

(DESTRUCTION OF RECORD RULES, 1990)

O.A/T.A No...267/01.....

E.P/M.A.No.....

- SECTION OFFICER (Judl.)**

FORM NO. 4

( See Rule 42 )

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

ORDER SHEET

Original APPLICATION NO. 267 OF 2001

APPLICANT (S) Smt. Namita Pandey

RESPONDENT (S) U. O. T. & Ors

ADVOCATE FOR APPLICANT(S) M. Chanda, H. Dutta, Mrs. N. D. Goswami  
G. N. Chakrabarty

ADVOCATE FOR RESPONDENT(S) S. Sarma K. Vs.

Notes of the Registry	dated	Order of the Tribunal
<p>Copy of P. No. 12/10/01 out for the consideration Petition is filed vide M. P. No. C.F. for Rs. 50/- deposited vide IPO/BO No 5642427-1 Dated.....12.6.2001 By Registrar</p>	20.7.01	<p>Present : The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman The Hon'ble Mr K.K. Sharma, Administrative Member.</p> <p>This is an application under Sec- tion 19 of the Administrative Tribunals Act 1985 assailing the order dated 19/25.6.2001 passed by the Assistant Commissioner imposing penalty of reduc- tion in the time scale of the applicant for a period of two years with cumula- tive effect. Admittedly the order is appealable under CCS(CCA) Rules 1964. As a matter of fact the applicant has already preferred an appeal before the authority as is reflected in Annexure IX of the O.A. Mr M.Chanda, learned counsel for the applicant has however submitted that though appeal is prefe- rred there is no bar for entertaining an application under Section 19 by the Tribunal when the impugned order was passed in violation of the prin- ciples of natural justice.</p> <p>Upon hearing Mr M.Chanda, learned counsel for the applicant at length and also Mr S.Sarma, learned counsel</p> <p>contd..</p>

20.7.01 for the respondents we are however not inclined to entertain this application at this stage solely on the ground that there is an alternative remedy provided by the statute. We are of the opinion that since the appeal lies and the appellate authority has the full power to examine the legality of the order of penalty and is competent to assess and evaluate the facts, the proper forum is the appellate authority and the said appellate authority should be provided with full opportunity to examine the legality and validity of the order. Mr Chanda submits that since the order of penalty is already imposed an interim order need be passed by the Tribunal protecting the interest of the applicant till disposal of the appeal. We are not inclined to pass any such order. However, it would be open to the applicant to make such prayer before the appellate authority as per law. We also feel that the matter should be disposed of expeditiously and accordingly we direct the appellate authority to examine the appeal and dispose it of with utmost despatch preferably within 2 months from today.

The application stands disposed of accordingly. No order as to costs.

K. L. Sharma  
Member

  
Vice-Chairman

Copy of The order Dtd,  
20.7.01 Sent to D.  
Section for issuing of  
The same to the 2/Adv.  
for the parties.

By  
2.8.01

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

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

Filed by the applicant  
through G. N. Chakravarty  
Advocate  
On 19-7-2001

Title of the case : O.A. No. 267...../2001

~~Shri~~ Namita Pandey : Applicant

- Versus -

Union of India & Others : Respondents.  
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Date : 18.7.2001

Filed by

Advocate

Namita Pandey

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH**

Filed by the applicant  
through G. N. Chakravarty  
Advocate  
19.7.2001

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

O.A. No...../2001

**BETWEEN**

Mrs. Namita Pandey,  
Primary Teacher,  
Kendriya Vidyalaya,  
Duliajan

.....Applicant

-AND-

1. The Union of India,  
(Through the Secretary to the  
Govt. of India, Ministry of  
Human Resource Development,  
Sastri Bhawan, New Delhi-1.)
2. The Commissioner,  
Kendriya Vidyalaya Sangathan,  
18, Institutional Area,  
Shaheed Jeet Singh Marg,  
New Delhi-110016
3. The Asstt. Commissioner,  
K. V.S., Regional Office,  
Hospital Road,  
Silchar-788001.

Namita Pandey

4. Shri P.R.L. Gupta,  
Education Officer,  
(the then Officiating A.C.),  
Kendriya Vidyalaya Sangathan,  
Regional Office,  
Silchar.
5. Shri R. C. Katiyar,  
Ex-Principal,  
Kendriya Vidyalaya,  
Umrangshu.
6. Shri K. Rjendran,  
(Presenting Officer),  
Principal, Kendriya Vidyalaya,  
Tinsukia.
7. Shri M. Subramaniam,  
(Enquiry Officer),  
Principal, Kendriya Vidyalaya,  
Silchar.

.....Respondents.

PARTICULARS OF THE APPLICATION

1. Particulars of order against which this application is made.

This application is made against the impugned order No.3-4/99-2000/KVS(SR)4126-28 dated 19/25.6.2001 issued by the Respondent No.3 imposing punishment on the applicant by way of reduction of pay by two lower

Shadey

pay by two lower stages in the time scale of pay of Rs.4500-7000/- for a period of two years with cumulative effect and ordering further that the applicant will not earn increments of pay during the period of reduction, in an arbitrary manner.

2. Jurisdiction of the Tribunal.

The applicant declares that the subject matter of the order against which this application is made is well within the jurisdiction of this Hon'ble Tribunal.

3. Limitation.

The applicant further declares that the application has been filed within the prescribed time limit under the Administrative Tribunals Act, 1985.

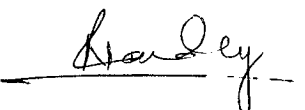
4. Facts of the case.

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

4.2 That the applicant entered into the service under the Kendriya Vidyalaya Sangathan(KVS) as Primary Teacher (PRT) and joined at Kendriya Vidyalaya, Umrangshu on 07.04.97 where she worked as PRT till 09.04.99. Thereafter she was transferred to Kendriya Vidyalaya, Duliajan and has been continuing there till the time of filing of this application.

4.3 That while serving in Kendriya Vidyalaya, Umrangshu, the KVS authorities instituted a concocted enquiry against the applicant resting on a transfer order issued in favour of the applicant vide one order

No.F.33-18/98-KVS/(Estt-III) dated 12.10.1998 transferring her to Kendriya Vidyalaya, CCI, Gandhinagar, Ranchi. It was alleged that the said transfer order was fake and that it was the applicant herself who got the order issued by



dated 12.10.1998 transferring her to Kendriya Vidyalaya, CCI, Gandhinagar, Ranchi. It was alleged that the said transfer order was fake and that it was the applicant herself who got the order issued by fraudulent manipulation. Accordingly a prima facie inquiry was conducted on 08.12.98 which was sought to be established on the basis of one impugned written statement submitted by Shri R. C. Katiyar (Respondent No.5), the then in charge Principal, Kendriya Vidyalaya, Umrangshu making the aforesaid allegation.

4.4 That on the basis of the fact finding inquiry conducted on 08.12.98 at Kendriya Vidyalaya, Umrangshu by Shri P.C. Parashar, Principal, Kendriya Vidyalaya, Panchgram and Shri M. Ravi Kumar, Principal, Kendriya Vidyalaya, Masimpur, the Respondent No.3 vide his letter No.3-4/98-KVS(SR)/11451 dated 20.04.99 addressed to the applicant wanted certain clarifications against which parawise reply was submitted by the applicant vide application dated 30.04.99 sent through proper channel followed by another continuation letter sent under Regd. Receipt No.396 & 397 dated 15.06.99.

(Copy of letter dated 20.04.99, application dated 30.04.99 and dated 15.06.99 are annexed hereto as Annexure-I, II and III respectively.)

4.5 That eventually, the KVS authorities, in spite of having no substantial material in support of their allegation of fake/fraudulent transfer order, proposed to hold a formal inquiry against the applicant and served a memorandum of charge sheet upon the applicant vide letter bearing No.F.3-3/98-KVS(SR)16774-75 dated 31.01.2000 under rule 14 of the CCS (CCA) Rules, 1965.

Surprisingly, where the fact finding inquiry conducted on 08.12.98 against the applicant contained only one charge i.e. the charge of fake/fraudulent transfer

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order, the respondents while issuing the aforesaid memorandum of charge sheet dated 31.01.2000 levelled two nos. of charges, thus incorporating a new charge with the sole purpose of accentuating the gravity of charges, making their intention clear that they are determined to harass the applicant by any means. It is relevant to mention here that the second charge relates to occupation of residential accommodation which was already investigated and disposed of long back. The memorandum of charge sheet dated 31.01.2000 contained two charges and the article of charges are quoted below :-

“

Article-I

Mrs. Namita Pandey, while working as a Primary Teacher at Kendriya Vidyalaya, Umrangshu arranged to issue fake transfer order No.F.33-18/98-KVS(Estt-III) dated 12.10.1998 for posting to Kendriya Vidyalaya, CCI, Gandhinagar, Ranchi in her favour.

Mrs. Namita Pandey, Primary Teacher has therefore done fraudulent manipulation in violation of item 34 of code of conduct for teacher envisaged in chapter VI of the Education Code and thereby contravened Rule 3(I)(II) of CCS (Conduct) Rules, 1964. She has therefore rendered herself liable to disciplinary action under CCS(CCA) Rules, 1965 as extended to KVS employee.

Namita Pandey

## Article-II

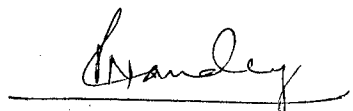
Mrs. Namita Pandey, while working as Primary Teacher at Kendriya Vidyalaya, Umrangshu unauthorisedly took occupation forcefully by breaking the lock of the residential accommodation of the said Kendriya Vidyalaya on 25.07.97. Mrs. Namita Pandey, PT has thus failed to exercise devotion and reasonable care in the discharge of her official duty and has violated item 22 of the Education Code and she has thereby contravened Rule 3(I)(II) of the CCS (Conduct) Rules, 1964 and therefore rendered herself liable to disciplinary action under CCS(CCA) Rules 1965 as extended to KVS employees".

(Copy of Memorandum of charge sheet dated 31.01.2000 is annexed hereto as Annexure-IV)

4.6 That the applicant replied against the aforesaid charges and submitted her reply vide application dated 22.02.2000. Subsequently a preliminary inquiry was conducted on 26.04.2000 and 12.07.2000 by Shri M. Subramaniam (Respondent No.7), Principal, Kendriya Vidyalaya, Silchar as Enquiry Officer and Shri Rajendran Katiyal (Respondent No.6), Principal, Kendriya Vidyalaya, Tinsukia as Presenting Officer. But surprisingly, in spite of all efforts of the applicant, the report of Preliminary inquiry was not given to the applicant and none of the charges could be substantiated in the inquiry.

(Copy of application dated 22.02.2000 is annexed hereto as Annexure-V)

4.7 That the final hearing of the inquiry was held on 24.02.2001 at Kendriya Vidyalaya, Lumding with cross-examinations and the proceedings were recorded



with detailed evidential statements. But the Enquiry Officer submitted his inquiry report vide his No.3-1(conf)/KV-SIL/2000 dated 28.07.2000 even before the cross examination dated 24.02.2001 to the Respondent No.3 a copy of which was forwarded to the applicant vide No.3-4/94-IVS(SR)/647-49 dated 30.03.2000/17.04.2001. *The applicant Submitted detailed representation dtd. 26.4.2001 against the memorandum dtd. 30.3.2000/17.4.2001, (Copy of Inquiry Report dated 28.07.2000 and forwarding letter dated 17.04.2001 are annexed hereto as Annexure-VI and VII and representation dtd. 26.4.2001 respectively).*

4.8 That on receipt of the inquiry report dated 28.07.2000 vide letter dated 17.04.2001 the applicant submitted representation dated 26.04.2001 to the Respondent No.3 assailing the inquiry report which was not in conformity with the evidences (oral and documentary) recorded at the time of inquiry. It is pertinent to state that the imputation of allegations and the statements made in the cross examination are inconsistent to each other but the Enquiry Officer, without taking due cognizance of the evidential statements/records, formed the Enquiry report arbitrarily with malafide findings although none of the charges could be established at the inquiry.

