

**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

*[Signature]*  
6/12/02

FORM NO.4  
(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUAHATI BENCH :::: GUAHATI

TR. ER SHEET  
Original APPLICATION NO 107 OF 2001

Applicant (s) Krishna Mohan Singh

Respondent(s) U.O.I FONS

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

Advocate for Respondent(s) C.G.S.C.

Notes of the Registry	Date	Order of the Tribunal
<p>Application form Petition for IPR Date: 12.3.2001 SG 422715 15/3/01 C.G.S.C.</p>	15.3.01	<p>None appears for the applicant. List on 23.3.01 for Admission. Member Vice-Chairman</p>
	21.3.01	<p>Admit. Call for the records. Written statement within four weeks. List on 2.5.2001 for further orders. Vice-Chairman</p>
	28.3.2001	
	26.3.01	<p>Issue notice to show cause as to why the further disciplinary proceedings initiated against the applicant dated. 19.2.01 shall not be suspended. Meanwhile the further</p>

36th steps  
received

28.3.2001  
Specimen of notice issued to the respondent vide No. 1197-1199 dt 29.3.01.  
Bent

26.3.01 disciplinary proceedings shall remain suspended. List on 26.4.01 for orders.

- ① Service report are still awaited.
- ② No. Show cause has been filed.

*K. Ushay*  
Member

*[Signature]*  
Vice-Chairman

*25/4/01*

lm  
NB  
26/3/01

26.4.01 List on 31.5.01 to enable the respondents to file written statement.

*K. Ushay*  
Member

*[Signature]*  
Vice-Chairman

lm

3.5.01 List on 4.6.01 alongwith B.F. No. 118 of 2001 for orders.

*K. Ushay*  
Member

*[Signature]*  
Vice-Chairman

lm

31.5.01 The case is adjourned to 7-6-2001 for hearing.

4.6.2001 List on 6-7-2001 to enable the respondents to file written statement.

*K. Ushay*  
Member

*[Signature]*  
Vice-Chairman

5.6.2001

bb

rx/s has been submitted by Respondent No. 1, 2, and 3.

20.6.2001

*[Signature]*  
Copy of the Judgment has been sent to the D/Sec for issuing of writs to the applicant as well as to the L/Adv. of the Respondent.

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH. u

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 ~~forementioned~~ 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

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

contd..3

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 failed 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, Megha-hatuburu 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, Megha-hatuburu, 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 Office 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, Megha-hatuburu 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."

2 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~~ <sup>is ascribed</sup> 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

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 unrebutted. 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 an <sup>artificial</sup> ploy 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

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 <sup>hang</sup> ~~hang~~. The applicant is a Senior PGT Teacher is eligible for <sup>by</sup> 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 <sup>to</sup> 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)

16-3

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

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

O.A. No. 107 of 2001

BETWEEN

Shri Krishna Mohan Singh,  
Principal, i/c Kendriya Vidyalaya  
CRPF Group Centre, Khatkhati,  
Karbi Anglong ..... Applicant

AND

Union of India & ors. ... Respondents.

I N D E X

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For office use

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Filed by -  
*[Signature]*  
(S.C. Dutta Roy)  
Advocate.

4  
F.O. by Mr. Singh  
of the  
Kendriya Vidyalaya  
Silchar  
J. V. Singh

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

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

For use in Tribunal's Office

Signature - Date -
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O. A. No. \_\_\_\_\_ of 2001.

BETWEEN

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

... Applicant.

AND

1. Union of India, represented by  
the Commissioner, Kendriya Vidyalaya  
Sangathan,  
18, Institutional Area,  
Shaheed Jeet Singh Marg,  
New Delhi.
2. The Joint Commissioner (Admn.),  
Kendriya Vidyalaya Sangathan,  
18, Institutional Area,  
Shaheed Jeet Singh Marg,  
New Delhi.
3. The Assistant Commissioner,  
Kendriya Vidyalaya Sangathan,  
Regional Office, Hospital Road,  
Silchar (Assam).

... Respondents.

1. Particulars of Order against which the application is made:

Office Memorandum No.F.3/2000-01/KVS(SR)/16234-36  
dated 10.02.2001 issued by the Asstt. Commissioner,  
Kendriya Vidyalaya Sangathan, Regional Office, Silchar  
asking the applicant to submit written statement in  
defence for incidents that took place about 14 years  
back.

