

50/100  
✓  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

✓ (DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No..... 300/200/

R.A/C.P No.....

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

1. Orders Sheet..... 300/200/ Pg..... 1 to 3
2. Judgment/Order dtd..... 28-2-2002 Pg..... 1 to 7
3. Judgment & Order dtd..... Received from H.C/Supreme Court
4. O.A..... Pg..... 1 to 25
5. E.P/M.P..... Pg..... to .....
6. R.A/C.P..... Pg..... to .....
7. W.S..... Pg..... 1 to 8
8. Rejoinder..... Pg..... to .....
9. Reply..... Pg..... to .....
10. Any other Papers..... Pg..... to .....
11. Memo of Appearance.....
12. Additional Affidavit..... Pg..... 1 to 9
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

FORM NO. 4

( See Rule 42 )

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

ORDER SHEET

Original APPLICATION NO. 300 OF 2001

APPLICANT (s) Guronit Singh

RESPONDENT (s) N.O. I Form

ADVOCATE FOR APPLICANT(s) Dr. (Mrs) M. Pathak, Mr. D. Borne

ADVOCATE FOR RESPONDENT(s) C.A. B. Benerjee, S.C. Binson, N.K. Begum, N. Begum, K. Bhattacharya, N.K. Morumba, Mr. R. Begum.

Notes of the Registry	dated	Order of the Tribunal
Mr. App. is in form but no notice of motion Petition is filed vide M.P.N. C.F. for Rs. 50/- deposited vide IPO/RD No. SG 423364 Dated 3.8.2001	7.8.01	Heard Dr. M. Pathak, learned counsel for the applicant. The application is admitted. Call for the records. List on 7/9/01 for further order.
<i>111/18/01</i> Dy. Registrar <i>111/18/01</i>	7.9.01	<i>111/18/01</i> Member Vice-Chairman behalf of One respondent requests 3 weeks time to file written statement. List on 9/10/01 for order.
<i>111/18/01</i> Requisites received excess amount deposited by the Applicant. Notice prepared and sent to D/s for cross the respondent No. 1 to N as Regd A/D vide D/No 3194/13203/1d 23/8/01	9.10.01	<i>111/18/01</i> Member Vice-Chairman List on 21/11/01 to enable the respondents to file written statement.
<i>111/18/01</i> ① Service report over still awaited.	mb	<i>111/18/01</i> Member Vice-Chairman

*3/2*  
6.9.01

21.11.2001

Four weeks time allowed to the respondents to file written statement. List for orders on 19.12.01.

No written statement has been filed.

3/10/01

Vice-Chairman

Respond No 101= Notice unanswered due to incomplete address.

15/10/01

nk/m

19.12.01

Written statement has already been filed by respondent Nos. 2 and 3. The case may now be listed for hearing. The other respondents may file written statement, if any.

List on 28.1.2002 for hearing.

27.11.2001

IC Usha

Member

Vice-Chairman

mb

W.L.S. submitted  
by the Respondent 2 and 3

28.1.02

Dr M.Pathak, learned counsel for the applicant has stated that she is yet to receive copy of the written statement which was filed by the respondents. Mr M.K.Mazumdar stated that he has entered appearance led by Mr B.Banerjee for the respondents but he regreted for non furnishing a copy of the written statement on the counsel for the applicant and during the course of the proceeding he submitted a copy on Dr M.Pathak.

Office to show the name of Mr B.Banerjee and Mr M.K.Mazumdar as counsel for the respondents.

List on 27.2.2002 for hearing.

The applicant may file rejoinder within two weeks from today. The respondents shall produce the connected records on the date of hearing.

W.L.S. filed on behalf  
of R.No. 2 & 3, other  
respondent ~~also~~ not  
~~submitted~~ not yet filed

25.1.02

25.2.2002  
be Counsel reply  
against the W.L.S.  
has been submitted  
by Respondent No. 2 and 3.

DR

IC Usha  
Member

Vice-Chairman

3  
O.A. 300 of 2001

27.2.02 Heard in part. Adjourned on the  
prayer of Mr. B.Banerjee, learned  
counsel for the Respondents.

List the matter on 28.2.2002 for  
further hearing.

IC Usha  
Member

Vice-Chairman

trd

17.4.2002

Copy of the Judgment  
has been sent to the  
ofc. for issuing  
the same to the applicant  
as well as to the Ld Adm  
for the Respondents.

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

IC Usha  
Member

Vice-Chairman

trd

Received copy for  
Respondent  
B/S  
7/5/02

CENTRAL ADMINISTRATIVE TRIBUNAL ::  
GUWAHATI BENCH.

300/2001  
O.A./R.A. No. . . . . . of

DATE OF DECISION 28.2.2002

Shri Gurmit Singh

APPLICANT(S)

Dr. (Mrs.) M.Pathak.

ADVOCATE FOR THE APPLICANT(S)

- VERSUS -

Union of India & Ors.

RESPONDENT(S)

Mr. B.Banerjee.

