : 19-02-2001

Regd./Confidential

MEMORANDUM

Whereas Memorandum bearing No. - F. 13-3/2/KVS(BBSR) / 87/4078 dated 6-11-1987 issued to Shri K.N. Singh, PGT (Hist.) while working at Kendriya Vidyalaya, Meghahatuburu, suffers from technical error, memorandum so issued hereby stands withdrawn without prejudice to further disciplinary proceedings.

(S. P. BAURI) 19/2/2001
ASSISTANT COMMISSIONER.

Regd.

Shri K.N. Singh, Ex-PGT
 K.V. Meghahatuburu,
 Now I/C Principal,
 KV Khatkhati.

Copy to:-

Dr. H.M. Swami, Asstt. Commissioner (Acad), KVS, HQ, New Delhi -
 for his kind information.

Attached by
 Aditya
 Aditya
 3/2/2001

KENDRIYA VIDYALAYA SANGATHAN
REGIONAL OFFICE, J.R.N.D. SILCHAR-1.

O.P. B-3/2000-01/KVS(SR)/ 16234-36

Date: - 19-02-2001

UNBIARED DUE

ANNEXURE-C

The undersigned proposes to hold an inquiry against Shri/K.M.Singh, PGT(Hist.) I/C Principal, KV Khatkhati under Rule 14 of the Central Civil Services Classification, Control & Appeal Rules, 1964. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of Articles of Charge (Annexure-I). A statement of the imputations of misconduct or misbehaviour in support of each Article of charge is enclosed (Annexure-II). A list of documents of which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexures III & IV).

2. Sh.K.M.Singh, PGT(Hist.) & I/C Principal, KV Khatkhati is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

3. He is informed that an inquiry will be held in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

4. Sh.K.M.Singh, PGT(Hist.) & I/C Principal, KV Khatkhati is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the inquiry authority or otherwise fails or refuses to comply with the provisions of Rule 14 of the CCS(Conduct) Rules 1964 or the orders/directions issued in pursuance of the said Rule, the inquiring authority may hold the inquiry against him ex parte.

5. Attention of Sh.K.M.Singh, PGT(Hist) I/C Principal invited to Rule 20 of the CENTRAL CIVIL SERVICES (CONDUCT) RULES, 1964, under which no employee shall bring or attempt to bring any political or undesirable influence to bear upon any superior authority to further his interests in respect of matters pertaining to his services under the Kendriya Vidyalaya Sangathan. If any representation is received on him by half from an other person in respect of any matter deals within these proceedings, it will be presumed that Shri K.M.Singh, PGT(Hist.) I/C Principal, KV, Khatkhati is aware of such a representation and that it has been made at his instance any action will be taken against him for violation of RULE 20 of the CCS(Conduct) Rules, 1964.

The receipt of this Memorandum may be acknowledged.

To

Sh.K.M.Singh, PGT(History)
I/C Principal, KV, Khatkhati

S. P. BAUJI 19/2/2001
ASSISTANT COMMISSIONER
KVS J.R.N.D. SILCHAR

Copy to - 1. The Extemporal Chairman, VMC, J.V. for information please

2. The E.O/ Vigilance, KVS, HQ, New Delhi

Attended by
A. Ray
Adm. Secy
2/1/2001

ASSTT. COMMISSIONER.

Annexure-I

STATEMENT OF ARTICLE OF CHARGES FRAMED AGAINST SH.K.M.SINGH,
PGT(HISTORY) KENDRIYA VIDYAKAYA, KHATKHATI.

CHARGE NO. 1

That the said Sh.K.M.Singh, while functioning as PGT(History) in Kendriya Vidyalaya, Meghahatuburu applied for Earned Leave from 12-10-1987 to 16-10-1987. But he did not report for duty on 17-10-1987 which was a casual unauthorised absence from duty. Thus Sh.K.M.Singh has committed misconduct under rule 3(1) (ii) & (iii) of CCS(Conduct) Rules 1964, as applicable to the employees of Kendriya Vidyalayas.