4.9 That pursuant to the biased and arbitrary inquiry report dated 28.7.2000, the respondent No.3 imposed punishment upon the applicant vide his impugned order No.3-4/99-2000/KVS(SR)/4126-28 dated 19/25.06.2001 in a planned and pre-determined manner ignoring all representations of the applicant and factual positions as revealed during the hearing/cross examination.

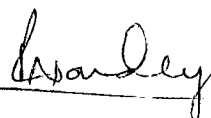
(Copy of the impugned order dated 19/25.06.2001 is annexed hereto as Annexure-~~III~~ VIII)

*Wandey*

4.10 That on receipt of the order of punishment dated 19/25.06.2001, the applicant submitted an appeal vide application dated 12.07.2001 to the Appellate authority of the KVS i.e. the Commissioner, KVS, New Delhi (Respondent No.2) detailing all facts and circumstances and praying for setting aside of the impugned order dated 19/25.06.2001 and for exonerating her from the alleged charges after examining the records of the inquiry proceeding.

(Copy of the representation of appeal dated 12.07.2001 is annexed hereto as Annexure-IX).

4.11 That the applicant begs to state that the entire inquiry as stated above was conducted in a biased manner and without any application of mind. Whereas the charge brought through Article-I was sought to be established on the basis of a statement dated 8.12.98 made by Sri R.C. Katiyar, the then Principal in charge, Umrangshu, the same was fully inconsistent with the subsequent statements made by Sri Katiyar during the cross examination held on 24.2.2001. Further the written statement of Sri N. Shankar, TGT (Bio) although shown as listed document in the Memorandum of Charge Sheet dated 31.1.2001 was not annexed to the memorandum of charge sheet and none of the listed documents were examined in the inquiry proceeding as was required under the relevant rule of CCS (CCA) Rules, 1965. However the statement of Shri N. Shankar also contradicted the charge under Article-I which only supports the contention of the applicant. None of the vital materials were either examined at the time of inquiry or reflected in the inquiry report and as such the entire inquiry was marked by infirmities. As such, none of the charges brought against the applicant could be proved/established during the inquiry but the Enquiry officer, most arbitrarily and with mala fide intention prepared the inquiry report dated 28.7.2000 at his own



imagination and made concocted conclusions without having any link with the factual position revealed at the time of inquiry.

Further, it is surprising that while the cross examination and ultimate inquiry proceeding was held on 24.2.2001, the inquiry officer already prepared his inquiry report as back as on 28.7.2000 i.e. about 7 months before the completion of the inquiry which clearly reflects not only the on validity of the inquiry report but also discloses the pre-determined motive of the Enquiry Officer which is against all laws known in the arena of justice and as such the said inquiry report is void-ab-initio.

Most shockingly, the Disciplinary Authority too, behaving in the similar way, <sup>arbitrarily</sup> ~~shamelessly~~ acted upon the said inquiry report dated 28.7.2000 in a pre-planned manner ignoring the serious infirmities and irregularities of the inquiry proceedings as stated above and imposed punishment upon the applicant vide his order dated 19/25.6.2001.

4.12 That the applicant states that although there is a provision of appeal against the impugned order dated 19/25.6.2001, but CCS (CCA) rules have not conferred any power in the Appellate Authority to stay the order appealed against and as such the same appellate provision is not an alternative and efficacious remedy and under such circumstances the applicant has no other way but to approach this Hon'ble Tribunal without waiting for any result for her appeal dated 11.07.2001 else the punishment inflicted upon the applicant will be taken into effect causing irreparable loss and injury to the applicant.

4.13 That your applicant further begs to state that the Hon'ble Principal Bench in Charan Singh Vs. U.O.I. and Ors. (ATR 1986 (2); 643) directed that in case of absence of power to stay the order of Appellate Authority, the Tribunal may

Handley

entertain and grant interim order. This Hon'ble Tribunal also in O.A. No. 177/94 (Sri Sunil Das Vs. U.O.I.) had admitted and passed order granting interim order by way of staying the impugned order before submitting the appeal to the Appellate Authority under the CCS (CCA) Rules on the ground that the rules did not provide any provision to stay <sup>impugned order</sup> to the Appellate Authority. *[Signature]*

4.14 That finding no other alternative, the applicant is approaching this Hon'ble Tribunal for protection of her legitimate rights and it is a fit case for the Hon'ble Tribunal to interfere with and to protect the interests of the applicant by setting aside the impugned order dated 19/25.6.2001 which have been issued arbitrarily, capriciously and with a pre-planned motive.

4.15 That this application is made bona fide and for the cause of justice.

5. Grounds for relief(s) with legal provisions.

- 5.1 For that none of the charges levelled against the applicant having been substantiated in the inquiry proceedings, the Disciplinary Authority erred in imposing punishment upon the applicant vide the impugned order dated 19/25.6.2001 and as such the same is liable to be set aside and quashed.
- 5.2 For that the inquiry authority conducted the inquiry with a pre-determined action plan and made his conclusions out of his sheer imagination and not based on facts and evidences revealed in the inquiry.
- 5.3 For that the inquiry authority prepared his report of inquiry on 28.7.2000 making all conclusions whereas the cross examination

*[Signature]*

and the ultimate proceeding was held on 24.2.2001 and as such the whole inquiry proceeding is void-ab-initio.

- 5.4 For that the Disciplinary Authority acted illegally, arbitrarily, mala fide and in violation of the principles of natural justice as well as of rule 14 of the CCS (CCA) Rules and as such the impugned order dated 19/25.6.2001 is liable to be set aside and quashed.
- 5.5 For that the applicant being an innocent person did not having committed the charge on any other misconduct, the impugned order is liable to be set aside and quashed.
- 5.6 For that there is no scope of remedy by way of appeal since the CCS (CCA) Rule have not conferred any power in the Appellate Authority to stay the order appeal against and as such the applicant is left with no other option but to approach this Hon'ble Tribunal for justice.

6. Details of remedies exhausted.

That the applicant preferred an appeal on 12.7.2001 against the impugned order of penalty dated 19/25.6.2001 but since there is no power vested with the Appellate Authority to stay the operation of the penalty order, in such compelling circumstances, the applicant approaching this Hon'ble Tribunal with a prayer to stay the impugned order of penalty dated 19/25.6.2001 during the pendency of this appeal as an interim measure.

7. Matters not previously filed or pending with any other court.



The applicant further declares that she had not previously filed any application, writ petition, or suit regarding the matter in respect of which this application has been made, before any court or any other authority or any other bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. Reliefs sought for :

Under the facts and circumstances stated above, the applicant humbly prays that your Lordships be pleased to grant the following reliefs :

- 8.1 That the impugned order dated 19/25.6.2001,( Annexure-VIII) imposing punishment upon the applicant be set aside and quashed.
- 8.2 That the respondents be directed not to give effect of the impugned order of penalty dated 19/25.6.2001 (Annexure-VIII) till disposal of appeal dated 12.7.2001 (Annexure-IX)
- 8.3 Costs of the application.
- 8.4 Any other relief or reliefs to which the applicant is entitled to, as the Hon'ble Tribunal; may deem fit and proper.

9. Interim order prayed for.

During pendency of this application, the applicant prays for the following reliefs :-

- 9.1 That the Hon'ble Tribunal be pleased to direct the respondents that the operation of the impugned order dated 19/25.6.2001 be stayed till this application is disposed of.

By and by

9.2 That the respondents be directed to dispose of the Appeal dated 12.7.2001 preferred by the applicant against impugned order of penalty dated 19/25/6/2001 at the earliest.

10. ....

This application is filed through Advocate.

11. Particulars of the I.P.O.

- |      |               |   |                   |
|------|---------------|---|-------------------|
| i)   | I.P.O. No.    | : | 56 424271         |
| ii)  | Date of issue | : | 12-6-2001         |
| iii) | Issued from   | : | G.P.O., Guwahati. |
| iv)  | Payable at    | : | G.P.O., Guwahati. |

12. List of enclosures.

As stated in the index.

*Handley*

## VERIFICATION

I, Smti Namita Pandey, wife of Shri Shekhar Kumar Pandey,  
Presently working as Primary Teacher, Kendriya Vidyalaya, Duliajan, do hereby  
verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my  
knowledge and those made in Paragraph 5 are true to my legal advice and I  
have not suppressed any material fact.

And I sign this the .....19.....day of July, 2001.

Namita Pandey  
SIGNATURE

ANNEXURE-I

## KENDRIYA VIDYALAYA SANGATHAN

Regional Office  
Hospital Road  
Silchar-788001

File No. 3-4/98-KVS(SR)/1145

Dated : 20.4.99  
Registered Post  
Confidential

## MEMORANDUM

Whereas a fake transfer order transferring Smt. Namita Pandey, Ex.-PRT, KV, Umarangsho now posted to Kendriya Vidyalaya, Duliajan under forged signature of Shri V.K.Tupta was issued in favour of the above mentioned teacher.

Whereas a fact finding enquiry was conducted on 8.12.98 at KV, Umrangsho by Shri P.C. Parashar, Principal, KV, Panchgram and Shri M. Ravi Kumar, Principal, K.V. Masimpur.

Whereas the fact finding enquiry report did not rule out the involvement of Mrs. N. Pandey, PRT in securing fake transfer order as mentioned above in her favour.

Now therefore, the undersigned directs Smt. Namita Pandey, to clarify the following points :-

a) Mrs. Namita Pandey, PRT during the course of Fact Finding enquiry submitted that she had been receiving anonymous letters for quite sometime past. If the situation was such whether she had informed the matter either to police or her higher authority. If not the reason should be clarified. She is required to clarify the point with the proof of having received the anonymous letter earlier.

b) She confessed during the course of Fact Finding Enquiry that she had not applied for transfer. On the other hand she asked the Principal I/c repeatedly to relieve her by showing a copy of the transfer order marked to AC Patna. She is therefore, required to clarify as to how she received the copy of the transfer order marked to Assistant Commissioner,

Patna Region.

*certified to be true copy*  
*Sunitashash*  
*Advocate*

c) When Mrs. N. Pandey, PRT had admitted that she did not apply for her transfer, the reason for pressuring the Principal I/c by herself as well as by her husband for relieving from KV, Umrangsho should be clarified.

d) The fake transfer order was issued on request although Mrs. Namita Pandey, PRT did not apply for request transfer. The reason of not bringing this fact to her higher authorities need to be clarified. Moreover, knowing the above fact that transfer order was received by her for which she did not apply, without, bringing the matter to the higher authority she put pressure on Principal I/c as well as on this office for her relief. The reason should be clarified.

e) As per statement given by Mrs. Namita Pandey that she made a telephone call to her husband on 31.10.98 regarding the receipt of her transfer order and her husband arrived at Umrangsho on 3.11.98.

As per eye witness her husband was at KV, Umrangsho even before 3.11.98. Smt. Namita Pandey, PRT is therefore required clarify the position.

f) It has also been revealed that the fake transfer order was posted from Sonpur, Bihar and not from New Delhi. It is an established fact that the order relating to Inter regional transfer order are issued from KVS (Hqrs.), New Delhi. As such the fact should have been brought to the higher authorities by her. The reason should be clarified.

Her clarification must reach this office within 10 days from the date of receipt of this memorandum.

To

Mrs. Namita Pandey  
Primary Teacher  
KV, Duliajan,

Sd/-  
(S.P.BAURI)  
Assistant Commissioner

Copy to :

Principal, KV, Duliajan for information. He is requested to get the clarification as above from the teacher concerned and send to this office.