ADVOCATE FOR THE  
RESPONDENTS.

THE HON'BLE MR. JUSTICE D.N.CHOWDHURY, VICE-CHAIRMAN.

THE HON'BLE MR. K.K.SHARMA, MEMBER (A).

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the judgment is to be circulated to the other Benches ?
5. Judgment delivered by Hon'ble Vice-Chairman.

Yes

6

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**

Original Application No. 300 of 2001.

Date of decision : This the 28th day of February, 2002.

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

Hon'ble Mr. K.K.Sharma, Member (A).

Shri Gurmit Singh  
C/o Shri S.K.Pandey  
R-14, Sibsagar  
ONGC Colony

...Applicant

By Advocate Dr. (Mrs.) M. Pathak.

-versus-

1. Union of India  
represented through the Secretary,  
Ministry of Human Resource Development,  
New Delhi.
2. Kendriya Vidyalaya Sangathan,  
Represented through the Commissioner,  
New Delhi.
3. Assistant Commissioner,  
Kendriya Vidyalaya Sangathan,  
Silchar Region, Silchar, Cachar.
4. Shri G.P.Chauhan,  
Member Secretary,  
Principal, Kendriya Vidyalaya,  
Dinjan Army.
5. Lt. Col. Silvaraj  
Chairman,  
Selection Board of Kendriya Vidyalaya  
Dinjan Army, 2nd Division Headquarters,  
Dinjan Army.
6. Shri Rajendra,  
Principal,  
Kendriya Vidyalaya,  
Tinsukia, Hijuguri Railway Colony.
7. Smti Nidhi Mehra,  
Kendriya Vidyalaya,  
Dinjan Army
8. Smti. Aneeta Chauhan,  
Wife of G.P.Chauhan  
Principal, Kendriya Vidyalaya Dinjan Army,  
Dinjan Army

Contd...

9. Smti Tanushree  
Wife of Pradip Paul  
(Art Teacher, Kendriya Vidyalaya,  
Silchar) Kendriya Vidyalaya,  
Dinjan Army.
10. Smti Bineeta  
Air Force Chabua  
B.S. Butatia.
11. Chairman, Kendriya Vidyalaya,  
2nd Division Headquarters,  
Dinjan.

...Respondents

By Advocate Mr. B.Banerjee.

ORDER (ORAL)

CHOWDHURY J.(V.C.).

In this application the applicant amongst others sought for the following reliefs :

- "8.1 To direct the respondents to allow the applicant to continue in service in terms of appointment letter dated 5.8.2001 (Annexure-F) as contractual teacher until the said post is filled through the regular process of recruitment.
- 8.2 to set aside the verbal dis-engagement of the applicant w.e.f. 5.5.2001 from the post of contractual teacher.
- 8.3 to set aside and quash the select list and the appointment of Respondents 7,8,9 and 10 made on the basis of interview/selection held on 22.6.2001."

The applicant was engaged by the respondents as PRT on contractual basis. He was not allowed to work and his service was terminated without any notice. The applicant assailed the said order of termination as arbitrary and discriminatory. The applicant also assailed the process of selection on the basis of advertisement published in "The Assam Tribune" on 3.6.2001 for recruitment of teachers in Kendriya Vidyalaya Dinjan (Army) including the post of PRT.

Contd...

The applicant applied for the same. The respondent authority called for twenty candidates including the candidate for interview/written test on 22.6.2001. A selection committee was constituted comprising respondent no.5 as Chairman of the selection committee. The respondent no.4, Principal, Kendriya Vidyalaya, Dinjan Army as Member Secretary and respondent no.6, Principal K.N. Tinsukia, Hizriguri Railway Colony as Member. The selection committee selected four candidates who are included as party respondent nos. 7 to 10. The applicant also assailed the said selection process as arbitrary and discriminatory.

2. The respondents contested the case and submitted its written statement. In the application the applicant specifically alleged that the Selection committee fell into error in selecting the respondent nos. 7,8,9 and 10 on the ground of favouritism. According to the applicant the respondent no.7 - the wife of the Captain working in Dinjan Army, was related to the Chairman of the Selection Committee. It was also alleged that respondent no.8 Smti Aneeta Chauhan- the wife of the Member Secretary of the Selection Committee and the decision of the selection committee was vitiated by the present of the husband of respondent no.7. It was further averred that the respondent no.9 Smt. Tanusree was the wife of Art Teacher, Kendriya Vidyalaya, Silchar. He also influenced the Selection Committee including the respondent no.3. The applicant further alleged that respondent no.10 was the wife of an officer of Air Force Station who had direct relationship with the Chairman. The respondents contested the claim of the applicant denying and disputing the assertion made in the application. In the written statement so far the

Contd..

relation of the Chairman with the respondents the respondent authority denied the charges of favouritism. In the written statement the respondent did not dispute that the respondent no.8 Smti Aneeta Chauhan was not the wife of the respondent no.4, Member of the Selection Committee. It was further stated in the written statement that when the Interview Board took up the interview of respondent no.8, the respondent no. 4 was not present.