2. Jurisdiction of the Tribunal:

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

3. Limitation:

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

4. FACTS OF THE CASE:

i) That, the applicant is presently working as Principal i/c of Kendriya Vidyalaya, Khatkhati. He was first appointed as Primary Teacher in Kendriya Vidyalaya in July, 1977 and thereafter he was appointed as Trained Graduate Teacher on 12th November, 1979 and Post Graduate Teacher on 19th October, 1984.

ii) That, in August, 1996 the applicant applied for the post of Principal in Navodaya Vidyalaya Samiti in Madhepura, Bihar through proper channel and on his selection he was released from the Kendriya Vidyalaya to join his new post of Principal, Navodaya Vidyalaya Samiti, giving a clean certificate that no vigilance case is pending or under contemplation against the applicant. Accordingly he joined Navodaya Vidyalaya Samiti, Madhepura as Principal.

iii) That, on successful completion of his tenure of service as Principal, Navodaya Vidyalaya, the applicant reverted back to his parent organisation viz: Kendriya Vidyalaya Sangathan and was posted as Principal incharge, Kendriya Vidyalaya, Tuli in Nagaland, vide office order No.F.7-5/97-KVS/Estt.II dated 25.11.1997 and he joined his duties as Principal i/c, Tuli on 9.12.97.

iv) That, during the period of his Principalship at Tuli, the applicant appeared in the Departmental Exam.

conducted by the Kendriya Vidyalaya Sangathan, Training Centre, New Delhi on 27th, 28th and 29th December, 1997 for the post of Principal, Vice-Principal, and he came out successful in the said examination and his name appears at Sl.No.7 of the list of successful candidates, vide No.F.12-1/97-98/KVS(Trg)/EE dt. 18.02.98.

v) That, after having been qualified in the said Departmental Examination the applicant applied for the post of Principal in Kendriya Vidyalaya Sangathan on 3rd March, 1998 and his application was duly forwarded by the Asstt. Commissioner, KVS, Silchar on 20.3.98.

vi) That, thereafter the applicant was called for interview for the post of Principal by the Kendriya Vidyalaya Sangathan, New Delhi on 11.8.1998 and in the said interview he did well. But strangely enough he was not selected for the post of Principal on the ground that a Departmental enquiry is pending against him.

vii) That, in this connection it may be stated that while the applicant was working as Post Graduate teacher in the Kendriya Vidyalaya, Meghahatuburu in Orissa, he was placed under suspension, pending drawal of Departmental proceedings by Order No.MBR/DCM(I)/13/86/Pt.I/699 dated 21.10.1987 issued by the Chairman, Vidyalaya Management Committee, Kendriya Vidyalaya, Meghahatuburu and by orders No.F.41-1/87-KVS(Estt-III) dt.20.11.'87 issued by the Deputy Commissioner (Personnel), Kendriya Vidyalaya Sangathan, New Delhi.

viii) That, thereafter the applicant was issued a Charge-Sheet on 6.11.1987 for alleged unauthorised absence from duty, slapping the Principal and also for refusal to accept official letter.

ix) That, the applicant submitted his written statement of defence whereupon the authorities, after

being satisfied with the explanation of the applicant, his order of suspension was revoked by order No.F.41-1/87-KVS (Estt-III) dated 6th October, 1988 and the applicant was directed to report for duty to the Asstt. Commissioner, Bhubaneswar Region in the same post he was holding prior to his suspension. The order of revocation of the applicant's suspension was further confirmed by the Asstt. Commissioner, Bhubaneswar Region, treating the entire period of so called unauthorised absence as on duty, as per the orders of the Deputy Commissioner (Personnel), Kendriya Vidyalaya Sangathan, New Delhi. Thereafter no further action was taken in the matter and the applicant was also allowed to cross the efficiency bar that fell during his suspension period. So the Departmental proceedings against the applicant was dropped for all intents and purposes though no formal order in this regard was issued by the authorities.

x) That, against this unjustified and arbitrary deprivation of the applicant from the post of Principal on the alleged ground of 11 year old Departmental proceeding on which no action was taken for long 11 years, the applicant approached this Hon'ble Tribunal in O.A.No.42 of 1999 praying for a direction to the respondents to consider the case of the applicant for the post of Principal without raising the question of pendency of Departmental enquiry and the said case is now pending before this Hon'ble Court.

xi) That, although in O.A.No.42 of 1999 notice was issued to the respondents as far back as in February, 1999, till date the respondents have not filed any counter in the case even though they have been given enough time to do so by the Hon'ble Tribunal.

xii) That, suddenly on 19th February, 2001, more than two years after filing the aforesaid application, the

Assistant Commissioner, Kendriya Vidyalaya Sangathan, Silchar Regional Office, respondent No.3, issued a Memorandum under No.3-3/99-KVS(SR)/16232-33 withdrawing the Show Cause notice issued under Memorandum No.F.13-32/KVS(BBSR)/87/4078 dated 6.11.1987 allegedly on technical error.