Assistant  
Commissioner

सिल्वर (30mm) ।

विषय :- आपन पत्रांक 3-4/98-KVS (SR) / 1148/कांक —  
20.04-99 के आलोक में स्पष्टीकरण ।

सोना में खनिज निक्षेप के साथ में Nominat  
 Pordy (PRT) के कि दुर्लभता (असामान्य) कारण से  
 कि उक्त जमीन खनिज निक्षेप निक्षेप करने में मरी-  
 त्व है कि निक्षेप नहीं है। और निक्षेप या भी निक्षेप निक्षेप  
 गए हैं कि निक्षेप और निक्षेप हैं। कुछ निक्षेप  
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1/25/79

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⑥ सन २०१०-११ के लिए नमी कई आवेदन मिली। तब ३०.१०.११ को मं. पत्र पर उक्त सजायाकरण आदेश की एक photo copy आई (जिसमें A.C. Patna Region में नि. हाई कोर्ट में भी रिशन और चाफेन थी। उक्त पत्र में उसे प्रार्थना (I/c) को दरवाज़ा पूछा था कि "सर, मैं क्या मांगना चाहती हूँ।" उसने जवाब में कहा "हाँ, हाँ।" उक्त सजायाकरण के फोटो को देखते ही उसने कहा "हो सकता है पिछले मंजूर पत्र की तरफ भी नज़र दें।" अपने आपको प्रार्थना (I/c) की नज़र में डाल

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certified to be true copy  
Digitized by  
Advocate

उस photo copy माफ़ी ज्ञान के आधार पर 10/10/11 (received)  
करने का काम कर रहा, जिसके मुद्दा और गम्भीरता  
माफ़ी (1/0) के साथ दस्तावेज़ आदेश को ज्ञान के  
पत्रिका की माफ़ी के विचारों को है और है।

[illegible][illegible]

1810 (19)

[illegible]

ॐ श्रीगणेशाय नमः  
 कि मेने कही थी कि यह किताब  
 के विषय में पढ़ाई है।

$$G_1 \cdot \pi \cdot q^T, \text{ and } G_2 \cdot \pi \cdot q^T \mid$$

विद्यार्थी मालिका

Friday

(Mrs Nonita Parney)  
PRT

14-11-30-4-99

० नदी, सिंधु, गंगा, यमुना  
(सिंधु)

प्रति विधि, जलाशय, बांधुवन, के. वि. सं., देवीय, काशीकर, विजयार  
के. सूचनार्थ, रण, आनन्द, काशीवादी, तद, /

Received  
H301274  
1-5-99

15/19

( Mrs. Nomita Pandey )

25

## Annexure-III

From  
Mrs. Nomita Pandey  
PRT  
KV, Duliajan.

To

The Assistant Commissioner  
Kendriya Vidyalaya Sangathan  
Silchar Region, Silchar  
(Assam)

Subject : Regarding Memorandum alleging forged transfer order.  
Sir,

In continuation of my previous letter, I have to say that my husband Shri Shekhar Kumar Pandey was not present at K.V., Umrangsho on the 31st Oct. 1998 as said in the Memorandum, F.No. 3-4/98-KVS (SR) 11451 dated 20.4.99.

In support of the statement made by me in the previous letter, I am sending an authenticated document which will establish the fact that my husband was not present at K.V., Umrangsho on 31st Oct. 1998.

Thanking you,

Yours faithfully,  
Sd/-

(Mrs. Nomita Pandey)  
Dumka, Bihar.

*Certified to be true copy  
Brijil Shukla  
Advocate*

Annexure-III (Contd).

DISTRICT TREASURY, DUMKA (BIHAR)

Ref No. 333/Try

Date - 03.06.99

TO WHOM IT MAY CONCERN

Certified that Sri Shekhar Kumar Pandey, Asstt. Accountant, Dumka Treasury, was on duty during the month of Oct'98 & Nov. '98 except Earn Leave from 2.11.1998 to 15.11.1998.

Sd/-

Illegible

Treasury Officer.

24

## ANNEXURE-IV

KENDRIYA VIDYALAYA SANGATHAN  
REGIONAL OFFICE : SILCHAR-1  
HOSPITAL ROAD : SILDHAR-788001

P. No. 3-3/98-KVS(SR)/16474-75  
Date : 31.01.2000

## MEMORANDUM

The undersigned proposes to hold an inquiry against Smt. Namita Pandey Primary Teacher, Kendriya, Vidyalaya, Duliajan, under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965, as extended to the employees of Kendriya Vidyalaya Sangathan. The substances of the imputations of misconduct of misbehaviors in respect of which the inquiry is proposed to be held is set out in the enclosed statement of Articles of charges (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 by which, a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure-III and IV).

2. Smt. Namita Pandey, Primary Teacher, Umrangsho now at Kendriya Vidyalaya Duliajan is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to State whether she desires to be heard in person.

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

4. Smt. Namita Pandey, Primary Teacher is further informed that if she does not submit her written statement or defence on or before the date specified in para, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rules 14 of the CCS. (CCA) rules, 1965 or the orders/directions issued in pursuance of the said Rule, the Inquiring authority may hold the inquiry against her ex-parte.

*certified to be true copy*  
*Singit Shash*  
*Advocate*

5. Attention of Smt. Namita Pandey Primary Teacher is invited to Rule 20 of the Central Civil Services (Conduct) rules, 1964 under which no Govt. Servant 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 her service under the Government. 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 Smt. Namita Pandey, Primary Teacher is aware of such is representation and that it has been made her instance and action will be taken against her for violation of Rule 20 of CCS (CONDUCT) Rules, 1964.

6. The receipt of this Memorandum may be acknowledged.

To

Smt. Namita Pandey,  
Primary Teacher  
Formerly at Kendriya Vidyalaya,  
Duliajan.

Sd/-

(S.P.BAURI)  
Asstt. Commissioner

## Annexure-IV (Contd.)

Statement of Article of Charges framed against Smt Namita Pandey, Primary Teacher, Kendriya Vidyalaya, Umramangshu, Duliajan

## ARTICLE -I

Mrs. Namita Pandey, while working as a Primary Teacher at KV Umramangshu arranged to issue fake transfer order No. F.

33-18/98-KVS (Estt-III) dated 12.10.1998 for posting to Kendriya Vidyalaya, CCI, Gandhi Nagar, Ranchi in her favour.

Mrs. Namita Pandey, Primary Teacher has therefore done fraudulent manipulation in violation of item 34 of Code of conduct for teacher envisaged in Chapter VI of the Education Code and thereby contravened Rule 3(I) (II) of CCS(Conduct) Rules, 1964. She has therefore rendered herself liable to disciplinary action under CCS(CCA) Rules, 1965 as extended to KVS employee.

## Article-II

Mrs. Namita Pandey, while working as Primary Teacher at Kendriya Vidyalaya, Umramangshu unauthorisedly took occupation forcefully by breaking the lock of the residential accommodation of the said Kendriya Vidyalaya on 25.07.97. Mrs. Namita Pandey, Primary Teacher has thus failed to exercise devotion and reasonable care in the discharge of her official duty and has violated item 22 of the Education Code and she has thereby contravened Rule 3(I) (II) of the CCS(Conduct) Rules, 1964 and therefore rendered herself liable to disciplinary action under CCS(CCA) Rules 1965 as extended to KVS employees."

## Annexure -IV (Contd.)

Statement of imputation of misconduct or misbehaviour in support of the articles of Charge I framed against Smt.

Namita Pandey, Primary Teacher formerly at Kendriya Vidyalaya, Umrangshu, now at Kendriya Vidyalaya, Duliajan.

A fake request transfer order No. 06/98 vide letter No. F. 33-18/98-KVS(Estt.III) dated 12.10.98 under the forged signature of Shri V.K. Gupta, Assistant Commissioner (Admn.), Kendriya Vidyalaya Sangathan, New Delhi was issued in favour of Smt. Namita Pandey, Primary Teacher formerly at Kendriya Vidyalaya, Umrangshu now at Kendriya Vidyalaya, Duliajan. In the aforesaid transfer order Smt. Namita Pandey, Primary Teacher was the lone beneficiary for which she did not apply earlier. As per statement of Smt. Namita Pandey, Primary Teacher her husband applied for her transfer but in support of her statement she failed to submit any documentary evidence.

Moreover, Smt. Namita Pandey, Primary Teacher submitted a copy of the transfer order marked to Asstt. Commissioner, KVS, R.O., Patna to the Principal, KV Umrangsho on 28.10.98 requesting him to relieve her although she received the fake transfer order on 30.10.98 without revealing the fact that she did not apply earlier for transfer to her choice place.

Later on, on query, Smt. Namita Pandey, Primary Teacher submitted that she had been receiving anonymous letters for quite sometime past. Smt. Namita Pandey, Primary Teacher never brought this fact to the notice of any authority and she was surprised to receive the transfer order. Her statement indicates that the fake transfer order was not issued by any authority of the KVS and in spite of knowing this fact she insisted the Principal on 28.10.98 and 5.11.98 for her relieving. Such act.... and act to get relieved speaks of her involvement in the fraudulent manipulation of procuring the fake transfer order in her favour.

As per statement of Mrs. Namita Pandey, Primary Teacher, she made telephone call to her husband on 31.10.98 on receipt of her transfer order and her husband came to Umrangshu on 3.11.98. Her statement contradicts with the statement of witness she has provided to the effect that her husband was at Umrangsu even before 03.11.98. More so in spite of receiving the fake transfer order on 28.10.98 by Smt. Namita Pandey, Primary Teacher she made the telephone call to her husband only on 31.10.1998 at 7.30 P.M. whereas she was asking Principal since 28.10.98 to relieve her and also she started disposing off her house hold good. Her fabricated statement speaks of her involvement in procuring the forged transfer order.

Smt. Namita Pandey made a confession that the fake transfer order under forged signature of Shri V.K. Gupta, Assistant Commissioner (Admn.) was posted from a place i.e. 'SON' and obviously not posted from New Delhi. She was also surprised to receive the fake transfer order. In spite of realising the facts, her repeated insistence on the principal to relieve her gives a clear indication of her involvement in fraudulent manipulation to procure fake transfer order dated 5/12.10.98 under forged signature in her favour with mala fide intention.

Smt. Namita Pandey, Primary Teacher has thus involved herself in fraudulent manipulation for procuring fake transfer order under forged signature in her favour with mala fide intention which is violative to item 43 of the code of conduct for teacher as envisaged in the Education Code.

Smt. Namita Pandey, Primary Teacher has thereby contravened Rule 3(I) (II) of the CCS (Conduct) Rules, 1964 and thus rendered herself liable to Disciplinary Action under CCS (CCA) Rules, 1965 as extended to employees of Kendriya Vidyalaya Sangathan.

## Annexure-IV(Contd.)

Statement of imputation of Misconduct or misbehaviour in support of Article of Charge II framed against Smt. Namita Pandey.

The residential accommodation of Kendriya Vidyalaya, umrangshu was locked on 16.7.1997 after vacating by another teacher. Mrs. Namita Pandey, Primary Teacher forcibly took accommodation of the said quarter by breaking the lock of the quarter on 26.7.97. Such an unauthorised occupation is violative of item 22 and 34 of the Code of Conduct for teachers as envisaged in the Chapter VI of the Education Code.

Mrs. Namita Pandey has thus contravened Rule 3(I) (II) of the CCS (Conduct) Rules, 1954 and rendered herself liable to disciplinary action under CCS (CCA) Rules 1965 as extended to employees of Kendriya Vidyalaya Sangathan.

## Annexure-III

List of Documents by which articles of charge framed against Mrs. Namita Pandey, Primary Teacher are proposed to be sustained.

1. Forged transfer order No. 06/98-99 vide KVS (HQ) letter No. F. 33-18/98-KVS(Estt-III) dated 5/12-10-98.
2. Written statement dated 8.12.98 of the Principal, KV, Umrangshu, and Shri W. Shankar, TGT (BIO)
3. Letter No. F.1/PF NP(KVJ)97-98/357 dated 26.7.97.

## Annexure-IV

List of witness by whom the articles of charges framed against Mrs. Namita Pandey, Primary Teacher formerly at KV Umrangshu now at KV Duliajan.

1. Shri Ramesh Chandra Katiyar, PGT, (Hindi).
2. Shri K. Shankar, TGT (Bio)

F-II/PP.NP /97-98/357

Date 28.7.98

To

Mrs. Namita Pandey, PRT,  
KV Umrangsho.

Sub : Unauthorised Occupation of quarter No. E-40-A and  
explanation thereof.

The Vidyalaya has locked the quarter on 16.7.97 on  
vacation by Mrs. Nanda Upadhaya, PRT. As per your statement  
and on verification you have entered in to the quarter by  
breaking the lock of the quarter on 25.7.97.