CHARGE NO. 2

That the said Sh.K.M.Singh, while working as PGT(Hist.) in KV Meghahatuburu submitted his joining report on 19-10-1987 and when the Principal asked him through the LDC of the Vidyalaya to submit leave application for 17-10-1984, Sh. K.M.Singh forcefully entered into the Principal's room by ignoring the Principal's Office order dtd. 17-5-1987, argued with the Principal and also slapped the Principal. Thus Sh.K.M.Singh has committed misconduct under rule 3(1) (i) & (iii) of the CCS(Conduct) Rules, 1964 as applicable to the employees of the Kendriya Vidyalayas.

CHARGE NO. 3

That the said Sh.K.M.Singh, while working as PGT(Hist) in KV, Meghahatuburu refused to accept the official letter on 21-10-1987 which was sent to him through the Peon Book. Thus Sh. K.M.Singh has committed misconduct under rule 3(1) (iii) of CCS(Conduct) Rules, 1964 as applicable to the employees of KVS.

Annexure-II

STATEMENT OF IMPUTATIONS OF MISCONDUCT IN SUPPORT OF THE ARTICLES OF CHARGES FRAMED AGAINST SH.K.M.SINGH, PGT(HISTORY) KV, MEGHABHATUBURU.

CHARGE NO.1

That the said Sh.K.M.Singh, while working as PGT(History) in KV, Meghabhatuburu left for New Delhi on 10-10-1987 applying for Earned Leave for five days from 12-10-1987 to 16-10-1987 in connection with personal work. He was supposed to report for duty on 17-10-1987. Neither he requested the Principal for extension of leave nor he reported for duty on 17-10-1987. 18-10-1987 was Sunday. He was on the station on 19-10-1987. As per Rules, 17-10-1987 is treated as unauthorised absence from duty as no information/request regarding extension of his leave for 17-10-1987 was received by the competent authority. Thus Sh.K.M.Singh has committed misconduct under Rule 3(1) (ii) & (iii) of CCS(Conduct)Rules, 1964 as applicable to the employees of the KVS.

CHARGE NO.2

That the said Sh.K.M.Singh, PGT(History) while working in KV Meghabhatuburu, came the Vidyalaya on 19-10-1987 and submitted his joining report to the LDC Sh. R.L.Rajak. When the Principal asked the LDC Sh. R.L.Rajak whether any request for sanctioning of leave for 17-10-1987 was received from Sh. K.M.Singh by the office Sh.R.L.Rajak, LDC informed that no such application was submitted by Sh.K.M.Singh. After a while Sh.K.M.Singh entered into the Principals' room forcefully ignoring the office order dtd. 17-5-1987 issued by the Principal and challenged that his absence would be treated as Special Casual Leave, since he had attended KVTA meeting at New Delhi. When the Principal informed him verbally that he had gone on leave in connection with his private affairs and that the KVTA unit of KV Meghabhatuburu had not deputed him to attend the meeting of KVTA at New Delhi, Sh.K.M.Singh slapped the Principal on his right ear. Thus Sh.K.M.Singh, PGT has committed misconduct under Rule 3(1) (i) & (iii) of the CCS(Conduct) Rules 1964 as applicable to the employees of KVS.

CHARGE NO.3

That the said Sh.K.M.Singh, PGT(Hist.) while working at KV Meghabhatuburu was asked by the Vidyalaya Authorities on 21-10-1987 to receive an official letter through Peon Book. But Sh.K.M.Singh refused to accept the same. Thus Sh.K.M.Singh PGT(History) has committed misconduct under Rule 3(1) (iii) of the CCS(Conduct) Rules, 1964 as applicable to the employees of the KVS.

ANNEXURE-III

LIST OF DOCUMENTS BY WHICH THE ARTICLE OF CHARGES FRAMED
AGAINST SH.K.M.SINGH,PHY(HIST.)KV MEGHAHATUBURU ~~CHECKED~~
ARE PROPOSED TO BE SUBSTANTIATED.

1. Joining report of Sh.K.M.Singh submitted by him on 19-10-1987.
2. Office Order dtd. 17-5-1987 issued by the Principal KV Meghahatuburu.
3. Peon Book dtd. 21-10-1987.
4. Resolution passed by the AI KVTA unit of the Vidyalaya dated 19-10-1987.
5. Letter dtd. 21-10-1987 of Shri S.C.Das, TGT(Bio).