A copy of Memorandum issued under No.3-3/99-KVS(SR)/16232-33 dtd. 19.02.2001 is annexed herewith as Annexure I.

xiii) That, on the same day, i.e., on 19.02.2001 another Memorandum bearing No.F.3-3/2000-01/KVS(SR)/16234-36 has been issued by the Asstt. Commissioner, Kendriya Vidyalaya Sangathan, Silchar Regional Office, asking the applicant to submit written statement in defence within 10 days of the receipt of the Memorandum against the charges brought against the applicant.

A copy of the said Memorandum bearing No.F.3-3/2000-01/KVS(SR)/16234-36 dt. 19.02.2001 along with the copies of Articles of charges and statement of imputations is annexed herewith as Annexure II.

xiv) That, in this connection it may be stated that the charges brought against the applicant under the aforesaid Memorandum are the same as were issued under Memorandum dtd. 6.11.1987 which has been ~~issued~~ withdrawn on 19.02.2001 on ground of technical error. As a matter of fact the statement of Articles of charges and the statement of imputations of misconduct are copies of earlier charges and imputations of misconduct issued on 6.11.1987 and now withdrawn on 19.02.2001.

xv) That, it will be clear from the above that the respondents have issued the Show cause Notice afresh on 19.2.2001 bringing the same charges as were brought in 1987 on which no action whatsoever was taken for long 14 years only after receipt of the notice from this Hon. Tribunal just to revive the stale case. This is indicative of personal vendetta against the applicant. Moreover, while deputing the applicant to Navodaya Vidyalaya Samiti as Principal, a clean certificate was issued that no vigilance case is pending or under contemplation against the applicant. Therefore, after a long lapse of 14 years the respondents cannot revive the old charges on which no action was taken for such a long time.

xvi) That, it may also be stated that the alleged unauthorised absence from duty has already been regularised treating his period of absence from duty as on duty giving him full benefits of pay etc. Therefore, the same charge cannot be revived now after it has been regularised by the authorities.

xvii) That, on his repatriation from Navodaya Vidyalaya Samity the applicant has been allowed to hold the charge of Principal first Kendriya Vidyalaya, Tuli and now Khatkhathi and he has successfully continued to hold the charge even till date.

xviii) That, it is stated that after about 14 years the authorities of the Kendriya Vidyalaya Sangathan cannot revive the old charges on which no action whatsoever was taken for all these years.

xix) That, being highly aggrieved by the action of the respondents, the applicant has come up to this Hon'ble Tribunal, praying for redressal of his genuine grievances.

5. GROUND 6 FOR APPEAL:

For that, the action of the respondents in issuing fresh Show Cause Notice on the same old charges which were

brought against the applicant 14 years ago and after the applicant submitted reply to the charges then, he was re-instated in service, giving him full benefits of pay etc., for the entire period of suspension and no further action was taken in the matter, rather he was given a clean certificate while deputing him to Navodaya Vidyalaya Samity that no vigilance case is pending or under contemplation against him. Therefore, the respondents cannot revive the old charges after 14 years.

ii) For that, in any view of the matter the action of the respondents is arbitrary, illegal, malafide and violative of all canons of justice.

6. DETAILS OF REMEDIES EXHAUSTED:

The applicant declares that he has already approached this Hon'ble Tribunal against his illegal deprivation from the post of Principal on the ground of pendency of so called Departmental enquiry. He has, therefore, no alternative than to approach this Hon'ble Tribunal for quashing the fresh Show Cause Notice issued to him on 19. 2. 2001.

7. WHETHER ANY CASE IS PENDING IN ANY COURT/TRIBUNAL ON THE SUBJECT:

The applicant further declares that he has not filed any other application or suit with regard to the present Show Cause Notice which matter is agitated in this petition before any Court or any other Bench of this Tribunal, nor any suit or proceeding before any of them.

8. RELIEFS SOUGHT FOR:

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

a) An order from this Hon'ble Tribunal quashing the impugned Memorandum No.F.3.3/2000-01/KVS(SR)/16234-36 dated 19.02.2001 bringing in the same old charges against the applicant as were brought 14 years ago which were dropped for all intents and purposes as no action was taken in the matter.

- b) To grant him any other relief/s as the Hon'ble Tribunal seems fit and proper.
- c) The cost of the proceeding.

9. INTERIM RELIEF, IF ANY:

Under the facts and circumstances the applicant prays that the Hon'ble Tribunal may be pleased to pass an interim order staying the operation of the impugned Memorandum No.F.3-3/2000-01/KVS(SR)/16234-36 dated 19.02.2001 till disposal of the original application.

10. PARTICULARS OF I.P.O.

I.P.O. No. 422715 dated 12.3.2001 For Rs.50.00  
(Rupees fifty) only is enclosed.