3. We have heard Dr.(Mrs.) B.C.Pathak, learned counsel appearing on behalf of the applicant and Mr. B.Banerjee, learned counsel for the respondents.

4. On consideration of the entire materials on record we do not find any infirmity in the order of termination of the applicant from service, so much so he was engaged on contractual basis. The very term of appointment itself indicated that it was an contractual appointment and his appointment was for a limited period. In the circumstances we do not find any infirmity in the alleged order of termination. We also not impressed with the submission of Dr. (Mrs.) M. Pathak for regularisation of the service of the applicant on the basis of his past service. Dr. (Mrs.) Pathak, learned counsel for the applicant also argued as to the biasness in the selection of the respondent nos. 7,8,9 and 10. We are not impressed with the other allegation of biasness in the appointment of respondent nos. 7, 9, and 10. But the fact remains that the respondent no.8 is the close relation of the respondent no.4 being the wife and the respondent no.4 was in the Selection committee as Member Secretary. Bias is a predisposition of mind and its acts as an operative prejudice. Absence of bias whether conscious or unconscious is one of the aspects of procedural fairness. It

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enshrines that the decision maker should not be biased or prejudice in a way that should hinder or inhibit fair and genuine consideration. The rule against bias is in the interest of probility. It is required for upholding of decision making process by ensuring the disinterestness of the decision maker. In fact there should not be any circumstances to provide for appearance of any semblance of bias or prejudice. An accurate decision is possible when such decision is free from any biasness. The close kinship is also likely to affect the process of decision. The respondent no.8 was the wife of respondent no.4 and an important member of the Selection Board. The respondent No.4 was entrusted with the duty to select the candidates from the available candidates. There was a direct conflict of his interest with the duty. In the circumstances his presence vitiated the process of selection where his wife was one of the candidates. Mr. B. Banerjee, learned counsel for the respondents submitted that while the case of the respondent no.8 was under consideration in that case the respondent no.4 was not present. Bias or prejudice also operates covertly not always overtly. This aspect of the matter came up for consideration before the Supreme Court in the case of A.K.Kraipak & Ors. vs. Union of India & Ors., AIR 1970 SC 150. In that case one of the member of the committee of the selection committee was himself nominated for selection. The member concerned was absent when his case was considered by the selection committee. The Supreme Court observed that under ordinary circumstances Chief Conservator of Forests in a State was an appropriate person to be in the selection committee. He was expected to know his officers thoroughly their weaknesses as well as their strength but

Contd..

then it was improper to have included him as member of the selection board. The Supreme Court observed as follows :

"..... He was one of the persons to be considered for selection. It is against all canons of justice to make a man judge in his own cause. It is true that he did participate in the deliberations of the committee when his name was considered. But then the very fact that he was a member of the selection board must have had its own impact on the decision of the selection board. Further admittedly he participated in the deliberations of the selection board when the claims of his rivals particularly that of Basu was considered. He was also party to the preparation of the list of selected candidates in order of preference. At every stage of his participation in the deliberations of the selection board there was a conflict between his interest and duty. Under those circumstances it is difficult to believe that he could have been impartial. The real question is not whether he was biased. It is difficult to prove the state of mind of a person. Therefore what we have to see is whether there is reasonable ground for believing that he was likely to have been biased. We agree with the learned Attorney-General that a mere suspicion of bias is not sufficient. There must be a reasonable likelihood of bias. In deciding the question of bias we have to take into consideration human probabilities and ordinary course of human conduct. It was in the interest of Naqishbund to keep out his rivals in order to secure his position from further challenge. Naturally he was also interested in safeguarding his position while preparing the list of selected candidates."

5. Mr. B. Banerjee, learned counsel appearing on behalf of the respondents referred to a decision of Supreme Court in the case of Javid Rasool Bhat and Others VS. State of Jammu & Kashmir and Others reported in 1984(2) SCC 631. The aforesaid case was the case on different facts. That was a case for selection for admission to 1st year M.B.B.S. course. A written test of 85 marks was held and 15 marks for viva voce. In that case it was alledged that the presence of Principal of Medical College, Srinagar vitiated the selection process. In that case written test was held and the Principal did not present when the interview held of his daughter. The Supreme Court held that the selection of

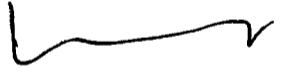
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candidates for admission to 1st Year M.B.B.S. was not biased. That was a case on different footing. In the facts and circumstances of the case selection of respondent no.8 cannot be upheld. We however do not find any illegality in the selection of respondent nos. 7, 9 and 10. Accordingly respondents are directed to hold a fresh interview of the applicant and respondent no.8 along with other candidates those who applied pursuant to advertisement dated 3.6.2001 for filling up of the other posts. Till the completion of selection the respondent no.8 may continue so that the education of the students are not disturbed. It is made clear that the respondents shall ensure that respondent no.4 is not any way associated with the process of selection for the said post. The Respondents are ordered to complete the exercise within utmost expedition at any rate within two months from the date of receipt of the order.