You are therefore, asked to explain how you have broken  
the lock of the Govt. quarter and How you have entered into  
the quarter, it a clear cut violation of rule of discipline  
Explain the fact. Further it is ordered to vacate the  
quarter within 2 days. Otherwise it will a clear  
insubordination and disobedience and case will be referred  
to the Asstt. Commissioner and other higher authorities for  
further necessary action.

Sd/-  
(S.L.Jain)  
Principal

संस्था में,

30-33 (30)

Annexure-V

34

सहायक आयुक्त

कै० वि० संगठन, सिलचर संभाग

सिलचर

द्वारा, प्राचार्य महादय कै० वि० दुलियाजान ।

विषय : — आपन पत्रांक F-3-3/98-KVS(SR)16474-75,  
दिनांक - 31.01.2000 के आलोक में स्पष्टीकरण ।

गहाशय,

सावित्र्य निवेदन के माग आपन पत्रांक - F-3-3/98/KVS  
(SR) - 16474-75 के संदर्भ में मैं अपना स्पष्टीकरण दे रही  
हूँ। मैं यह भी उल्लेख करना चाहूँगी की इससे पूर्व भी  
मैंने सिलचर संभाग द्वारा प्रेषित पत्र पत्रांक - 3-4/98-KVS(SR)  
- 11451 दिनांक - 20-04-99 के प्रमुख में अपने वक्तव्य लिखित  
रूप पर दिनांक - 01-05-99 को कै० वि० दुलियाजान के माध्यम से  
प्रेषित किया था। इसके साथ ही मैंने अपने पत्र के माध्यम  
से (31-10-98 तक उनकी उपस्थिति, उनके विभाग में) संबंधित  
प्रमाणपत्र उपलब्ध करवाकर दिनांक - 15-06-99 को कै० वि० संगठन  
सिलचर संभाग तथा कै० वि० दुलियाजान को भी भेजा था। पुनः  
मैंने अपने पूर्व पत्र (दिनांक - 01-05-99) तथा अपने पत्र के कार्य-  
-लय के प्रमाणपत्र को फौजी प्रतिलिपी आपकी सेवा में प्रस्तुत  
कर रही हूँ।

Article I का प्रचार : — आजी स्थानान्तरण पत्र (पत्रांक - F-3  
- 18/98-KVS(ESTT III) दिनांक - 5/12-10-98) को अपने नाम से  
जारी करवाने में मेरा कोई हाथ नहीं है। मुझे पता भी नहीं था  
कि यह पत्र जारी हो रहा है। मैंने तब तक नहीं जाना था कि  
कौड़ी गवाही दी है। मैंने भीमान को दि० अभिनव करने का  
निर्णय प्रयास किया है। मेरा अनुभव है कि आप उचित  
कार्यवाही कर स्थिति को सुधर कर मुझे इस आशय से  
वरी करें।

हैं, इस बात को मैंने स्वीकार किया है कि मैं  
पत्रों में अपने स्तर से एक सागव्य सा आवेदन पत्र कै० वि०  
संगठन, दिल्ली को भेजा था। इसके में आवेदन कार्यालयी  
स्तर पर गती था इसीसे इसका कार्य प्रमाण उपलब्ध  
कराने में मैं असमर्थ हूँ।

भीमान को मैं भी निवेदन करना चाहती चाहते

प्रचार / PRINCIPAL  
Kondrya

certified to be true  
Advocate  
Dulhajan / Dulhajan

हूँ कि यदि मेरा उस जाली स्थानान्तरण पत्र से कोई संबंध होता तो क्या मैं सँजी के वि० वि० CCL में रिक्त पदों की स्थिति की जानकारी हासिल नहीं करती? क्योंकि, बाद में के० वि० सँजी CCL के प्राचार्य महादय ने अपने पत्र में यह स्पष्ट किया था कि उनके विद्यालय में कोई भी पद रिक्त नहीं है। इस बात की सूचना मुझे के० वि० उमरांगसा के कार्यालय से बाद में मिली।

गैने 28.10.98 को था कभी भी प्राचार्य महादय (I/c) को believe करने को नहीं कहा। 30.10.98 को उक्त स्थानान्तरण की एक फोटो प्रतिलिपी (जिसमें A.C. पटना संभाग को चिन्हित किया गया था) डाक द्वारा आई थी। जिसे प्राचार्य महादय ने अपने हाथों लिफाफे सहित फाड़ डाला था।

Anonymous letters कुछ दिनों से मुझे मिल रहे थे और इस बात को तात्कालिक प्राचार्य महादय (I/c) के समक्ष मैंने बार-बार लाया था। किंतु उन्होंने इस दिशा में लात दिया था। उस समय मुझे जरा भी संदेहा नहीं था कि मैं अविवेक से किसी कुचक्र में फँसने जा रही हूँ। अतः उन बेनामी पत्रों को मैंने संग्रहित नहीं करना शुरू नहीं किया मैंने उन्हें कभी भी कोई पत्र के आधार पर believe करने के लिए दबाव डाला।

मैंने पुनः अपना वक्तव्य दिला रही हूँ कि मेरे टेलीफोन पर संदेश देने के बाद मेरे पास 03-11-98 को ही उमरांगसा आए। उनकी उपस्थिति उनके कार्यालय में 31.10.98 तक रही है। इस बात की पुष्टि से मैं उनके कार्यालय का प्रमाणपत्र पुनः संलग्न कर रही हूँ। गैने प्राचार्य महादय को कभी भी believe करने को नहीं कहा बल्कि वही मुझे जल्द से जल्द believe करने पर अगावा थे।

मैंने अपने किसी भी वरिष्ठ सागान को न बताया न ही किसी को दिया और न ही किसी प्रकार की पैकिंग की थी। मेरे सारे सामान उसी प्रकार सुव्यवस्थित थे जैसे पहले रहा करते थे। सारे लगाए गए सारे पत्र और बखुनियाद हैं।

अब मुझे उक्त जाली स्थानान्तरण पत्र को प्राचार्य महादय (I/c) ने अपने हस्ताक्षर के बाद दिया (फोटो प्रतिलिपी साथ में संलग्न है) उस समय तक मैंने न तो उसके

लिफाफा देखा था, न ही उसपर सील देखी थी और न ही Mr. Singh V.K. Gupta के हस्ताक्षर से ही परिचित थी। जांच-पड़ताल समिति ने मुझे जो लिफाफा 8.12.98 को दिखाया था जिसपर "SON" की अस्पष्ट सील थी। इस तथ्य से 8.12.98 के पूर्व तक मैं अज्ञान थी कि ये स्थानान्तरण पत्रावली है।

अतः मैं अपना कथन पुनः दुहराती हूँ कि मैंने प्राचार्य महोदय (I/c) पर believe करने के लिए कोई भी दवाव नहीं डाला। मैंने वही रिपोर्ट जो मुझे प्राचार्य महोदय ने दवाव डालकर दिखाया। मुझे believe करने की सारी जांचवाही की फल उन्होंने ने ही की।

मुझपर जो जितने भी आरोप लगाए गए हैं वे सभी व्यक्तिगत गतभेद के दुष्परिणाम हैं। मैंने इस संदर्भ में कोई भी ऐसा कार्य नहीं किया है जिसके लिए मुझे कोई सजा भुगतनी पड़े।

मैं अंगान से नम्र निवेदन करना चाहती हूँ कि इस विषय में जल्द से जल्द दानवीन कर सच्चाई को सामने लाया जाये तथा मुझे मानसिक तनाव से मुक्त कर कृतार्थ करने की कृपा करें। इसके लिए मैं पुनः अपनी प्रत्यक्ष तौर पर अपना सुपरीक्षण किसी भी Inquiry Committee या Person को देने को तत्पर हूँ।

### Article II का प्रयोग -

मैंने 25.7.97 को किसी भी आवास का ताला नहीं तोड़ा। वह एक आवास की दिनी से बिना ताल के (unlocked) खुला पड़ा था। मैं अपनी इस भूल के लिए हृदय से लज्जित हूँ तथा आगाहगी हूँ कि उस आवास (E-40A) में मैंने बिना किसी पूर्व अनुमति के प्रवेश परिस्थिति से मजबूर होकर ही किया। उस समय तक मुझे तब तक जहाँ रहने के लिए कोई भी आवास आवंटित नहीं किया जाया था। उन विषम परिस्थितियों में तब पास अपने आत्मसम्मान की रक्षा का अन्य कोई उपाय नजर नहीं आया।

इस संदर्भ में मैंने अपना सुपरीक्षण तात्कालिक प्राचार्य महोदय श्री शान्तिलाल मन सेर को

उत्ते पत्रांक F.B/P.F.NP/KV(N)U/97-98/357-dated-26-7-97 के संदर्भ में दिया था। इसकी फौज प्रतिलिपी श्रीमान के सम्मानार्थ प्रेषित कर रही हूँ। मेरी उक्त भूल को स्वीकार कर लेने पर श्री जैन सर ने मुझे क्षमा भी प्रदान किया था साथ ही मविध्य में ऐसा न करने की चेतावनी भी दी थी (पत्रांक L.No-F.B.3/KV(N)U/97-98/440/- dated-12/8/97)।

मैं अपनी इस पहली और अंतिम भूल के लिए श्रीमान से भी क्षमा-चाहती हूँ। मैं पुनः श्रीमान से विनम्र निवेदन कर रही हूँ कि सेरपा प्रमुख तथा सिलचर संभाग के अभिभाषक होने के नाते मेरी बातों पर यकीन रखते हुए गुस्से पर न्याय करने की कृपा करेंगे।

दिनांक - 22.02.2000

विश्वामासमजिका

*Handy*

(Mrs. Nonita Poudel)  
PRT  
Kendriya Vidyalaya  
Dumka

### ENCLOSURES

- ① आपन पत्रांक - 3-4/98-KVS(SR)/1451/दिनांक - 20.4.99 के आलाक में स्पष्टीकरण पत्र दिनांक (01.05.99)।
- ② कार्यालय प्रमाणपत्र (District Treasury DUMKA) Ref.No-333/Tsy दिनांक - 03-06-99।
- ③ Letter No - F.33-18/99-KVS (EST IIL) दिनांक - 5/12/10/98 का प्राप्ति (I/C) द्वारा तस्माद्विस्त पत्र की जोड़ी प्रतिलिपी
- ④ आपन पत्रांक - F.B/P.F.NP/KV(N)U/97-98/354 दिनांक - 26-7-97 के संदर्भ में स्पष्टीकरण का दिनांक - 30.07-97।
- ⑤ Letter No - F.B.3/KV(N)U/97-98/440/- दिनांक - 12/8/97।

प्रतिलिपी सहायक आयुक्त के वि. वि. संगठन, सहायक कार्यालय, सिलचर संभाग, सिलचर को सूचनाएं एवं आवश्यक कार्यवाही हेतु।

Principal  
Kendriya Vidyalaya  
Dumka

(Mrs. Nonita Poudel)

## ANNEXURE-VI

KENDRIYA VIDYALAYA Silchar  
Dist. Cachar, Assam (Opposite to Doordarshan Kendra,  
Silchar)  
Pin - 788 003

No. 3-1(Conf)/KV-SIL/2000  
Date 28.7.2000

To

The Assistant Commissioner  
Kendriya Vidyalaya Sangathan,  
Silchar Region, Silchar-1.

Sub Departmental enquiry against Smt. Namita  
Pandey, PRT, KV,  
Duliajan.

Sir,

I submit the detail account of above case to your kind notice and necessary action.

I. INTRODUCTION: The Assistant Commissioner, Silchar Region, Silchar appointed me as the Inquiry Officer vide office order No. F.3-3/99-2000/KVS(SR) dated .... 2000, under rule 14 of CCS (CCA) Rules, 1965, to hold an Inquiry against Mrs. Namita Pandey, Primary Teacher, K.V. Umrangso, at present at K.V. Duliajan. In the same order Shri Rajendran Kamaul, Principal, K.V. Tinsukia is nominated as Presenting Officer (P.O.) to present the case in support of the charges.

The Preliminary hearing was held on 26th April, 2000, at K.V. Silchar duly attended by the Charged Officer (C.O.) and the Presenting Officer. The Inspection of documents was completed on the same day.