ANNEXURE-IV

LIST OF WITNESSES BY WHOM THE ARTICLE OF CHARGES
FRAME AGAINST SH.K.M.SINGH,(HIST)KV MEGHARATUBURU ARE
TO BE SUSTAINED.

1. Sh. R.L.Rajak, LDC
2. Sh. Shanker, Gr. PD
3. Sh. R.V.Singh, PRT
4. Sh. S.C.Das, TGT(Bio)
5. Sh. Batpathy A K, PRT
6. Sh. R.Kishore Vice-Principal.

Attested by
A. S. D.
Adm. 3/7/2011

ANNEXURE - D

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Applications No. 42 of 1999 and
107 of 2001.

Date of Order : This the 7th Day of June, 2001.

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

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

Shri Krishna Mohan Singh,
Principal,
Kendriya Vidyalaya,
CRPF Group Centre,
Khatkhati, Dist. Karbi Anglong(Assam) Applicant

By Advocate Sri S.C.Dutta Roy.

-Versus -

Union of India,
represented by the Commissioner,
Kendriya Vidyalaya Sangathan,
New Delhi and others. Respondents.

By Advocate Sri S.Sarma.

O R D E R

CHOWDHURY J. (V.C.)

In O.A.42/99 the applicant questioned the legitimacy of the action of the respondents in not considering his case for promotion allegedly on the ground of a purported disciplinary proceeding. In the aforementioned case the applicant stated and contended that the respondents authority on the plea of the purported proceeding denied his right to be considered for promotion to the post of Principal of the Kendriya Vidyalaya in the following circumstances.

2. The applicant initially was appointed as a Primary Teacher under Patna Regional Office in July 1977. He was later on appointed to the post of Trained Graduate Teacher on 12.11.1979 and thereafter appointed to the post of post

contd..2

Attended by
A. Seng
Advocate
S/T/2001

Graduate Teacher on 19.10.1984 in the same Patna Regional Office wherefrom he was transferred to Orissa. While he was working as PGT in Meghahatuburu in Orissa, he was placed under suspension pending drawal of disciplinary proceeding. vide order dated 21.10.1987. A memorandum containing charge sheet under Rule 14 of the CCS (CCA) Rules was served on the applicant on 6.11.1987 and the applicant submitted his reply to the charge sheet denying the allegations. The order of suspension was withdrawn by communication dated 6.10.1988 and he was directed to report for duty to the Assistant Commissioner, Bhubaneswar Region for the post Graduate Teacher (History) which he was held prior to his suspension. By order dated 5.11.1990 the applicant was transferred from Patna to Barauni and he was paid full salary including the salary for the suspension period. Coming to know that some vacancy arose for the post of principal in Navodaya Vidyalaya Samiti, the applicant submitted his application to the authority which was forwarded by the KVS to the concerned authority. The applicant was selected for the post of principal of Navodaya Vidyalaya and accordingly he was released from the KVS on deputation for a period of 3 years by order dated 14.12.96. On completion of his tenure the applicant was again reverted to the KVS and posted as principal-in-charge, Kendriya Vidyalaya, Tuli, Nagaland, by order dated 26.11.1997. While in Tuli the applicant appeared in the departmental examination on 27.12.97 for the post of Principal and Vice-principal and he came out successful in the said examination and his name appeared at Sl.No.7 of the list of successful candidates which was published vide order dated 10.2.1998. On being qualified in the departmental examination the

applicant applied for the post of Principal and his application was duly forwarded by the Assistant Commissioner Kendriya Vidyalaya Sangathan, Silchar. He was called for the interview at New Delhi and according to the applicant he faired well in the examination but his name did not appear in the panel. According to applicant he was not selected on the ground of pendency of the aforementioned enquiry. The applicant thereafter submitted his representation before the authority stating therein his grievance for his promotion to the post of principal. Failing to get any remedy he moved the O.A. in question assailing the action of the respondents.