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

  
(K.K.SHARMA)

Member(A)

  
(D.N.CHOWDHURY)  
Vice-Chairman

trd

केन्द्रीय प्रदासनिक अधिकरण  
Central Administrative Tribunal

6 AUG 2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI  
Guwahati Bench  
BENCH AT GUWAHATI

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

Title of the Case : O.A. No. 300 of 2001.

Shri Gurmit Singh ... Applicant

- versus -

Union of India & others ... Respondents.

I N D E X

Sl No.	Annexures	Particulars	Page No.
1.	-	Original Application	1 to 12
2.	-	Verification	13
3.	Annexure-A	Marksheet of B.A.	14
4.	Annexure-B	Marksheet of B.Ed.	15
5.	Annexure-C	Interview Call letter dated 14.6.99	16
6.	Annexure-D	Agreement dated 10.6.99	17 to 20
7.	Annexure-E	Certificate dt. 30.4.2000	21
8.	Annexure-F	Appointment letter dated 5.8.2000	22
9.	Annexure-G	Certificate dt. 5.5.2001	23
10.	Annexure-H	Advertisement dt. 3.6.2001	24
11.	Annexure-I	Advertisement dt. 19.7.2001	25
12.	-	Vokalatnama	

Date : 6.8.2001.

Filed by :-

Dilip Baruah,  
Advocate. 6.8.2001.

Gurmit Singh

केन्द्रीय प्राधिकारिक विधिकार्य Central Administrative Tribunal
6 AUG 2001
गुवाहाटी बैच Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :::: GUWAHATI

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

O.A. NO.

/2001

BETWEEN

Shri Gurmit Singh

C/O Shri S.K. Pandey

R-14, Sibsagar

ONGC Colony

.....

Applicant.

AND

1. Union of India,

represented through the Secretary,

Ministry of Human Resource Development,

New Delhi.

2. Kendriya Vidyalaya Sangathan,

Represented through the Commissioner,

New Delhi.

3. Assistant Commissioner,

Kendriya Vidyalaya Sangathan,

Silchar, Region, Silchar, Cachar.

4. Shri G.P. Chauhan, member Secretary

Principal, Kendriya Vidyalaya,

Dingan Army

Gurmit Singh

Filed by the  
Applicant  
through  
Dipanwita  
Advocate  
6.8.2001

5. Lt. Col. Silvaraj,  
Chairman,  
Selection Board of Kendriya Vidyalaya,  
Dinjan Army, 2nd Division Headquarters,  
Dinjan Army.

6. Shri Rajendra ,  
Principal,  
Kendriya Vidyalaya,  
Tinsukia, Hijuguri Railway colony.

7. Smti. Nidhi Mehra,  
Kendriya Vidyalaya, Dinjan Army

8. Smti. Aneeta Chauhan  
Wife of G.P. Chauhan  
Principal,  
Kendriya Vidyalaya Dinjan Army  
Dinjan Army.

9. Smti. Tanushree  
Wife of Pradip Paul  
( Art teacher, Kendriya Vidyalaya Silchar )  
Kendriya Vidyalaya, Dinjan Army.

10. Smti. Bineeta  
Air Force, Chabua,  
B.S. Butatia

11. Chairman, Kendriya Vidyalaya,  
2nd Division Headquarters, Dinjan .

Gurmit Singh

..... Respondents.

DETAILS OF APPLICATION

PARTICULARS OF ORDERS AGAINST WHICH THIS APPLICATION IS MADE:

1. This application is not directed against any specific order ; but for non selection of the applicant for the post of PRT by an illegally constituted Selection Committee comprised of three members including the principal , K.V. - Dinjan Army. The non selection is challenged soley on the ground of malafide and violation of principles of natural justice .

2. JURISDICTION :

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

3. LIMITATION .

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

4. FACT 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 and guaranteed under the Constitution of India.

4.2 That your applicant is a qualified person with B.A. and B. Ed. degree from a recognised University. Considering his educational qualification, the authorities of Kendriya - Vidyalaya Sangathan appointed him as PRT on contractual basis

*Gurmeet Singh*

-4-

w.e.f. 10.8.99 to 30.4.2000 For the above selection the applicant was duly called for interview vide letter no. K.VD/Cont/99-2000/295 dated 14.6.99. Being duly selected, the applicant enter into an agreement on 10.8.99 with authority of K.V. Lekhapani. The applicant rendered his sincere and successful services to the satisfaction of school authority and as a result the Principal, K.V. Lekhapani issued a certificate to that extent vide no. F-F-C13/KVL/2000-01/ dated 30.4.2000. Thereafter, the applicant was again selected for appointment as PRT on contractual basis on a peculiar terms and conditions unknown to the provisions of any rules or law of the Kendriya Vidyalaya Sangathan. The Principal, Respondent No.4 vide his letter No. F.72/KVD/2000-2001/567 dated 5.8.2000 issued the appointment letter stating therein the terms and conditions. The conditions, interalia were that the applicant be paid Rs. 50 per period from 7.8.2000 and was to teach from class I to V and his services shall automatically come to an end after the purpose for which the present offer made is achieved. But the order is silent about the purpose and how it will be ~~achieved~~ achieved. But surprisingly without any notice or whisper the services of the applicant was terminated on 5.5.2001. However, the Principal, the respondent No. 4, issued a certificate in favour of the applicant stating therein that the applicant was found to be co-operative and industrious to the entire satisfaction of his superiors. This was issued vide No. F.86/KVD/2001-2002 datec 5.5.2001.