Kul

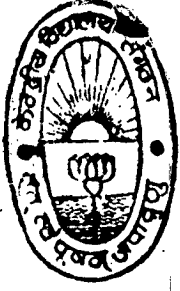
V E R I F I C A T I O N

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 applicant in the instant application do hereby verify that the statements made in this application from paragraph 1 to 7 above are true to the best of my knowledge and belief and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this verification this the 12 th day of March, 2001 at Guwahati.

*Krishna Mohan Singh*

Signature of Applicant.



# केन्द्रीय विद्यालय संगठन KENDRIYA VIDYALAYA SANGATHAN

क्षेत्रीय कार्यालय  
अस्पताल रोड,  
सिलचर - 788003

Regional Office  
Hospital Road,  
Silchar - 788001

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

दिनांक  
Dated: 19-02-2001

Regd./Confidential

## MEMORANDUM

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.

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

Regd.

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

Copy to:-

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

Certified to be true Copy

*[Signature]*  
Advocate

Anand B

No. S. J-1/2000-01/KVS(GR)/ 16734-36

Date: - 12-01-2001

**MEMORANDUM**

The undersigned proposes to hold an inquiry against Shri/Smt. K.M. Singh, PGT (Hist.) I/C Principal, KV No. 1, under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1955. 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 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 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 (CCA) Rules, 1955 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 is invited to Rule 20 of the CENTRAL CIVIL SERVICES (CONDUCT) RULES, 1954, under which no employee shall bring or attempt to bring any political or outside 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 his behalf from any other person in respect of any matter dealt within these proceedings, it will be presumed that Shri K.M. Singh, PGT (Hist.) I/C Principal is aware of such a representation and that it has been made at his instigation. Any action will be taken against him for violation of RULE 20 of the CCS (Conduct) Rules, 1954.

The receipt of this Memorandum may be acknowledged.

To

Sh. K.M. Singh, PGT (Hist.)

I/C Principal

12/1/2001  
ASSISTANT COMMISSIONER  
KVS, BILGAR

Copy for-1. The Director, District Office, Bilgar for information please

2. The E.O/Vigilance, KVS, Bilgar, Main Office

**Verified to be true Copy**  
*[Signature]*  
Advocate

ASSIST. COMMISSIONER.

2

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

\*\*\*\*\*

Sanitized to be true Copy  
I. W. Dutt  
Advocate

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

CHARGE NO.1

That the said Sh.K.M.Singh, while working as PGT(History) in KV, Meghahatuburu 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, 17101987 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 Meghahatuburu, 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 Meghahatuburu 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(History) while working at KV Meghahatuburu 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.

Received by the LODY  
of the KVS.  
*[Signature]*

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

1. Sh. R.L.Rajak, LDC
2. Sh. Shanker, Gr. (D)
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.

*Verified to be true copy*  
*S. C. Das*  
*21/10/87*

Filed through:  
P. Barua  
Advocate  
P. 05.06.01

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:GUWAHATI BENCH:  
AT GUWAHATI

ORIGINAL APPLICATION NO.107/2001

Shri Krishna Mohan Singh

....Applicant

-vs-

Union of India & ors

.... Respondents

The Respondents No 1,2 and  
3 above named beg to file their  
written statements as follows :

1. That all the averments made in the Original application (hereinafter referred to in short as the application) are denied by the answering respondents save and except what has been specifically admitted herein and what appears from the records of the case.
2. That with regard to statements made in paragraph 4(i) of the application the answering respondents have no comments as they are matters of records.
3. That with regard to statements made in paragraph 4(ii) of the application the answering respondents beg to state that issuance of vigilance clearance does not bring an end of the disciplinary case against the

contd....

Petitioner either contemplated or pending. Therefore the submissions made by the Petitioner is unlawful and baseless.

4. That with regard to statements made in paragraph 4(iii) of the application the answering respondents beg to state that the submissions made by the Petitioner in this paragraph has no relevancy with the disciplinary proceedings initiated against him for misconduct.

5. That with regard to statements made in paragraph 4(iv) of the application the answering respondents beg to state that the passing of Deaprtmental Examination has no relevancy with the disciplinary proceedings initiated against the petidoner. Passing of the depart- mental examination is based on merit and the disciplinary action initiated for misconduct of the Petitioner is totally a separate issue.

6. That with regard to statements made in paragraph 4(v) and 4(vi) of the application the answering respondents beg to state that the application of the Petitioner was forwarded with the remarks that disciplinary action is pending against the applicant. However, he was not selected by the selection committee for the reasons that he could not qualify in the test .

7. That with regard to statements made in paragraph 4(vii) of the application the answering respondents beg to state that placing an employee under suspension is an administrative action taken in accordance with the provision of CCS(CCA)Rules,1965.

8. That with regard to statements made in paragraph 4(viii) of the application the answering respondents beg to state that the chargesheet was issued for the misconduct committed by the Petitioner in accordance with the provision of CCS(CCA)Rules,1965.