3. The respondents did not file any written statement in the proceeding. The charge memo was issued on 6.11.87 containing the following charges :

- "1. That the said Shri K.M.Singh, while working as PGT(Hist) of Kendriya Vidyalaya, Meghatuburu applied for Earned Leave from 12-10-1987 to 16-10-1987. But he did not report for duty on 17.10.1987, causes unauthorised absence from duty. Thus Shri K.M.Singh has committed misconduct under rule 3(1)(ii) and (iii) of CCS (Conduct)Rules, 1964, as applicable to the employees of the Kendriya Vidyalayas.
2. That the said Shri K.M.Singh, while working as PGT(Hist) of Kendriya Vidyalaya, Meghatuburu, he submitted his joining report on 19-10-1987 and when the principal asked him through the LDC to submit leave application for 17-10-1987, Shri K.M.Singh forcefully entered into the principal's room by ignoring the principal's Order dated 17-5-1987, argued with the principal and also slapped the principal. Thus Shri K.M.Singh has committed misconduct under the rule 3(1) (i) (iii) of the CCS (Conduct)Rules, 1964, as applicable to the employees of the Kendriya Vidyalayas.
3. That the said Shri K.M.Singh, while working as PGT(Hist) of Kendriya Vidyalaya, Meghatuburu refused to accept the Official letter on 21-10-1987 which was sent through the peon Book. Thus Shri K.M.Singh has committed misconduct under rule 3(1) (iii) of the CCS(Conduct) R-ules 1964, as applicable to the employees of the Kendriya Vidyalayas."

The applicant submitted his written statement as far back in 1988 but till institution of the O.A. in question in 1999 no action so far was taken for concluding the departmental proceeding. Despite number of opportunities granted to the respondents no written statement was filed. When the matter rested at this stage, the impugned order was passed, which reads as follows :

"Whereas Memorandum bearing No. F.13-32/KVS (BBSR)/87/4078 dated 6.11.1987, issued to Shri. K.M. Singh, PGT(Hist.) while working at Kendriya Vidyalaya, Meghahatuburu, suffers from technical error, memorandum so issued hereby stands withdrawn without prejudice to further disciplinary proceedings."

A memorandum of charge sheet dated 19.2.2001 was also issued. There is no distinction qualitatively or otherwise as to the charge memos dated 6.11.1987 and 19.2.2001. The impugned order dated 19.2.2001 also did not give any indication as to what was the nature of technical error

in the memorandum of charge dated 6.11.1987. There is no reason for issuing a fresh charge sheet by withdrawing the earlier charge sheet, save and except the ipse dixit of the respondents that the memorandum of charge dated 6.11.1987 suffered from technical error. No reasons are

assigned as to why a proceeding that was initiated in 6.11.87 was kept alive till the same was withdrawn on 19.2.2001. The disciplinary authority did not indicate what step was taken on and from 6.11.87 till 19.2.2001 in the earlier disciplinary proceeding till the same was withdrawn. Under the rules for the time being in force,

a proceeding may be initiated only when there are grounds for enquiry, imputation of misconduct or misbehaviour.

The authority in the instant case choose to hold an enquiry into the charges, the officer replied to the said charges.

No decision so far taken for considering the written statement of the officer concerned and kept the matter in the cold storage. The departmental authority invited

- 5 -

applications for filling up the post of Principal. According to applicant he failed in the selection process but on the pretext of the purported disciplinary proceeding no action so far been taken by the respondents. In O.A.42/99 despite opportunity granted the respondents choose not to put any objection or to file any written statement and therefore the statement of the applicant went unrebuted. When the action of the respondents assailed in O.A.42/99 challenging the in action of the respondents for not completing the disciplinary proceeding and on the other hand the said proceeding was taken as ^{arbitrary} for not considering the case of the applicant, the respondents now passed the impugned order dated 19.2.2001 for drawing a fresh proceeding and withdrawing the earlier proceeding. The rules are made for regulating and controlling the disciplinary measure. Rule 14 of the Rules provided for the procedure for imposing major penalty and Rule 16 provides the procedure for imposing minor penalty. In the instant case steps were taken under part 6 of the Rules for imposing the penalty provided by the rules and for that purpose they called upon the applicant to submit his written statement, which he did. In turn the authority instead sought to cancel or to withdraw the proceeding but at the same time sought to continue the proceeding by the impugned order. No reason not to speak any good reason are discernible for the steps taken by the departmental authority for initiation of a fresh proceeding. The earlier proceeding was also initiated under part 6 of the CCS Rules. By the impugned order the respondents only mentioned that the earlier charge sheet suffered from technical error. That technical error was not explained nor any technical error is discernible. Considering the