Gurmeet Singh

The photo copy of the marksheets of B.A. and B.Ed, interview call letter dated 14.6.99, agreement dated 10.8.99, certificate dated 30.4.2000, appointment letter dated 5.8.2000 and certificate dated 5.5.2001 are annexed as Annexure - A, B, C, D, E, F and G respectively.

4.3 That the respondent No.4 issued an advertisement published in "The Assam Tribune" dated 3.6.2001 for recruitment of teacher on part time basis. According to the said advertisement there were, inter alia as many as four (4) PRT vacant posts and these posts were sought to be filled up on part time basis. For the purpose of selection the interview / written test was scheduled to be held on 22.6.2001. The applicant applied for the said post of PRT. There were as many as twenty (20) candidates including the applicant and the respondent No. 7, 8, 9 and 10. The interview was held on 22.6.2001 by a selection Committee comprised of three (3) members, namely Sri Lt. Col. Silvaraj (Respondent No.5), as Chairman of the Selection Committee, Shri G.P. Chauhan (Respondent No.4), Principal, K.V. Dinjan Army as Member Secretary and Shri Rajendren, (Respondent No.6), Principal K.N. Tinsukia, Hiziguri Railway Colony as Member, educationist. Out of the said twenty (20) candidates, four (4) candidates were selected, who are made private respondents at serial No. 7 to 10. It is pertinent to mention here that the Selection Committee is constituted persons belonging to either Army or KVS of that locality and the candidates selected for appointed are either near relatives of the members of the Selection Committee of having direct personal interest and

*Gurmit Singh*

business due to personal relationship to be specific, the respondent No.7, Smt. Nidhi Mehra, who is the wife of a Captain, working in Dinjan Army has direct relationship with the Chairman of the Selection Committee and the Member Secretary, Selection Committee ~~and the Member Secretary~~ who is the principal of the Dinjan, K.V. Respondent No. 7 has no previous teaching experience. The Respondent No.8 Smti. Aneeta Chauhan, who does not have any teaching experience, is the wife of the Member Secretary of the Selection Committee ( Principal, K.V. Dinjan ). And as such the husband being the member of the Selection Committee influenced the other member including himself as he is personally baise to his wife and got her selected for appointment as PRT. The respondent No. 9, Smti. Tanushree, is the wife <sup>of</sup> Pradeep Paul, the Art teacher of K.V. Silchar, who has influenced the Selection Board including the Respondent No.3, the Assistant Commissioner Silchar Region, Silchar, Smti. Bineeta, the respondent No.10 is also the wife of an officer serving in Air Force Station, Chabua , who has direct relationship with the Chairman of the Selection Committee and got herself selected illegally <sup>without having any past teaching experience by this illegal and biased Selection</sup> and biased selection <sup>2</sup> the respondents have deprived the most needy and qualified unemployed candidates having teaching experienced and dedication, who does not have any other alternative source of income to earn livelihood for himself and to support his family members. The applicant in this instant case is the sole and only <sup>person</sup> to look after his family. The applicant faired well in the interview and could answer all the question put to him. He submitted before the Selection Committee all the documents relating to his qualification and teaching experience . But the Selection Committee being havily baised, selected four (4) female candidates,

*Commit Jyoti*

not based on any merit, on personal interest. The applicant was in no way inferior to the said selected candidates.

Photo copy of the Advertisement dated 3.6.2001  
is annexed as Annexure - H.

4.4 That after the said selection and appointment of aforesaid four (4) candidates, two (2) numbers of vacancies arose again for PRT in the same school, i.e. K.V. Dinjan, Army. The respondent No.3 issued another advertisement published in "The Assam Tribune" on 19.7.2001. The interview of the said selection for appointment was fixed on 30.7.2001. By the said advertisement the authority laid down a condition that those candidates who have already applied earlier need not apply again. For the above clause, the applicant being precluded from participating in the interview, could not apply for the said post. On the other hand the applicant had been prevented from performing his duties from 5.5.2001 without assigning any reason whatsoever and without any notice. The applicant is deemed to be in service as the vacancies all along being left unfilled upto now. The applicant on the day of interview held on 30.7.2001 went to the school with a hope that he would be allowed to appear in the interview as he was a working teacher of the school. But the Selection Committee did not allow him to sit for ~~interview~~ interview. Now the Selection Committee has selected some candidate for appointment of two nos. of PRT and appointment is going to be made very soon. As the applicant has been illegally deprived from selection and appointment both in

*Gurmit Singh*

in the interview held on 20.6.2001 and 30.7.2001, atleast the applicant should either be allowed to continue to work as contractual teacher vide appointment letter dated 5.8.2000 or atleast one post of PRT should be kept vacant till. This instant application is finally disposed of by this Hon'ble Tribunal.