9. That with regard to statements made in paragraph 4(ix) and 4(x) of the application the answering respondents beg to state that the written statement by the applicant was given in defence against the chargesheet while the suspension order was revoked on the representation of the employee concerned .Therefore filing of written statement and revocation of suspension order have no link whatsoever and they are two distinctly different issues . The order of revocation of the suspension order was without prejudice to disciplinary action. The suspension order was issued to the applicant to keep him away from service for a temporary period and the competent authority revoked the suspension order without prejudice to disciplinary action when the authority felt that there was no more need of placing the Petitioner under suspension.

contd...

However, since the applicant could not qualify in the interview he was not selected by the selection committee. As such, the question of deprivation does not arise.

10. That with regard to statements made in paragraph 4(xi) of the application the answering respondents beg to state that the counter affidavit in C R No.42/99/880 has ~~clear~~ already been filed.

11. That with regard to the statements made in paragraph 4(xii) of the application the answering respondents beg to state that since the earlier chargesheet suffered from technical error, the same was withdrawn in accordance with Rule 15(9) of the CCS(CCA) Rules, 1965 and a fresh chargesheet, was issued.

Since the applicant was on deputation to Novodaya Vidyalaya Samiti prior to joining as I/C Principal under the disciplinary authority that is the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Silchar Region the charge sheet was not issued earlier. Moreover the law speaks that there is no legal constraints to issue charge sheet even after a long period as irregularities cannot be allowed to perpetuate.

Copy of chargesheet dtd 6.11.87 and letter dated 13.6.90 are annexed herewith and marked as annexure 1 and 2 respectively.

contd...

12. That with regard to statements made in paragraph 4(xiii) of the application the answering respondents beg to state that the Memorandum No.F.3-3 /2000-01/KVS(SK)/ 16234-36 was issued in accordance with Rules provided under CCS(CCA)Rules,1965.

Copy of the extract of Rule 15(9) is annexed herewith and marked as Annexure-3.

13. That with regard to statements made in paragraph 4(xiv) of the application the answering respondents beg to state that the chargesheet was withdrawn in accordance with Rule 15(9) of the CCS(CCA)Rules,1965.

14. That with regard to statements made in paragraph 4(xv) of the application the answering respondents beg to state that since the earlier chargesheet was withdrawn for technical error and the committing of misconduct remains, fresh charge-sheet was issued to meet the ends of justice .

Regarding the deputation of the applicant to the Novodaya Vidyaalaya Samiti it is submitted that issuance of vigilance clearance does not bring an end to the disciplinary case against the Petitioner either contemplated or pending.

contd

15. That with regard to statements made in paragraph 4(xvi) of the application the answering respondents beg to state that by way of issuing the chargesheet the Petitioner has been given reasonable opportunity to defend himself against the charge levelled against him under article of charge-I for unauthorised absence. If the applicant can disprove, the charge of unauthorised absence will stand dropped.

16. That with regard to statements made in paragraph 4(xvii) of the application the answering respondents beg to state that holding the charge of the post of Principal in the Novodaya Vidyalaya or the different Kendriya Vidyalayas have no relevancy to the disciplinary proceedings against the applicant.

17. That with regard to statements made in paragraph 4(xviii) of the application the answering respondents beg to state that the issue of chargesheet after a long period is not barred under limitation as irregularities cannot be allowed to perpetuate.

18. That with regard to statements made in paragraph 4(xix) of the application the answering respondents beg to state that there is no point of being aggrieved as the applicant will get all reasonable opportunities to defend himself against the proposed enquiry communicated to him under Memo No.

contd

No. F. 31/2000-01/KVS(SR/16234-36 dtd 19.2.2001.

19. That under the facts and circumstances of the case state above it is prayed that the Hon'ble Tribunal may be pleased to dismiss the application with costs.

contd ..verification

VERIFICATION

I, Sri D K Saini, son of Shri C L Saini, aged about 51 years, presently working as the Assistant Commissioner, Kendriya vidyalaya Sangathan, Maligaon, chariali under Gueahati Region do hereby verify that the statements made in paragraphs 3, 4, 5, 6, 7, 9 (part), 11, 13, 14 are true to my personal knowledge and thos made in paragraphs 8, 10 are based on records.

And I sign this verification on this 5th day of July, 2001 at Guwahati.

Place :Guwahati  
 Date : 5/6/2001

*D K Saini*  
 DEPONENT

KENDRIYA VIDYALAYA SANGATHAN  
REGIONAL OFFICE: MUMBAI

Dated 6-11-1987

P.12-52/KVR(DGR)/87/4075

MEMORANDUM

The undersigned proposes to hold an inquiry against Shri K.M. Singh, PGT(Hist), Kendriya Vidyalaya, Meghalatuburu under Rule 74 of the Central Civil Services (Classification, Control and Appeal) Rules, 1963 as extended to Kendriya Vidyalaya employees. 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 list of documents of articles of charge is enclosed in support of the imputations of misconduct, and a list of witnesses by whom the article of charge is proposed to be sustained are also enclosed (Annexure-II and III).