The Presenting Officer presented the related documents during Inquiry. At the close of enquiry the Charged

Office requested for time to submit the evidences against the charges and 12th July, 2000 was fixed as

the date of final hearing at K.V. Lumding, convenient to both C.O. and P.O. attended the enquiry. The briefs

received both in preliminary and final hearing have been placed in folder below :

*certified to be true copy*  
*Sujit Hazh*  
*Advocate*

II. CHARGES FRAMED AND INQUIRED INTO : The imputation of Namita Pandey involved herself in fraudulent manipulation for procuring fake transfer order under the forged signature of Shri V.K. Gupta, Asstt. Commissioner (Admn.) KVS, New Delhi in her favour with mala fide intention, and forceful occupation of K.V. accommodation by Mrs. Namita Pandey by breaking the lock on 16.7.97. The charges framed against Mrs. Namita Pandey vide Annexure-I & II to the charge sheet

memorandum are enclosed with this report.

III. FACTS AND DOCUMENTS ADMITTED : The broad facts of the case relating to manipulation of fake transfer order to get relieved from K.V. Umrangshu by C.O. and forceful occupation of K.V. accommodation by breaking the lock had not been admitted by Charged Officer both is preliminary enquiry and final enquiry. The copies of the enquiry proceedings in both cases have been enclosed.

IV. THE CASE OF DISCIPLINARY AUTHORITY : The Presenting Officer presented the documents in support of charges made against Charged Officer and also cross examined the case in support of charges. The briefs received from Presenting Officer have been placed in folder No.2. The arguments drawn by P.O. thoroughly established evidence in support of charges of contravention of Rule 3 (i) (ii) of CCS (Conduct) Rules.

V. DEFENCE ARGUMENTS OF THE CHARGED OFFICER : The charged Officer Mrs. Namita Pandey submitted her defence against two article of charges through written briefs placed in the relevant folder (No.3). The defence plea is briefly summarised in the following paragraphs.

The Charged Officer suspects the role of I/C Principal, K.V., Umrangshu, Shri Katiyar behind the birth fake transfer order and later on story due to her bad personal relations with him.

The Charged Officer also argues that once settled another quarter dispute by regular Principal Shri S.C. Jain was reopened by Shri Khatiyar to trouble her.

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- III. FACTS AND DOCUMENTS ADMITTED : The broad facts of the case relating to manipulation of fake transfer order to get relieved from K.V. Umrangshu by C.O. and forceful occupation of K.V. accommodation by breaking the lock had not been admitted by Charged Officer both in preliminary enquiry and final enquiry. The copies of the enquiry proceedings in both cases have been enclosed.
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- The Charged Officer suspects the role of I/C Principal, K.V., Umrangshu, Shri Katiyar behind the birth fake transfer order and later on story due to her bad personal relations with him.
- The Charged Officer also argues that once settled another quarter dispute by regular Principal Shri S.C. Jain was reopened by Shri Khatiyar to trouble her.

The Charged Officer submitted xerox copies of fee receipt in support of Shri Khatiyal misdeeds - which is absolutely irrelevant to present case.

VI. ASSESSMENT OF THE EVIDENCE, BOTH ORAL AND DOCUMENTARY AND THE INQUIRY OFFICER'S FINDINGS ON THE POINTS REGARDING DETERMINATION :

- From the assessment of the evidence, both documentary and oral, the following points emerge :
1. The Charged Officer confuses herself to stand on the statements given in preliminary enquiry in final hearing.
  2. She admits her husband applied for her transfer but fails to produce a copy of it (or) its through proper channel copy of her husband office or her office. To apply for spouse transfer without following official formalities and not keeping a personal copy by both educated and employed couple is doubtful. Her argument of her innocence is doubtful.
  3. She failed to produce evidence the way she get the copy of transfer order marked to Asstt. Commissioner, Patna Region. But she get it and requested the Principal to relieve.
  4. The Charged Officer argues that I/C Principal pressurised her to get relieve. But fails to produce any oral or written evidence in support of it.

Her application to Principal to relieve her is presented by Presenting Officer which indicates she brought Official pressure upon Principal to relieve her.

5. The Charged Officer argues that threatening letters received by her are destroyed by I/C. Principal - She failed to produce any evidence during enquiry to such grave act.
6. The written documents produced by her in support of her arguments of non-selling of her house hold articles to neighbours are irrelevant. She failed to submit any relevant document. The evidence in support of charge are produced by the Presenting Officer.

7. The Charged Officer admits that she visited the Regional office with her husband to talk with Asstt. Commissioner only about the I/C. Principal's plan to get rid off her by relieving. The purpose of her visit to R.O. Silchar and her discussion with the Asstt. Commissioner or any matter were not recorded. Hence her argument of accusing the I/C Principal in the foul play is only known to them Offg. Asstt. Commissioner Shri P.R.L. Gupta. Statement from Shri P.R.L. Gupta is required in this connection of her argument.

8. The charged officer failed to convene the Inquiry Officer or Presenting Officer with the evidence as her husband was not at Umrangshu on or before 03.11.98. Records shown by Presenting Officer established the fact her husband's presence.

9. The Charged Officer tries to blame the I/C, Principal for all of her charges and submitted a brief report/complaint to Inquiry Officer on 12.7.2000, without any evidences related to charges. At the end, Inquiry Officer concludes that all charges framed in Articles I though denied by the Charged Officer, enquiry fails to grasp any evidence from C.O. in support of her argument of innocence.

ARTICLE OF CHARGES - II : Forceful occupation of K.V. accommodation by Charged Officer. The article of charges did not stand any value because the Charged Officer was warned and given chance not to repeat such act in future by regular Principal Shri S.L. Jain, letter 3/KV(N)U/97-98/440 dated 12.8.97 in response of C.O. response to Memo issued by In charge Principal dated 26.7.97.

#### VII. FINDING OF THE INQUIRY OFFICER ON THE CHARGE FRAMED AGAINST THE C.O.

In the light of the assessment of the evidence and determination of the points made in the previous paragraph, my finding are that :-

1. The charged officer failed to provide any kind of evidence in support of her argument of her innocence,

result all charges mentioned in Article I in seven paragraphs have been established.

2. The charge mentioned in Article-II has not been established since it is unwise to open the closed file on this charge.

Yours faithfully,

Sd/-

(M.SUBRAHMANIUM)  
Inquiry Officer  
Principal, KV, Silchar.

REPORT OF CROSS EXAMINATION OF WITNESS BY ACCUSED OFFICER -  
MRS. NOMITA PANDEY, PRT.

Cross examination of witness, Shri R.C. Katiyar, PGT,  
K.V. No. 3 Guwalior  
and once Incharge Principal of K.V. Umrangshu by the accused  
officer Mrs.  
Namita Panedy, PRT is summerised below :

PROCEEDINGS :

Cross examination was conducted at K.V. Lumding on  
24.2.01 from 11.30 A.M. The prosecuting officer of the case,  
Sri K. Rajendran, Principal, K.V. Tinsukia, Shri R.C.  
Katiyar witness and Mrs. Nomita Pandey the accused officer  
attended the proceedings.

The accused officer cross examined the witness by means  
of a questionare prepared by her (hand written copy is  
enclosed; annexure-I two pages), and submitted to Enquiry  
Officer to lead the process. The Enquiry Officer wrote the  
same questions on separate papers to give scope to witness  
to answer. The witness answered the questions and they in  
turn had gone through the presenting officer and accused  
officer. The cross examination process is enclosed in  
annexure-II (3 pages).

The cross examination was concluded after the accused  
officer and presenting officer expressed their satisfaction  
by going through the answers given by witness and  
acknowledged the same. This is noted in daily order sheet -  
Annexure-III.

CONCLUSIONS :

The accused officer failed to prove any kind of  
charges made against the in charge Principal, Shri R.C.  
Katiyar in connection with suspicious transfer order - The  
incharge Principal need not be doubted in this incident. He  
simply discharged the duties of Principal.

The In charge Principal received the office copy of  
Mrs. N. Pandey transfer only on 2.11.1998. But she submitted  
the copy to Principal on 28.10.98 and requested him to

*Certified to be true copy*  
*Singitshosh*  
*Advocate*

relieve her. This is revealed in cross examination and accepted by accused officer, contrary to her earlier statement as the In charge Principal only pressurised her to get relieve.

Regarding the Camp of Mrs. N. Pandey husband at Umrangshu prior to 31.10.98 is established in the cross examinations (contradictory to her version in enquiry). The accused officer herself revealed her husband's arrival to Incharge.

It is also established that she disposed some of her house hold articles prior to relieve, which was accepted by accused officer in the cross examination.

The In charge Principal acted as per the instructions of Regional Office to operate the transfer order. The cross examination did not reveal any evidence to stand the allegations of accused officer as In charge Principal harassed her or pressurised her to relieve.

The cross examination did not substantiate any allegations made by accused officer to prove her innocence in getting and operating the transfer order, which was suspected as fraud at Regional Office level.

Thus the accused officer failed to defend the charges made against her and established sufficient ground of master plan behind the transfer order.

Sd/-

(M. SUBRAHMANIUM)  
ENQUIRY OFFICER

Annexure-VII

## KENDRIYA VIDYALAYA SANGATHAN

Regional Office  
Hospital Road  
Silchar-788001

F. No. 3-4/94-KVS(SR)/647-49  
Dated 30.03.2001/17.4.01

Regd/Confidential

## MEMORANDUM

Whereas on careful consideration of the Inquiry Report  
(Copy enclosed) the

undersigned has provisionally come to the conclusion that  
the gravity of the charge is such as to warrant the  
imposition of major penalty on Smt. Namita Pandey, Primary  
Teacher, Kendriya Vidyalaya, Duliajan and accordingly the  
undersigned proposes to impose on her penalty of reduction  
to lower stage (s) on the time scale of pay Rs. 4500-7000  
with cumulative effect.

NOW, THEREFORE, Smt. Namita Pandey Ex-primary teacher,  
KV Umrangshu now working as Primary teacher at KV Duliajan  
is hereby given an opportunity of making representation on  
the penalty proposed above. Any representation which she may  
wish to make against the penalty proposed will be considered  
by the undersigned. Such representation if any should be  
made in writing and submitted so as to reach the undersigned  
not later than 15 (fifteen) days from the date of the  
receipt of this memorandum by Smt. Namita Pandey, Primary  
Teacher, KV Duliajan.

The receipt of this memorandum should be acknowledged.

Sd/-

(S.P. Bauri)  
Assistant Commissioner

Encl :-  
Enquiry report in 07 pages

*certified to be true copy*  
*Sujitkesh*  
*Advocate*

4-A

Annexure - VII-A

To,  
The Assistant Commissioner (Disciplinary authority),  
Kendriya Vidyalaya Sangathan,  
Regional Office,  
Hospital Road,  
Silchar - 788001

Sub : Submission of Representation against the memorandum bearing letter No.3-4/94-KVS(SR)/647-49 dated 30.03.2001/17.04.2001 against the proposed imposition penalty of reduction to lower stage (s) on the time scale of pay Rs.4500-7000 with cumulative effect.

Ref : Your memorandum issued under letter No.3-4/94-KVS(SR)/647-49 dated 30.03.2001/17.04.2001.

Respected Sir,

Most humbly and respectfully I beg to state that the aforesaid memorandum proposing imposition of Penalty of reduction to lower stage(s) on the time scale of pay Rs.4500-7000 with cumulative effect, the aforesaid memorandum is duly received by the undersigned only on 20.04.2001 and I have carefully gone through the same, and understood the contents thereof.

I therefore like to draw your kind attention to the following fact for your kind attention to the following fact for your kind consideration before taking any adverse decision as proposed in the memorandum dated 30.3.2001/17.4.2001.

That Sir, the memorandum of charge sheet served upon the undersigned vide your letter bearing No. F. 3-3/98-KVS (SR)16774-75 dated 31.1.2000 under rule 14 of the CCS(CCA) Rules 1965 with the following article of charges quoted below :-

"Article -I

Mrs. Namita Pandey, while working as a Primary Teacher at KV Umrangshu arranged to issue fake transfer order No. F. 33-18/98-

KVS (Estt-III) dated 12.10.1998 for posting to Kendriya Vidyalaya, CCI, Gandhi Nagar, Ranchi in her favour.