28

nature of the charge in its entirety we do not find any justifiable reason in the decision to continue with the disciplinary proceeding on the same charges. The proceeding seemingly appeared to be a purported proceeding to keep the sword on democles ^{hang}. The applicant is a Senior PGT Teacher is eligible for consideration for the post of Principal and therefore there is no justification for not considering his case for promotion. In O.A.107/2001 a written statement on behalf of respondents No.1, 2 and 3 was filed through the Assistant Commissioner, KVS. The Assistant Commissioner at para 6 of the written statement made a bald statement to the effect that the application of the applicant for the post of Principal was forwarded with a remarks that disciplinary proceeding was pending against the applicant. However he was not selected by the Selection Committee for the reason that he could not qualify in the test. The aforementioned statement of the said officer was verified in the verification as a statement true to his personal knowledge. Whether a candidate was selected by Selection Committee was purely a matter of records. The said Assistant Commissioner did not claim also/be a Member of the Selection Committee.

4. Be that as it may, considering all the aspects of the matter we do not find any valid reason for not considering the case of the applicant for promotion to the post of Principal. For the reasons stated above we direct the respondents to consider the case of the applicant for promotion to the post of Principal against any vacant post as per law. The impugned order dated 19.2.2001 as well as the charge sheet dated 19.2.2001 are hereby set aside and quashed.

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

Sd/ VICE CHAIRMAN

Sd/ MEMBER (Adm)

Attached by
Ch. Secy
Adm
3/3/2001

ANNEXURE - E

KENDRIYA VIDYALAYA SANGATHAN
(ESTT.II SECTION)

SPEED POST

18 - INSTITUTIONAL AREA
SHAHEED JEET SINGH MARG
NEW DELHI - 110016

F.7-4/2001-KVS(E.II)/0072

DATE:

THE ASSISTANT COMMISSIONER
KENDRIYA VIDYALAYA SANGATHAN
REGIONAL OFFIC. AHMEDABAD

Subject: Appointment of Shri Kailash Chandra Jain,
PGT(Bio), KV, ONGC Ankleshwar
to the post of PRINCIPAL in Kendriya
Vidyalaya Sangathan by transfer on DEPUTATION
BASIS in Pay Scale of Rs.10000-325-15200/-.

Sir/Madam,

On the basis of the recommendations of the Selection Committee, the competent authority has approved the appointment of Shri Kailash Chandra Jain as Principal in KVS on deputation basis in pay scale of Rs.10000 - 325 15200/- with effect from the date he/she assumes the charge of the post. His/Her deputation in KVS will be initially for a period of ONE YEAR or till further orders whichever is earlier. The period of deputation can be extended on year to year basis for a maximum period of 5 years depending upon his/her conduct and performance and administrative exigencies. The appointment will be governed by usual deputation terms.

2. He/She is posted as Principal at Kendriya Vidyalaya, CRPF Khatkati

He/She will have an option to draw pay in the scale of the post or draw deputation allowance as per Govt. of India orders/ instructions on this subject.

3. Shri Kailash Chandra Jain may be informed that this appointment on deputation will not confer on him/her any claim for permanent absorption/regular appointment as Principal in Kendriya Vidyalaya Sangathan. Moreover, he/she cannot claim for extension of deputation period as a matter of right. It should be clearly understood that the aforesaid period of deputation can be curtailed at the sole discretion of the Commissioner, KVS. On completion/termination of deputation period, he/she will be reverted back to his/her Parent Office/feeder post.

Attacted by
Anil Soni
Date 3/3/2001

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4. Jain It is, therefore, requested that Sh.Kailash Chandra may please be relieved the instruction to join at K.V. CRPF Khatkati as Principal latest by 30.6.2001, failing which it will be presumed that he/she is not interested in this offer and this offer will be treated as WITHDRAWN without any further notice. Before relieving, it may be ensured that no disciplinary case is pending or contemplated.

In case it is found at any stage that the candidate does not satisfy/fulfil the eligibility condition as prescribed in Recruitment Rules for the post of Principal OR is not clear from Vigilance angle or has furnished incorrect particulars or suppressed any material/information in the application for the post of Principal, his/her deputation shall stand terminated.