Photo copy of the Advertisement of 19.7.2001  
is annexed as Annexure - I.

4.5 That the applicant respectfully submits that the respondents, particulary the respondents No.3 to 6 and 11 acted malafide with the ulterior motive to deprive the applicant and to satisfy their personal interest and as such the action of the respondents are illegal baised, malafide and arbitrary for which this Hon'ble Tribunal shall be pleased to interfere with the said action of the respondents.

4.6 That the baised and the malafide action of the respondents have deprived the applicant of his right to livelihood and also the equal treatment with the other similarly situated persons. For this, the action of the respondents amounts to violation of Article 21, 14, 15 and 16 of the Constitution of India.

4.7 That the respondents in exercise of their power whole terminated the service of the applicant from 5.5.2001 without passing any written order or without any reason or notice, and also in the subsequent process of selection being heavily personally baised acted malafide and in violation of the established principles of the natural justice.

*Gurmit Singh*

4.8 That the Education Code comprising the rule of the recruitment the relevant powers and authorities or under any provision of law of the K.V.S. there is no such provisions under which the authority case go on recruitment of the typical part time or contractual appointment in succession of an peranial basis thereby opening the door of back door entry and corruption, while the post are lying vacant unfilled and as per law.

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

5. GROUND FOR RELIEF(S) WITH LEGAL PROVISION(S) .

5.1 For that discontinue the applicant from discharging his duties as contractual teacher from 5.5.2001 in spite of existing six members of vacancies in the said school without assigning any reason or any notice or any scope of hearing, is illegal arbitrary and clear violation of principles of natural justice .

5.2 For that this discontinuance of the applicant from the post of contractual teacher from 5.5.2001 is directly violative of the provisions of Article 21 of the Constitution of India.

5.3 For that, the non selection of the applicant by the Selection Committee on the interview held on 22.6.2001 and the Selection Committees itself

*Gurmit Singh*

being constituted illegally in view of the fact that the Selection Committee comprised of the Principal, respondent No.4, Selected his wife, the respondent No.8, directly hit by the provisions of natural justice as personally biased. The selection of the other private respondent are also biased.

5.4 For that, the applicant was similarly situated with the private respondents 7 to 10 and fared well in the interview. But selection of the said private respondents and no selection of the applicant with reaching experience is directly violative of provisions of Article 14, 15, 16 and 21 of the Constitution of India.

5.5 For that the advertisement published in "The Assam Tribune" on 19.7.2001 with the prohibitory clause thereby preventing the applicant for applying for the post if illegal, malafide and also violative of the provisions of Article 21 of the Constitution of India. This is also derogatory to the Education Code of the K.V.S.

6. DETAILS OF REMEDIES EXHAUSTED

The applicant declare that he has no other alternative or efficacious remedy except by way of filing this application before this Hon'ble Tribunal.

7. MATTERS NO PREVIOUSLY FILE/ OR PENDING WITH ANY OTHER COURT/TRIBUNAL.

*Gurmit Singh*  
The applicant further declares that he 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 on suit is pending before any of them.

8.

RELIEF(S) SOUGHT FOR

In view of the facts and circumstances stated above it is most respectfully prayed that Your Lordships may be pleased to admit this instant original application, call for the records and after hearing the parties on the cause or causes that may be shown and on perusal of records grant the following reliefs to the applicant.

8.1

To direct the respondents to allow the applicant to continue in service in terms of appointment letter dated 5.8.2001 ( Annexure-F ) as contractual teacher until the said /is filled through the regular process of recruitment.

8.2

to set aside the verbal dis-engagement of the applicant w.e.f. 5.5.2001 from the post of contractual teacher.

8.3

to set aside and quash the select list and the ~~appointment~~ appointment of Respondents 7, 8, 9 and 10 made on the basis of interview/selection held on 22.6.2001.

8.4

to set aside and quash the advertisement dated 19.7.2001 published in the Assam Tribune

Fournit fifth

( Annexure -I ) and interview and the select list

held/made on 30.7.2001 as illegal.

8.5 Cost of the application , and  
8.6 Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and the provisions of law as Your Lordships may deem fit and proper .

9. INTERIM ORDER PRAYED FOR :

Pending disposal of the application the applicant in view of the aforesaid facts and circumstances, pray for an interim or from this Hon'ble Tribunal as under ;

9.1 to direct the respondents not to fill up one out of the two posts as per advertisement dated 19.7.01 published in "The Assam Tribune " and interview held on 30.7.2001 till this application is finally disposed of by this Hon'ble Tribunal .  
9.2 to direct the respondents to allow the applicant to continue as contractual teacher in terms of the appointment letter dated 5.8.2000 ( Annexure- F ) till the disposal of this application or regular appointment is made with due process of law and/or not to make any further appointment to the post of PRT without the leave of this Hon'ble Tribunal .  
10. This application has been filed through advocate .