Mrs. Namita Pandey, Primary Teacher has therefore done fraudulent manipulation in violation of item 34 of Code of conduct for teacher envisaged in Chapter VI of the Education Code and thereby contravened Rule 3(I) (II) of CCS(Conduct) Rules, 1964. She has therefore rendered herself liable to disciplinary action under CCS(CCA) Rules, 1965 as extended to KVS employee.

#### Article-II

Mrs. Namita Pandey, while working as Primary Teacher at Kendriya Vidyalaya, Umrangshu unauthorisedly took occupation forcefully by breaking the lock of the residential accommodation of the said Kendriya Vidyalaya on 25.07.97. Mrs. Namita Pandey, Primary Teacher has thus failed to exercise devotion and reasonable care in the discharge of her official duty and has violated item 22 of the Education Code and she has thereby contravened Rule 3(I) (II) of the CCS(Conduct) Rules, 1964 and therefore rendered herself liable to disciplinary action under CCS(CCA) Rules 1965 as extended to KVS employees."

That the charges brought against me through article-I with the allegation that the undersigned has arranged to issue fake transfer order No. F. 33-18/98-KVS (Estt-III) dated 12.10.98 for posting to Kendriya Vidyalaya, CCI, Gandhi Nagar, Ranchi in my favour and it is further alleged that due to this act of fraudulent manipulation in violation of item 34 of Code of Conduct for teacher envisaged in chapter VI of the education Code and thereby contravened Rule 3(I) (II) of CCS (Conduct) Rules, 1964 and the aforesaid misconduct of misbehaviour is sought to be sustained/established on the basis of a statement made by Sri R.C. Katiyar the then in-charge Principal, Umrangshu which is made at the time of prima

facie inquiry conducted on 8.12.98 by the authority. The said statement made by the then Principal on 8.12.98 and the other written statement of Sri N. Shankar, TGT (Bio) but the statement of Sri N. Shankar although shown as listed document in the memorandum of charge sheet dated 31.1.2001 but the same was not annexed in the aforesaid memorandum of charges. Moreover, none of the listed documents were examined in the enquiry proceeding as was required under the relevant rule of CCS(CCA) Rules 1965. It is further categorically submitted even the sole listed document relating to article to charge No.1, has not been examined. It is relevant to mention here that the written statement of the then Principal, Umrangshu which is relied in the memorandum of charge sheet in order to sustain the article of charge No. 1 now the said statement of Sri R.C. Katiyar went contrary to his own statement made during the cross-examination in the enquiry proceeding held on 24.2.2001 wherein in a reply to a question Sri R.C. Katiyar stated as follows, the relevant portion of the proceeding dated 24.2.2001 is quoted below :

**"CROSS EXAMINATION OF THE NAMITA PANDEY AT K.V. LUMDING AT 11.30 A.M. ON 24.2.2001.**

**Questions given by Mrs. Namita Pandey Vs. Answers by Sri R.C. Katiyar.**

1. When and how you have received this fraudulent order (a) transfer and posting of me ?

Sir, Madam N. Pandey Ex. (PRT) of K.V Umrangshu showed me her transfer copy on 28.10.98 and requested me to relieve her but I refused to relieve because I (As a Principal) did not receive her transfer order. I received transfer order on 02.11.98 on the next day I order U.D.C. to prepare L.P.C. & relieving order."

2. How did you come to know that the order of transfer dated 5/12.10.98 is fraudulent ?

Sir, I got telephonic message from the Education Officer (Officiating A.C.) on 03.11.98 that he had doubts about this transfer order. He (Sh. P.R.L. Gupta, Sir) called me at Silchar Regional Office along with the documents. He told me that he was making enquiry of this transfer orders.

3. After receipt of the transfer order what steps you have taken?

Sir, after receipt of transfer order of Mrs. N. Pandey I ordered U.D.C. to prepare L.P.C. & relieving order but after getting telephonic message from Hon'ble A.C. (Officiating) Sir I stopped it.

4. How did and when did it strike to your mind that I have arranged to issue the fraudulent order of transfer?

Sir, it did not strike me that she has arranged her transfer order. I came to know the doubt when A.C. Sir told me that it might be the fraudulent transfer.

5. How did you come to know that my husband has reached Umrangshu prior-to 31.10.1998 and what was your reliable source on that ?

Sir, I came to know that the husband of Mrs. Nomita Pandey arrived prior to 31.10.1998 through Mrs. Pandey two and ad-hoc lady teachers.

6. What was the distance of your quarter from the quarter of me at Umrangshu ?

Sir, it is Approx 2500 meters.

7. How did you know that I have disposed of my house hold articles and what was the source of your information ?

Sir, I came to know from two ad-hoc teachers.

8. What has prompted to reach such conclusion that I have arranged to issue the fraudulent transfer order ?

Sir, I have not prompted to reach such conclusion that she has arranged to issue the fraudulent transfer order. A.C. Sir told me that it might be fraudulent transfer.

9. Is that any evidence or materials available with you to establish that the fraudulent letter was issued by me ?

Sir, No, I have not any evidence or materials available with me to establish that the fraudulent letter was issued by Mrs. Nomita Pandey (PRT).

10. Do you believe this certificate of leave dated 03.06.1999 issued by the employer of my husband regarding leave of absence from his office ?

Sir, I do not know.

11. Is there any private accommodation available within the NEEPCO campus of Umrangshu for private hire accommodation ?

41-F

SV

Sir, I do not know.

Sd/- Illegible Illegible	Sd/- Illegible	Sd/-
24.02.2000	24.02.2000	14.02.2000
(R. C. Katiyar)	(K. Rajendran)	H. Subramanian)
	P.O.	E.O.

In view of the above statement of Sri R.C. Katiyar the then Principal of KV Umrangshu stated in the enquiry proceeding held on 24.2.2001 is contrary with the written statement dated 8.12.1998 as such the written statement dated 08. 12 .1998 cannot sustain the charges brought against me under article of charge no. I.

It is further submitted that the statement of Sri N. Shankar which is not annexed with the memorandum of charge sheet dated 31.01.2000 but supplied to me by the enquiry officer does not support the charges brought against me under article No.I. The statement of Sri N. Shankar dated 08.12.1998 also support the contention of the undersigned. The statement of Sri N. Shankar is quoted below :-

It is quite clear from the above statement of Sri N. Shankar that the husband of the undersigned came to Umrangshu after receipt of the order of transfer dated 12.10.1998, therefore the above statement also establishes that the written statement of Sri R. C. Katiyar dated 08.12.1998 is contradictory with the written statement of Sri N. Shankar.

That Sir, it is further stated that the written statement of Sri R. C. Katiyar is also contrary to the certificate of leave issued by the District Treasury Office, Dumka (Bihar) which establishes the correctness of the fact that my husband Sri Shekhar Kumar Pandey, Assistant Accountant, Dumka treasury was on leave with effect from 02.11.1998 to 15.11.1998 therefore statement of Sri R. C. Katiyar that my husband came to Umrangshu earlier to 03.11.1998 is false and misleading as because my husband undertook journey by Rail from Dumka and he reached at Umrangshu only on 03.11.1998 at about 11 a.m. My husband started his journey with effect from 01.11.1998 (Sunday) via Bhagalpur. But the certificate dated 03.06.1999 which was produced by the undersigned before the inquiry proceeding and the same was also got examined by the undersigned while cross examining Sri R. C. Katiyar the then Principal Umrangshu in the hearing proceeding held on 24.02.2001 and on reply which would be evident from the order sheet of cross examination dated 24.02.2001 quoted above, has not been denied by Sri R. C. Katiyar, as such it is categorically submitted that in the so called inquiry proceeding which is initiated in pursuance of the memorandum dated 31.01.2000 nothing could be proved against the undersigned regarding the charges leveled against me through article No.I as well as no evidence could be made available before the Enquiry Officer either by the presenting officer or by the witness Sri R. C. Katiyar who was examined in the enquiry proceeding as was relied upon in the memorandum of charge sheet dated 31.01.2000. It is further submitted that Sri N. Shankar TGT (BIO) listed witness relied upon in the aforesaid

memorandum of charges also not examined before the enquiry proceeding by the departmental side as required under the rule and the written statement of Sri N. Shankar, categorically support the statement stated above.

Therefore no evidence or statement of witnesses supported the charges brought against me under article I of the memorandum of charge sheet dated 31.01.2000.

It is further submitted that the undersigned submitted documentary evidences before the inquiry proceeding and also during the cross-examination such as certificate issued by the employees of NEEPCO Ltd. Regarding non disposal of household articles dated 10.12.98 and Pass issued in NEEPCO Gate dated 11.4.99 issued by Security Manager NEEPCO Ltd. Umrangshu dated 11.4.1999 and the certificate of Truck Owner dated 11.4.1999 carrying the Household articles from Umrangshu to Duliajan after my transfer and leave certificate dated 3.6.99 was also sent by Regd. Post to the Assistant Commissioner (Disciplinary Authority) as was promised by the undersigned on 15.6.99 against the reply submitted by me in terms of the memorandum issued under letter No. 3-4/98-KVS(SR)/11451 dated 20.4.99, but surprisingly none of the documentary evidence taken into consideration by the enquiry officer as required under the rules.

That the enquiry report bearing letter No. 3-1(CONF)/KV-SIL/2000 dated 28.7.2000 served upon me along with the memorandum dated 31.3.2001/17.4.2001. A bare perusal of the enquiry report, it would be evident that the same has been prepared in a most arbitrary and unfair and illegal manner without taking into consideration the factual position of the enquiry proceeding. There is no discussion at all made by the enquiry officer of the recorded statement of Sri R.C. Katiyar the then Principal in-charge, Umrangshu Kendriya Vidyalaya when Sri R.C.

Katiyar categorically denied that there is no evidence or material available with him regarding issuance of fake letter by me but surprisingly in the enquiry report it is state by the enquiry officer in the conclusion part that the cross-examination does not substantiate any allegation made by the accused officer to prove her innocence in getting and operating the transfer order which was suspected as framed at Regional Office level and thus the accused officer failed to defend the charges made against her and established sufficient ground of Master Plan behind the transfer order.

It is further stated the enquiry officer in his enquiry report in concluding paragraph that " It is also established that she disposed some of her household articles prior to relieve, which was accepted accused officer in the cross examination."

The above conclusion of the enquiry officer is totally false and misleading. In this connection the undersigned beg to rely upon the daily order sheet of the proceeding and enquiry officer is put to strictest proof of the fact that the charged officer has accepted the household articles prior to relieve rather documentary evidence submitted by me regarding non-disposal of household articles not considered at all by the enquiry officer but the same has been rejected in a very arbitrary and unfair manner without any discussion on the aforesaid evidences produced by me, which would be evident in paragraph 6 of the assessment of evidence in the enquiry report, wherein it is held by the enquiry officer that those documents arguments are irrelevant and it is further held that the undersigned is failed to submit any relevant document. Surprisingly it is further held that the evidence in support of charges are produced by the Presenting Officer but in reality not a single document or evidence neither produced by the Presenting Officer

nor examined before the Enquiry Proceeding by the Presenting Officer. As such entire finding of the Enquiry Officer is highly arbitrary and unfair and a mere reading of the finding and conclusion of the enquiry report. It would be evident that the Enquiry Officer has prepared, the enquiry report in total violation of Sub-section (i) and Sub-section (ii) of Sub rule 23 of rule 14 of the CCS (CCA) Rules, 1965.

It is categorically submitted that the enquiry report has been prepared without taking into consideration the defence put forwarded by the undersigned in respect of article of charges. It would further be evident that no assessment of the evidence is made in respect of the article of charges and particularly findings as well as the conclusion reached by the enquiry officer in respect of article of charge no. I is totally irrelevant and contrary to the records of the enquiry proceeding. No discussion on evidence particularly relating to the crucial hearing which took place on 24.2.2001 at Lumding did not find place in the enquiry report. No discussion is made by the enquiry officer in the recorded statement of Sri R.C. Katiyar who was cross-examined by me on 24.2.001. It is relevant to mention here that Sri R.C. Katiyar the sole witness cross-examined in the enquiry proceeding who categorically denied regarding availability of any documentary evidence to sustain the charges brought under article of charge no. I. As such, the entire finding and conclusion of the enquiry officer not based on any evidence and the aforesaid enquiry report has been prepared with a pre-determined notion to impose penalty upon me although no evidence or statements of any witness relied upon by the departmental side, supported the charges brought against me, as such on that score alone the proceeding is liable to be dropped.