Shri K.M. Singh, PGT(Hist) is directed to submit within 10 days of the receipt of this memorandum a written statement in his defence and also to state whether he desires to be heard in person.

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

Shri K.M. Singh 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 Inquiring Authority, or otherwise fails or refuses to comply with the provisions of Rule 14 of the CCS (CR) Rules 1963, or the orders/directions issued in pursuance of the said Rule, the Inquiring Authority may hold the inquiry against him ex-parte.

Attention of Shri K.M. Singh is invited to Rule 27 of the Code of Conduct as prescribed in Article 55 of the Constitution for Kendriya Vidyalayas, under which no employee shall bring or attempt to bring any non-official or outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Sangathan. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Shri K.M. Singh is aware of such a representation and that it has been made to his attention and action will be taken against him for violation of Rule 27 of the Code of Conduct mentioned above.

The receipt of the memorandum may be acknowledged.

ASSISTANT COMMISSIONER

Hand Post

Shri K.M. Singh, PGT(Hist)  
Kendriya Vidyalaya  
Meghalatuburu.

Copy for Information to the :-

- (1) Chairman, WIC, KV, Meghalatuburu
- (2) Deputy Commissioner (Gen), KVS, New Delhi-67
- (3) Principal, Kendriya Vidyalaya, Meghalatuburu.

ASSISTANT COMMISSIONER

ANNEXURE I  
26  
23

STATEMENT OF ARTICLES OF CHARGES FRAMED AGAINST SHRI K.M. SINGH  
PDE(HISTORY) KENDRIYA VIDYALAYA, MEGHAHATUBURU.

CHARGE No.1

That the said Shri K.M. Singh, while working as PGT(Hist) of Kendriya Vidyalaya, Meghahtuburu applied for Earned Leave from 12-10-1987 to 16-10-1987. But he did not report for duty on 17-10-1987, causes unauthorized absent 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.

CHARGE No.2

That the said Shri K.M. Singh, while working as PGT(Hist) of Kendriya Vidyalaya, Meghahtuburu, he submitted his joining report on 19-10-1987 and requested that 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 treating ignoring the Principal's Office Order dated 17-5-1987, argued with the Principal and also eloped the Principal. Thus Shri 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 Shri K.M. Singh, while working as PGT(Hist) of Kendriya Vidyalaya, Meghahtuburu refused to accept the official letter on 21-10-1987 which was sent through the Post. Thus Shri K.M. Singh has committed misconduct under rule 3(1)(iii) of the CCS(Conduct) Rules, 1964, as applicable to the employees of the Kendriya Vidyalayas.

STATEMENT OF IMPUTATIONS OF MISCONDUCT IN SUPPORT OF THE  
ARTICLES OF CHARGES FRAMED AGAINST SHRI K.M. SINGH, PGT (Hist)  
KENDRIYA VIDYALAYA, MEGHALAYATUBURU.

CHARGE No. 1

That Shri K.M. Singh, PGT (Hist) of Kendriya Vidyalaya, Meghalayatuburu left New Delhi on 10-10-1987 applying for Earned Leave for five days from 12-10-1987 to 16-10-1987 with his personal work. He was supposed to report for duty on 17-10-1987. Whether he requested the Principal for extension of his leave or he attended for duty on 17-10-1987, 18-10-1987, 19-10-1987 was not on the station on 19-10-1987. As per rule 17-10-1987 is treated as unauthorized absent from duty, no information/request regarding extension of his leave for 17-10-1987 was received by the competent authority. 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 Vidyalaya.

CHARGE No. 2

That Shri K.M. Singh, PGT (Hist) of Kendriya Vidyalaya, Meghalayatuburu, came to the Vidyalaya on 19-10-1987 and submitted his joining report to the LDC, Shri L. Rajak. When the Principal asked the LDC about any request for sanctioning of leave for 17-10-1987 was received from Shri K.M. Singh by the Office, Shri L. Rajak, LDC informed that no such application submitted by Shri K.M. Singh. After a while, Shri K.M. Singh entered into the office forcefully (by ignoring the Office Order of the Principal on 17-5-1987) and challenged that his absence would be treated as Special Casual Leave, since he had attended PTA meeting at New Delhi. When the Principal informed verbally that he had went on leave for his private affairs and the PTA Unit of Meghalayatuburu not deputed him to attend the PTA meeting at New Delhi. Shri K.M. Singh, later on slapped the Principal on his right ear. Thus Shri K.M. Singh, PGT (Hist) has committed misconduct under Rule 3(1)(i) and (iii) of the CCS (Conduct) Rules, 1964, as applicable to the employees of the Kendriya Vidyalaya.