11. Particulars of the IPO

i. IPO No. : 5G 423364  
ii. Date of Issue : 3.8.2001  
iii. Issued from : Head P.T.O. Guwahati .  
iv. Payable at : Guwahati .

12. LIST OF ENCLOSURES

As stated in the Index .

Gurmit Singh

V\_E\_R\_I\_F\_I\_C\_A\_T\_I\_O\_N

I, Gurmit Singh Son of late Mahendra Singh, aged about 34 years 3 months, c/o. Sri S.K. Pandey, R-14, Sibsagar, ONGC Colony, do hereby verify that the statements made in paragraphs ~~4.1, 4.2, 4.3, 4.4~~ to my knowledge 1 to 3, 4.5, 4.6, 4.7 & 4.8 are true to my knowledge, those made in paragraphs 4.1, 4.2, 4.3 and 4.4 being matter of records are true to my information derived therefrom and legal advice and I have not suppressed any material fact.

And I sign this verification on this 6 th day of August, 2001 at Guwahati.

*Gurmit Singh*  
Signature.

(Formerly Meerut University)

## STATEMENT OF MARKS OF B. A. PART III (T.D.C.) EXAMINATION 1993

Roll No. A 51086



Name.....Gurjeet Singh

Enrolment No. M 9652070

Father's Initial.....M.S.....

College.....P.I.W.A.C.

Name of Subjects	Code No.	Max. Marks Theory	Max. Marks Practical	Marks Obtained					Result	
				Theory Paper						
				I	II	III	Total	Practical		
Defence Studies	301	70	30							
	302									
Drawing & Painting	303	40	60							
	304P									
Economics	305	100	—							
	306									
Education	307	100	—	20	25					
	308									
English	309	100	—							
	310									
Geography	311	70	30							
	411/412/413									
Hindi	313	100	—	17	21					
	314									
History	315	100	—	21	17					
	316									
Home Science	317	70	30							
	318									
Music	345/346/347	30	70							
	348P									
Mathematics	326/327	100	—							
	328									
Philosophy	324	100	—							
	325									
Political Science	338	100	—							
	339									
Psychology	340	70	30							
	341									
Sanskrit	330	100	—							
	331									
Sociology	332	100	—							
	333									
Statistics	321/322/323	70	30							
Urdu	336	100	—							
	337									
Total Marks of Part III		300							121	
Total Marks of Part I & Part II		700							272	
Total Marks of Part I, II & III		1000							393	

Signature of Writer.....

Signature of Checker.....

Dated.....9/4/93.....

MEERUT (U. P.)

For Registrar

Attested  
D. Singh  
Advocate

B-A

# Ch. Charan Singh University

Annexure I - B

Book No. 14

P-11-06

MEERUT

No 001344

(Formerly Meerut University)

STATEMENT OF MARKS OF B. Ed. EXAMINATION 1996

Roll No. P. 1200020

Name..... Charan Singh

Enrolment No. M. 9952020



College. C.V. MACHIGAN

Father's Initial. M.S.

Name of the Courses	Code Number	Maximum Marks	Marks Obtained	Result
C-I Psychological Foundation of Teaching, Learning & Development	101	100	92	
C-II Technology of Teaching	102	100	115	
C-III Methods of Teaching (a) A. L. C. .... or (b) O. L. C. 1..... 2.....	116.1 115.1 115.2	100 50 50} 100	19 22	
C-IV Theory of Education	201	100	36	
C-V Modern Indian Education	202	100	33	TH-THIRD
C-VI (a) Measurement & Evaluation or C-VI (b) Guidance and Counselling or C-VI (c) School Organisation and Administration or C-VI (d) Curriculum Designing	203 204 205 206	100 100 100 100	11 17	PR-SECOND
Total Marks of Theory Courses		600	227	
Total Marks of Practical Course (Practice of Teaching)		200	96	
Grand Total		800	325	

Signature of Writer..... Charan Singh

Signature of Checker..... Charan Singh

Dated ..... 11-1-1996

MEERUT (U.P.)

Attested  
D. B. Singh  
Adarsh

R. Ed

11-1-1996  
Ch. Charan Singh University  
For Registrar

:: KENDRIYA VIDYALAYA, SILCHAR REGION ::  
( DULIAJAN CLUSTER )

No. KVD/Cont/99-2000/295

Registration No. 57

Date: 14.6.99

CALL LETTER FOR INTERVIEW

Sir,

With reference to your application dtd Nil for the post of PRT for appointment on Contractual Basis for the year 1999-2000, you are invited to appear for an interview at 9 AM on 7th July'99, at Kendriya Vidyalaya Tinsukia, Hijuguri Railway Colony, Tinsukia-786145.