That Sir, it is further categorically submitted that the charges particularly the article of charge No.I has not been enquired into rather the enquiry officer, enquired into a different charge in respect

of fake transfer order. A mere reading of the paragraph-II i.e the charges framed and enquired into is altogether different than the article of charge no. I brought under memorandum dated 31.1.2000. The Enquiry Officer enquired into " the imputation of Namita Pandey involved herself in fraudulent manipulation for procuring fake transfer order under the forged signature of Sri V.K.Gupta, Assistant Commissioner (Admn), KVS, New Delhi in her favour with mala fide intention" whereas article of charge no. I is quite different as leveled against me in the memorandum dated 31.1.2001. On that score alone the entire enquiry proceeding is liable to be set aside and quashed.

In paragraph V of the enquiry report the defence arguments of the charged officer which is discussed did not reflect the actual/factual position. It is also evident that the documents of misdeeds of Sri R.C. Katiyar which was submitted by me in the enquiry proceeding has been arbitrarily rejected by the enquiry officer holding the same as irrelevant without assigning any valid reason.

It is stated that no assessment of evidence both oral and documentary is made and further no discussion is made on evidences as required under the rule.

Finding assessment of evidence conclusion of the enquiry proceeding made by the enquiry officer as evident from the enquiry report is quite contrary to the record of the proceeding, it appears that the enquiry officer acted in a very arbitrary manner in total violation of Rule 14 of CCS(CCA) Rules 1965 and further reached to the findings and conclusion in the enquiry report in total violation of Sub-section (i) and (ii) of Sub-section -23 of Rule 14 of CCS(CCA) Rules 1965 and as such the entire enquiry proceeding which is conducted in pursuance of the memorandum dated 31.3.2001 are liable to be set aside and quashed and therefore

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penalty proposed under memorandum dated 31.3.2001/17.4.2001 also liable to be dropped in the interest of justice and fair play.

I, therefore like to draw your kind attention to the above stated fact for your kind consideration before taking any adverse decision as proposed in the memorandum dated 30.3.2001/17.4.2001 and further be pleased to drop the Memorandum of charges dated 31.3.2000 in view of the above stated contradictions, infirmity in the enquiry proceeding and also be pleased to revoke/cancel the Memorandum dated 30.3.2001/17.4.2001 proposing penalty under intimation to the undersigned.

Date : 26.04.2001

Place : Duliajan

Yours faithfully,

(NAMITA PANDEY)  
PRT, KV, Duliajan

Copy to,

Principal, K.V., Duliajan, for information only.

(NAMITA PANDEY)  
PRT, KV, Duliajan.

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To  
Smt. Namita Pandey, PRT,  
K.V. Duliajan.

ANNEXURE-VIII

## KENDRIYA VIDYALAYA SANGATHAN

Regional Office  
Hospital Road  
Silchar-788001

Dated  
19/25.6.2001

F. No. 3-4/99-2000/KVS(SR)/4126-28

Regd/Confidential

Whereas disciplinary proceedings under Rule 14 of the Central Services (Classification central and Appeal) rules, 1965 were instituted against Smt. Namita Pandey, Ex-Primary Teacher, Kendriya Vidyalaya, Umrangshu, now working at Kendriya Vidyalaya, Duliajan in regard to the charges framed against her vide Memorandum No. 3-3/98-KVS(SR)/647-75 dated 31.1.2000.

2. Whereas Shri M. Subrahmanium, Prindipal, Kendriya Vidyalaya, Silchar who was appointed as Inquiry Officer to inquire into the charges framed against the said Smt. Namita Pandey, Primary Teacher has submitted his report and was sent to said Smt. Namita Pandey, Primary Teacher vide Memo of even No. dated 17.4.2001.

3. Whereas proposal for imposing penalty was sent to Smt. Namita Pandey, Primary Teacher alongwith the enquiry report vide Memo of even No. dated 17.4.2001 giving her opportunity to make representation if any against the proposed penalty.

4. Whereas Smt. Namita Pandey, Primary Teacher made representation dated 26.4.2001 has been examined by the undersigned.

5. Whereas after taking into consideration the representation dated 26.04.2001 submitted by Smt. Namita Pandey, PRT and the record of enquiry and having regard to all the facts and circumstances, the undersigned is satisfied that the findings of the Inquiry Officer is acceptable and that good and sufficient reasons exist for

*Certified to be true copy*  
*Sujit Bhosh*  
*Advocate*

imposing penalty of reduction of two lower stages in the time scale of pay Rs. 4500-125-7000 for a period of two years with cumulative effect.

6. Now, therefore, the undersigned accordingly orders that the pay of Smt. Namita Pandey, PRT will be reduced by two lower stages in the time scale of pay Rs. 4500-125-7000 for a period of two years with cumulative effect. Smt. Namita Pandey will not earn increments of pay during the period of reduction and that on expiry of this period, the reduction will not have effect of postponing her future increments.

Sd/-

(S.P. BAURI)  
ASSISTANT COMMISSIONER

To  
Smt. Namita Pandey, Primary Teacher,  
Kendriya Vidyalaya,  
Duliajan.

Copy to :

1. The Principal, KV, Duliajan, for giving effect of the penalty order.
2. The education officer, (Vig), KVS, New Delhi - for information please.

/

Assistant Commissioner

To

The Commissioner,  
(Appellate Authority)  
Kendriya Vidyalaya Sangathan,  
18, Institutional Area,  
Shaheed Jeet Singh Marg,  
New Delhi-110016.

*(through Proper channel).*

Sub :An Appeal against the order of Penalty imposed  
vide order Issued under letter No. 3-4/99-  
2000/KVS(SR) 4126-28 dated 19/25.6.2001.

Respected Sir,

I like to draw your kind attention on the subject cited above and further beg to state that the impugned order of penalty dated 19/25.6.2001 is duly received by the undersigned only on 28.6.2001 and thereafter carefully gone through the same and it appears that the order of reduction of pay by two lower stages and the time scale of pay Rs. 4500-125-7000 for a period of two years with cumulative effect and further ordered that the undersigned will not earn increments of pay during the period of reduction and on expiry of this period, the reduction will not have effect of postponing future increments.

That the above penalty has been imposed upon the undersigned in a very arbitrary manner in total violation of Rule 14 of CCS (CCA) Rules 1965 and further reached to the findings to the conclusion by the disciplinary authority contrary to the evidence recorded in the proceeding.

I therefore like to draw your kind attention to the following fact for your kind consideration and also urge upon you to set aside the impugned order of penalty dated 19/25.6.2001 by exercising the power conferred on you under sub-rule 2 of Rule 27 of CCS (CCA) Rules, 1965.

*Certified to be true copy*  
*Sijitash*  
*Advocate*

That Sir, the memorandum of charge sheet served upon the undersigned vide your letter bearing No. F. 3-3/98-KVS (SR)16774-75 dated 31.1.2000 under rule 14 of the CCS(CCA)

Rules 1965 with the following article of charges quoted below :-

Article -I

Mrs. Nomita Pandey, while working as a Primary Teacher at KV Umrangshu arranged to issue fake transfer order No. F. 33-18/98-KVS (Estt-III) dated 12.10.1998 for posting to Kendriya Vidyalaya, CCI, Gandhi Nagar, Ranchi in her favour.

Mrs. Namita Pandey, Primary Teacher has therefore done fraudulent manipulation in violation of item 34 of Code of conduct for teacher envisaged in Chapter VI of the Education Code and thereby contravened Rule 3(I) (II) of CCS(Conduct) Rules, 1964. She has therefore rendered herself liable to disciplinary action under CCS(CCA) Rules, 1965 as extended to KVS employee.

Article-II

Mrs. Namita Pandey, while working as Primary Teacher at Kendriya Vidyalaya, Umrangshu unauthorisedly took occupation forcefully by breaking the lock of the residential accommodation of the said Kendriya Vidyalaya on 25.07.97. Mrs. Nomita Pandey, Primary Teacher has thus failed to exercise devotion and reasonable care in the discharge of her official duty and has violated item 22 of the Education Code and she has thereby contravened Rule 3(I) (II) of the CCS(Conduct) Rules, 1964 and therefore rendered herself liable to disciplinary action under CCS(CCA) Rules 1965 as extended to KVS employees.''

That the charges brought against me through article-I with the allegation that the undersigned has arranged to issue fake transfer order No. F. 33-18/98-KVS (Estt-III) dated 12.10.98 for posting to Kendriya Vidyalaya, CCI, Gandhi Nagar, Ranchi in my favour and it is further alleged that due to this act of fraudulent manipulation in violation of item 34 of Code of Conduct for teacher envisaged in chapter VI of the education Code and thereby contravened Rule 3(I) (II) of CCS (Conduct) Rules, 1964 and the aforesaid misconduct of misbehaviour is sought to be sustained/established on the basis of a statement made by Sri R.C. Katiyar the then in-charge Principal, Umrangshu which is made at the time of prima facie inquiry conducted on 8.12.98 by the authority. The said statement made by the then Principal on 8.12.98 and the other written statement of Sri N. Shankar, TGT (Bio) but the statement of Sri N. Shankar although shown as listed document in the memorandum of charge sheet dated 31.1.2001 but the same was not annexed in the aforesaid memorandum of charges. Moreover, none of the listed documents were examined in the enquiry proceeding as was required under the relevant rule of CCS(CCA) Rules 1965. It is further categorically submitted even the sole listed document relating to article to charge No.I, has not been examined. It is relevant to mention here that the written statement of the then Principal, Umrangshu which is relied in the memorandum of charge sheet in order to sustain the article of charge No. I now the said statement of Sri R.C. Katiyar went contrary to his own statement made during the cross-examination in the enquiry proceeding held on 24.2.2001 wherein in a reply to a question Sri R.C. Katiyar stated

as follows, the relevant portion of the proceeding dated 24.2.2001 is quoted below :

'CROSS EXAMINATION OF THE NAMITA PANDEY AT K.V. LUMDING AT 11.30 A.M. ON 24.2.2001.

Questions given by Mrs. Nomita Pandey Vs. Answers by Sri R.C. Katiyar.

1. When and how you have received this fraudulent order (a) transfer and posting of me ?

Sir, Madam N. Pandey Ex. (PRT) of K.V Umrangshu showed me her transfer copy on 28.10.98 and requested me to relieve her but I refused to relieve because I (As a Principal) did not receive her transfer order. I received transfer order on 02.11.98 on the next day I order U.D.C. to prepare L.P.C. & relieving order.'

2. How did you come to know that the order of transfer dated 5/12.10.98 is fraudulent ?

Sir, I got telephonic message from the Education Officer (Officiating A.C.) on 03.11.98 that he had doubts about this transfer order. He (Sh. P.R.L. Gupta, Sir) called me at Silchar Regional Office along with the documents. He told me that he was making enquiry of this transfer orders.

3. After receipt of the transfer order what steps you have taken?

Sir, after receipt of transfer order of Mrs. N. Pandey I ordered U.D.C. to prepare L.P.C. & relieving order but after getting

telephonic message from Hon'ble A.C.  
(Officiating) Sir I stopped it.

4. How did and when did it strike to your mind that I have arranged to issue the fraudulent order of transfer?

Sir, it did not strike me that she has arranged her transfer order. I came to know the doubt when A.C. Sir told me that it might be the fraudulent transfer.

5. How did you come to know that my husband has reached Umrangshu prior-to 31.10.1998 and what was your reliable source on that ?

Sir, I came to know that the husband of Mrs. Nomita Pandey arrived prior to 31.10.1998 through Mrs. Pandey two ad-hoc lady teachers.

6. What was the distance of your quarter from the quarter of me at Umrangshu ?

Sir, it is Approx 2500 meters.

7. How did you know that I have disposed of my house hold articles and what was the source of your information ?

Sir, I came to know from two ad-hoc teachers.