CHARGE No. 3

That Shri K.M. Singh, PGT (Hist), Kendriya Vidyalaya, Meghalayatuburu was asked by the Vidyalaya Authorities on 01-10-1987 to receive an official letter through Peon Book. But he refused to accept the same. Thus Shri K.M. Singh, PGT (Hist) has committed misconduct under Rule 3(1)(iii) of the CCS (Conduct) Rules, 1964, as applicable to the employees of the Kendriya Vidyalaya.

Annexure - Contd 30

ANNEXURE - III

35  
67

(16)

LIST OF DOCUMENTS BY WHICH THE ARTICLES OF CHARGES FRAMED AGAINST SHRI K.M. SINGH, PGT (HIST), HENDRIYA VIDYALAYA, MEGHAHATUBURU ARE PROPOSED TO BE SUSTAINED.

.....

1. Leave application of Shri K.M. Singh requesting for P.A. from 12-10-1937 to 16-10-1937 on private affairs.
2. Joining Report of Shri K.M. Singh submitted by him on 19-10-1937.
3. Office Order of the Principal, KV, Meghahatuburu on 17-5-1937.
4. Preliminary Report submitted by Shri G.C. Mitra, Dy. Chief Engineer (Civil), Kiriburu Iron Ore Project.
5. Report of the Principal, Hendriya Vidyalaya, Meghahatuburu on 4-11-1937.
6. Attendance Register of the KV, Meghahatuburu.
7. Letters receipt register of KV, Meghahatuburu during October, 1937.
8. Pass Book dated 21-10-1937.

ANNEXURE - IV

LIST OF WITNESSES BY WHICH THE ARTICLES OF CHARGES FRAMED AGAINST SHRI K.M. SINGH, PGT (HIST), HENDRIYA VIDYALAYA, MEGHAHATUBURU IS PROPOSED TO BE SUSTAINED.

.....

1. Shri R.L. Rajak, LDC
2. Shri Shanker, Group D
3. Shri R.V. Singh, PGT
4. Shri G.C. Das, TGT (Hic)
5. Shri R. Jera, Lab. Attc.
6. Shri Satpathy AK, PRT
7. Shri R. Kishore, Vice-Principal.



*Ho. to Pd. Examine. get li. see after done*

*13*

*ANNEXURE-2*  
तार (केविसंग)

Telegram KEVISANG

केन्द्रीय विद्यालय संगठन  
KENDRIYA VIDYALAYA SANGATHAN  
नया महरौली मार्ग New Mehrauli Road  
नई दिल्ली-110 067 New Delhi-110 067

*(106)*

ANNEXURE-II

दिनांक  
Dated *13/6/90*

No. *41-1/87-KVS(BSAT-III)*

Registered

The Assistant Commissioner,  
Kendriya Vidyalaya Sangathan,  
Patna Region.

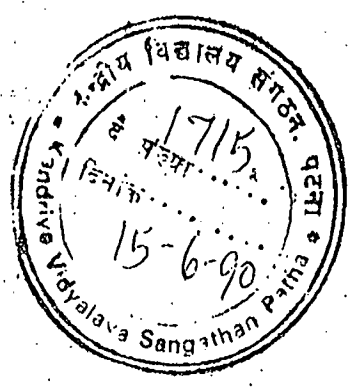
Sub:- Disciplinary case against Sh. KM Singh, PGT (Hist.),  
K.V., HFC Barouni formerly at K.V., Meghahatuburu -  
regarding..

Sir,

I am to invite a reference to your office letter No. F.10-2/89-KVS(PR) dt.4.4.90 on the above subject and advise you to issue a fresh charge sheet to Sh. KM Singh, PGT (Hist.) under Rule 15(a) of CCS(CCA) Rules, 1965 in supersession of chargesheet and corrigendum letters issued earlier to Sh. KM Singh. In this connection it is also clarified that the charges against the delinquent official should be framed under CCS (Conduct) Rules, 1964 only and not under Article 55 of the Education Code for Kendriya Vidyalayas.

You are advised to go through the relevant rules on the subject before issue of fresh charge sheet. In case it is felt necessary, the draft fresh charge sheet may be sent to Vigilance Officer, for vetting.

This issues with the approval of Chief Vigilance Officer.



Yours faithfully,

*V.K. Jain*  
(V.K. JAIN)

Assistant Commissioner (HQ.)

Annexure - 3

-14-

C.C.S. (C.C.A.) RULES

[ RULE 15

Rules, or under the C.C.S. (Pension) Rules can, therefore, be continued after the death of the concerned officer.  
[Para. 79 of P. & T. Manual, Vol. III.]