Yours faithfully,

(V.K.Gupta)
Assistant Commissioner(Admn)
For Commissioner

Copy to:

1. Shri Kailash Chandra Jain, PGT(Bio), KV, B-1 A, ONGC Colony, Ankleshwar(Guj.) -393010

He may communicate his/her acceptance immediately to this office within 7 days from the date of issue of offer and also report to posting place as stated above by the stipulated period.

2. The Chairman, VMC.K.V. CRPF Khatkati with the request to intimate the date of joining of individual concerned to this office as well as Assistant Commissioner, KVS, RO, concerned immediately by Speed Post/ Fax.

3. The Principal, K.V. ONGC Ankleshwar

4. The Asst. Commissioner, KVS, RO, Silchar He/She is requested to intimate the date of joining of the incumbent to this office immediately by Speed Post/Fax.

5. Personal file.

06.Guard file.

UR
Assistant Commissioner(Admn)

Attested by
Albion
Advocate
2/7/2001

3
ANNEXURE - F series.

"हमें हिन्दी में प्रशाचार करके, देश का गीर्य दक्षाएं"

श्र० शा० पत्र संख्या

D. O. No.....

अपर उप-महानिरीक्षक पुलिस

Addl. Dy. Inspector General of Police

केन्द्रीय रिजर्व पुलिस बल

Central Reserve Police Force

पूर्व केन्द्र, खटखटी (आसाम)।

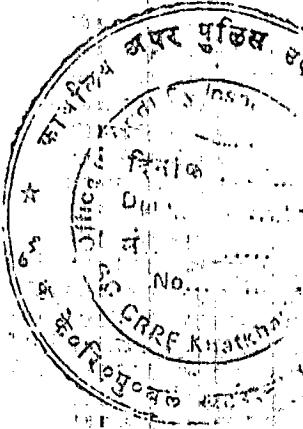
GC, Khatkhati (Assam)

Dated the 199...

(TO WHOMSOEVER IT MAY CONCERN)

It is certified that Shri K.M. Singh is working as an Incharge Principal in Kendriya Vidhayalaya, CRPF Khatkhati wef 16th Jan. 1999. I have closely seen his work and conduct in management of vidyalaya and found him to be an excellent administrator / manager. He takes extra pains in bringing up weak students by organising extra coaching and in all round development of the students. His inter personal relations are excellent. I wish him great success in his mission.

मन सिंह रावत
(Man Singh Rawat) Comdt
Addl DIGP GC, CRPF Khatkhati/
Chairman K. V. CRPF Khatkhati



Attached by
Alday
Rongcot
3/1/1999

"শুভ কৃতি সহ প্রতিকার করে, কোর্ট দ্বাৰা পৰিবেশ কৰিব।"

✓
ANNEXURE - F series

নথি নং ১০১০ পত্ৰ রংপুর

D. O. No.

আমুর অ-প্রাদুর্ভাব পুলিশ

Addl. Dy. Inspector General of Police

কেন্দ্ৰীয় সেৱা পুলিশ বল

Central Reserve Police Force

গুৱাহাটী, মহারাষ্ট্ৰ (ভাৰত)

GC, Khatkhati (Assam)

Dated the ১৩/১/১০০৮

TO WHOM IT MAY CONCERNED

It is certified that Shri K.M. Singh is functioning as Principal Kendriya Vidyalayd, Group Centre, CRPF, Khatkhati with effect from 16-01-99.

During his tenure as a Principal, Kendriya Vidyalaya GC, CRPF, Khatkhati, there have been a marked improvement in every sphere. He has taken keen interest in promoting teaching standard and other extra co-curricular activities in the School. His over all performance has been outstanding. I wish him all successes in life.

✓
HARIBANSH SINGH

Addl. DIGP

and Chairman Kendriya Vidyalaya, Khatkhati,

একাডেমিক বিভাগ

ADIGP GC, CRPF, Khatkhati

Attested

Haribansh Singh
23/1/08

Haribansh Singh, M. O.
C. R. P. F.
Khatkhati

Attested by
Abhay
Advocate
21/2/2008