8. What has prompted to reach such conclusion that I have arranged to issue the fraudulent transfer order ?

Sir, I have not prompted to reach such conclusion that she has arranged to issue the

fraudulent transfer order. A.C. Sir told me that it might be fraudulent transfer.

9. Is that any evidence or materials available with you to establish that the fraudulent letter was issued by me ?

Sir, No, I have not any evidence or materials available with me to establish that the fraudulent letter was issued by Mrs. Nomita Pandey (PRT).

10. Do you believe this certificate of leave dated 03.06.1999 issued by the employer of my husband regarding leave of absence from his office ?

Sir, I do not know.

11. Is there any private accommodation available within the NEEPCO campus of Umrangshu for private hire accommodation ?

Sir, I do not know.

Sd/- Illegible 24.02.2000      Sd/- Illegible 24.02.2000      Sd/- Illegible 14.02.2000

(R.              C.              Katiyar)(K.              Rajendran)  
H.Subraman

P.O.              E.O.              ian)

In view of the above statement of Sri R.C. Katiyar the then Principal of KV Umrangshu stated in the enquiry proceeding held on 24.2.2001 is contrary with the written statement dated 8.12.1998 as such the written statement dated 08. 12 .1998 cannot sustain the charges

of charge no. I.

It is further submitted that the statement of Sri  
N. Shankar which is not  
annexed with the memorandum of charge sheet dated  
31.01.2000 but supplied

P.T.O

to me by the enquiry officer does not support the charges brought against me under article No.1. The statement of Sri N. Shankar dated 08.12.1998 also support the contention of the undersigned. The statement of Sri N. Shankar is quoted below :-

९९ मे. नृपेन्द्र शंकर टी. जी. टी. (बायो)  
 यह कथन सत्यापित करता हूँ कि  
 मेडम नमिता पाण्डे के पति श्री पाण्डे जी को  
 उमरांगशु में उनके स्वान्तरण के उपरांत देखा  
 था। "

दिनांक - २/१२/९८

नृपेन्द्र शंकर  
 टी. जी. टी. (बायो)

It is quite clear from the above statement of Sri N. Shankar that the husband of the undersigned came to Umrangshu after receipt of the order of transfer dated 12.10.1998, therefore the above statement also establishes that the written statement of Sri R. C. Katiyar dated 08.12.1998 is contradictory with the written statement of Sri N. Shankar.

That Sir, it is further stated that the written statement of Sri R. C. Katiyar is also contrary to the certificate of leave issued by the District Treasury Office, Dumka (Bihar) which establishes the correctness of the fact that my husband Sri Shekhar Kumar Pandey, Assistant Accountant, Dumka treasury was on leave with effect from 02.11.1998 to 15.11.1998 therefore statement of Sri R. C. Katiyar that my husband came to Umrangshu earlier to 03.11.1998 is false and misleading as because my husband under took journey by Rail from Dumka and he reached at Umrangshu only on 03.11.1998 at about 11 a.m. My husband started his journey with effect from 01.11.1998 (Sunday) via Bhagalpur. But the certificate dated 03.06.1999 which was produced by the undersigned before the inquiry proceeding and the same was also got examined by the undersigned while cross examining Sri R. C. Katiyar the than Principal Umrangshu in the hearing proceeding held on 24.02.2001 and on reply which would be evident from the order sheet of cross examination dated 24.02.2001 quoted above, has not been denied by Sri R. C. Katiyar, as such it is categorically submitted that in the so called inquiry proceeding which is initiated in pursuance of the

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 Sujit Shash  
 Advocate

memorandum dated 31.01.2000 nothing could be proved against the undersigned regarding the charges leveled against me through article No.I as well as no evidence could be made available before the Enquiry Officer either by the presenting officer or by the witness Sri R. C. Katiyar who was examined in the enquiry proceeding as was relied upon in the memorandum of charge sheet dated 31.01.2000. It is further submitted that Sri N. Shankar TGT (BIO) listed witness relied upon in the aforesaid memorandum of charges also not examined before the enquiry proceeding by the departmental side as required under the rule and the written statement of Sri N. Shankar, categorically support the contention of the undersigned as stated above.

Therefore no evidence or statement of witnesses supported the charges brought against me under article I of the memorandum of charge sheet dated 31.01.2000.

It is further submitted that the undersigned submitted documentary evidences before the inquiry proceeding and also during the cross-examination such as certificate issued by the employees of NEEPCO Ltd. Regarding non disposal of household articles dated 10.12.98 and Pass issued in NEEPCO Gate dated 11.4.99 issued by Security Manager NEEPCO Ltd. Unrangshu dated 11.4.1999 and the certificate of Truck Owner dated 11.4.1999 carrying the Household articles from Unrangshu to Duliajan after my transfer and leave certificate dated 3.6.99 was also sent by Regd. Post to the Assistant Commissioner (Disciplinary Authority) as was promised by the undersigned on 15.6.99 against the reply submitted by me in terms of the memorandum issued under letter No. 3-4/98-KVS(SR)/11451 dated 20.4.99, but surprisingly none of the documentary evidence taken into consideration by the enquiry officer as required under the rules.

That the enquiry report bearing letter No. 3-1(CONF)/KV-SIL/2000 dated 28.7.2000 served upon me along with the memorandum dated 31.3.2001/17.4.2001. A bare perusal

*Certified to be true copy*  
*Srijit Bhosh*  
*Advocate*

of the enquiry report, it would be evident that the same has been prepared in a most arbitrary and unfair and illegal manner without taking into consideration the factual position of the enquiry proceeding. There is no discussion at all made by the enquiry officer of the recorded statement of Sri R.C. Katiyar the then Principal in-charge, Umrangshu Kendriya Vidyalaya when Sri R.C. Katiyar categorically denied that there is no evidence or material available with him regarding issuance of fake letter by me but surprisingly in the enquiry report it is state by the enquiry officer in the conclusion part that the cross-examination does not substantiate any allegation made by the accused officer to prove her innocence in getting and operating the transfer order which was suspected as framed at Regional Office level and thus the accused officer failed to defend the charges made against her and established sufficient ground of Master Plan behind the transfer order.

It is further stated the enquiry officer in his enquiry report in concluding paragraph that "It is also established that she disposed some of her household articles prior to relieve, which was accepted accused officer in the cross examination."

The above conclusion of the enquiry officer is totally false and misleading. In this connection the undersigned beg to rely upon the daily order sheet of the proceeding and enquiry officer is put to strictest proof of the fact that the charged officer has accepted the household articles prior to relieve rather documentary evidence submitted by me regarding non-disposal of household articles not considered at all by the enquiry officer but the same has been rejected in a very arbitrary and unfair manner without any discussion on the aforesaid evidences produced by me, which would be evident in paragraph 6 of the assessment of evidence in the enquiry report, wherein it is held by the enquiry officer that those documents arguments are irrelevant and it is further held that the undersigned is failed to submit any relevant document. Surprisingly it is further held that the evidence in support of charges are produced by the Presenting Officer but in reality not a

single document or evidence neither produced by the Presenting Officer nor examined before the Enquiry Proceeding by the Presenting Officer. As such entire finding of the Enquiry Officer is highly arbitrary and unfair and a mere reading of the finding and conclusion of the enquiry report. It would be evident that the Enquiry Officer has prepared, the enquiry report in total violation of Sub-section (i) and Sub-section (ii) of Sub rule 23 of rule 14 of the CCS (CCA) Rules, 1965.

It is categorically submitted that the enquiry report has been prepared without taking into consideration the defence put forwarded by the undersigned in respect of article of charges. It would further be evident that no assessment of the evidence is made in respect of the article of charges and particularly findings as well as the conclusion reached by the enquiry officer in respect of article of charge no. I is totally irrelevant and contrary to the records of the enquiry proceeding. No discussion on evidence particularly relating to the crucial hearing which took place on 24.2.2001 at Lumding did not find place in the enquiry report. No discussion is made by the enquiry officer in the recorded statement of Sri R.C. Katiyar who was cross-examined by me on 24.2.001. It is relevant to mention here that Sri R.C. Katiyar the sole witness cross-examined in the enquiry proceeding who categorically denied regarding availability of any documentary evidence to sustain the charges brought under article of charge no. I. As such, the entire finding and conclusion of the enquiry officer not based on any evidence and the aforesaid enquiry report has been prepared with a pre-determined notion to impose penalty upon me although no evidence or statements of any witness relied upon by the departmental side, supported the charges brought against me, as such on that score alone the proceeding is liable to be dropped.

That Sir, it is further categorically submitted that the charges particularly the article of charge No.I has not been enquired into rather the enquiry officer, enquired into

a different charge in respect of fake transfer order. A mere reading of the paragraph-II i.e the charges framed and enquired into is altogether different than the article of charge no. I brought under memorandum dated 31.1.2000. The Enquiry Officer enquired into 'the imputation of Namita Pandey involved herself in fraudulent manipulation for procuring fake transfer order under the forged signature of Sri V.K.Gupta, Assistant Commissioner (Admn), KVS, New Delhi in her favour with mala fide intention' whereas article of charge no. I is quite different as leveled against me in the memorandum dated 31.1.2001. On that score alone the entire enquiry proceeding is liable to be set aside and quashed.

In paragraph V of the enquiry report the defence arguments of the charged officer which is discussed did not reflect the actual/factual position. It is also evident that the documents of misdeeds of Sri R.C. Katiyar which was submitted by me in the enquiry proceeding has been arbitrarily rejected by the enquiry officer holding the same as irrelevant without assigning any valid reason.

It is stated that no assessment of evidence both oral and documentary is made and further no discussion is made on evidences as required under the rule.

Finding assessment of evidence conclusion of the enquiry proceeding made by the enquiry officer as evident from the enquiry report is quite contrary to the record of the proceeding, it appears that the enquiry officer acted in a very arbitrary manner in total violation of Rule 14 of CCS(CCA) Rules 1965 and further reached to the findings and conclusion in the enquiry report in total violation of Sub-section (i) and (ii) of Sub-section -23 of Rule 14 of CCS(CCA) Rules 1965 and as such the entire enquiry proceeding which is conducted in pursuance of the memorandum dated 31.3.2001 are liable to be set aside and quashed and therefore penalty proposed under memorandum dated

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31.3.2001/17.4.2001 also liable to be dropped in the interest of justice and fair play.

It is further submitted that the enquiry report was prepared even before completion of the proceeding which would be evident from the enquiry report served upon me through letter bearing No. 3-1(Conf)/KV-SIL/2000 dated 28.7.2000, whereas cross-examination and further enquiry proceeding in fact held on 24.2.2001. But surprisingly the Disciplinary Authority acted upon the said inquiry report dated 28.7.2000 and also without considering the other infirmities and irregularities which were took place during the course of the enquiry proceeding although the same were brought to the notice of the Disciplinary Authority vide my representation dated 26.4.2001 against the enquiry report dated 28.7.2000. But in spite of all these infirmities and irregularities and in contrary to the evidence recorded in the proceeding the Disciplinary Authority arbitrarily reached to the conclusion that the charges have been established and further imposed penalty upon the undersigned vide impugned order issued under letter dated 19/25.6.2001 whereby my pay is reduced by two lower stages in the time scale of pay of Rs 4500-125-700 for a period of two years with cumulative effect, and also further ordered that the undersigned will not earn increments of pay during the period of reduction and that on expiry of this period, the reduction will not have effect of postponing my future increments.

In the circumstances stated above and also in view of large scale infirmities and irregularities as stated above, your honour would be pleased to set aside the impugned order of penalty issued under letter dated 19/25.6.2001 and further be pleased to pass necessary order exonerating the undersigned from the Memorandum of charges brought against the undersigned vide memorandum dated 31.1.2000 and further be pleased to pass any other order or orders as deem fit and proper after examining the records of the enquiry proceeding.

INTERIM PRAYER

It is humbly prayed that during the pendency of the appeal the impugned order of penalty dated 19/25.6.2001 be stayed till final disposal of this appeal otherwise the appellant will suffer irreparable loss.

Date : 12.7.2001

Yours faithfully,

Place : Duliajan

(NOMITA PANDEY)

PRT, KV, Duliajan