(6) Action against authorities for failure to observe 'proper procedure'.— In all cases where the circumstances leading to a Government servant's reinstatement reveal that the authority which terminated his services, either wilfully did not observe, or through gross negligence failed to observe the 'proper procedure', before terminating his service, proceedings should be instituted against such authority under the C.C.S. (C.C.A.) Rules and the question of recovering from such authority the whole or part of the pecuniary loss arising from the reinstatement of the Government servant should be considered.

[G.L. M.H.A., O.M. No. F. 2/9/59-Ests. (A), dated the 27th May, 1961, as amended by O.N. of even No., dated the 30th May, 1962.]

(7) Rule of natural justice requires report of the Inquiry Officer be made available to the delinquent giving him opportunity to make his representation thereon.—The advice of the Ministry of Law was sought in the matter. They are of the view that since the Central Administrative Tribunal have given permission to continue the enquiry from the stage of supplying a copy of the report of the Inquiry Officer to the applicant and giving him an opportunity to make representation thereon, we may instead of agitating the matter before the Supreme Court act upon the direction of the Tribunal and proceed accordingly in the matter against the delinquent official. A copy of the note recorded by the Ministry of Law is enclosed herewith. Action may, therefore, be caused to be taken for *de novo* action from the stage of furnishing report of the Inquiry Officer to the official.

[D.G., Telecom., New Delhi, Letter No. 5-26/88-Vig. III, dated the 18th August, 1958.]

COPY OF LEGAL ADVICE

The short question that has been referred to the Ministry of Law for examination is as to whether it would be advisable to agitate the order passed by the C.A.T., Madras Bench by way of Special Leave Petition before the Supreme Court under Article 136 of the Constitution.

Shortly stated, the facts are that one official was proceeded against departmentally on certain charges. The Inquiry Officer was appointed to submit his report on the charges levelled against the official. It appears the charges were proved against him. The Inquiry Officer submitted his report to the disciplinary authority. The disciplinary authority after going through the records placed before it found him guilty and dismissal orders were passed by him. The appeal and the review petitions were rejected by the concerned authorities.

Aggrieved by this order, the delinquent official approached the C.A.T. After hearing both the parties and having gone through the documents produced before them, allowed the application of the applicant and the C.A.T. has held that the order imposing the penalty of dismissal from

service has to be vacated. But they have made it clear that it is open to the disciplinary authority, in case it is of the view that the enquiry is to be continued, to do so from the stage of supplying a copy of the report of the Inquiry Officer to the applicant and giving him an opportunity to make his representation thereon. If the enquiry is continued, the treatment of the period from this date till it is over, should be decided depending upon the result of the enquiry.

It would thus be seen that useful purpose can be served if we act upon this direction of the Tribunal and proceed accordingly in the matter against the delinquent official instead of approaching the Supreme Court by way of S.L.P. It may also be pointed out that there does not appear to be any harm if the report of the Inquiry Officer is also made available to the delinquent official before acting upon by the decision authority. Although there is no statutory rule, but the rule of natural justice requires it to do so.

[D.G., P. & T., Letter No. 6/56/62-Disc., dated the 21st June, 1963.]

(8) No closing of disciplinary proceedings without intimation to the accused.—Once disciplinary proceedings are initiated against an official the proceedings cannot be closed without sending an intimation to that effect to the accused official.

Disciplinary proceedings against an employee who has been dismissed or removed from service in another disciplinary case will stand suspended. These proceedings can be revived, if and when the official is reinstated in service on appeal.

[Rule 133 of P. & T. Manual, Vol. III.]

ANNEXURE III

(9) Reasons for cancellation of original charge-sheet to be mentioned if for issuing a fresh charge-sheet.—It is clarified that once the proceedings initiated under Rule 14 or Rule 16 of the C.C.S. (C.C.A.) Rules, 1965, are dropped, the Disciplinary Authorities would be debarred from initiating fresh proceedings against the delinquent officers unless the reasons for cancellation of the original charge-sheet or for dropping the proceedings are appropriately mentioned and it is duly stated in the order that the proceedings were being dropped without prejudice to further action which may be considered in the circumstances of the case. It is, therefore, important that when the intention is to issue a subsequent fresh charge-sheet, the order cancelling the original one or dropping the proceedings should be carefully worded so as to mention the reasons for such an action and indicating the intention of issuing a subsequent charge-sheet appropriate to the nature of charges the same was based on.

[D.G., P. & T.'s Letter No. 114/524/78-Disc. II, dated the 5th July, 1979.]

(10) Censure at least to be awarded when decided to penalise a Government servant as a result of departmental proceedings and warning not to be administered.—See Instruction (11) below Rule 11.

(11) Time-limit for passing final orders on the inquiry report.—The feasibility of prescribing a time-limit within which the disciplinary autho-