2. You are required to bring original copies of all relevant testimonials/Certificates, failing which you will not be interviewed.
3. NO TA/DA WILL BE ADMISSIBLE.
4. Candidates may have to stay for the next day in case the interview could not be completed on the assigned date.
5. Enclosed proforma(Bio-data) duly filled must be presented at the time of interview.

To

Yours faithfully,

Shri Gurmeet Singh  
112 R.A. Bazar  
Meerut Cantt.

V. Shukla  
( V. Shukla )  
Principal,  
K.V. Duliajan  
Cluster Incharge

\*\*\*\*\*

*Attest  
D. B. Singh  
Adarve*

(17)

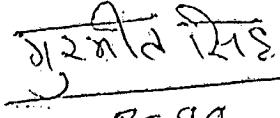
Annexure:- D  
Series  
8

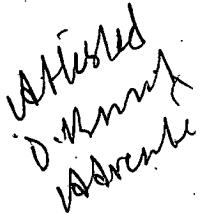
AGREEMENT FOR ENGAGING TEACHERS IN K.V.S. ON CONTRACT BASIS.

An agreement made this the Tenth day of August in the year 1999 between Shri Gurmit Singh (hereafter called the teacher of the FIRST PART) AND the Kendriya Vidyalaya Sangathan (hereinafter referred to as "SANGATHAN") of the OTHER PART.

Whereas the SANGATHAN have engaged the party of the FIRST PART and the party of the FIRST PART has agreed to serve the Sangathan as PRT on the terms and conditions hereinafter contained.

  
PRINCIPAL/TEACHER  
KENDRIYA VIDYALAYA  
Shri Gurmit  
Lohapuri  
Sangathan

  
KENDRIYA VIDYALAYA SANGATHAN  
10-8-99

  
Witnessed  
Shri Gurmit  
Sangathan

WHEREBY it is agreed as follows :-

1. That the 'Teacher' shall remain with the SANGATHAN for a period commencing on the Tenth day of August-1999 and ending on Thirteenth day of April 2000 (or 30th April \_\_\_\_\_ in Summer station Vidyalayas/30th June in Monsoon station Vidyalayas/one day before the start of / day winter vacations in winter station vidyalayas) or the last working/ of the academic session 1997 9/2000 or till the date a regular teacher joins the designated post either on transfer or on appointment whichever is earlier. If is specifically mentioned and agreed by both the parties that the contract of engaging of teachers of the FIRST PARTY shall ipso-facto stand terminated on as mentioned above and no formal notice/order by the party of the OTHER PART conveying the same shall be necessary.
2. That the teacher will submit himself to the orders of the Suny and of the officers and authorities under whom he/she may from time to time be placed by the Sangathan and will at all times obey the rules, prescribed and shall, whenever required to perform such duties as may be assigned to him/her.
3. That he/she will employ himself/herself efficiently and diligent and to the best of his/her ability as PRT/TGT/PGT and that he/she will devote his/her whole time to the duties of by the Sangathan will not engage directly or indirectly in any trade/business or occupation on his/her own account and that he/she will not (except in case of accident or sickness certified by a Civil Surgeon/ Authorised Medical Officer) absent himself/ herself from the said duties without having first obtained permission from the Principal or any other authorised Officer. The teacher will not be entitled for salary for the period of absence.
4. The tenure of contract of the party of the FIRST PART shall stand terminated as follows :
  - i) Automatically at the end of the academic session without notice ( or 30th April in Summer station Vidyalayas or 30th June in Monsoon station Vidyalayas or one day before the start of the vacation for winter vacation schools) or date on which a regular teacher joins the designated post either on transfer or on appointment or the date mentioned in the contract whichever is earliest.
  - ii) By the Sangathan without previous notice, if the Sangathan are satisfied on medical evidence before them that the party of the FIRST PART is unfit and is likely for considerable period to continue unfit by reason of ill-health for the discharge of his duties. PROVIDED always the decision of the Sangathan that the party of the FIRST

PART is likely to continue unfit shall be conclusively binding on the part of the FIRST PART and thereupon his/her tenure of the contract shall be terminated.

- iii) By the Sangathan or their officers having proper authority without any previous notice if the party of the FIRST PART is found to be Prime-Facio guilty of any insubordination, intemperance, moral turpitude or other misconduct or of any breach or non-performance of any of the provision of these presents, or is otherwise found unsuitable for the efficient performance of his duties.
- iv) By one month notice in writing given at any time during the tenure under this agreement either by the party of the FIRST PART to the Sangathan or by the Sangathan or their authorised officer to the party of the FIRST PART without any cause assigned.

PROVIDED always that the Sangathan may pay to the party of the FIRST PART one month's consolidated salary in lieu of such notice, and thereupon this agreement shall stand at an end forthwith.

The Sangathan shall pay the party or the FIRST PART so long as he/she shall remains engaged with the Sangathan and actually perform his/her duties monthly consolidated salary of Rs. ₹1500/- (₹1650/- in case of only) . The teacher shall not be entitled to any further benefits.

In respect of any matter of which no provision has been made in this agreement, any rules made thereunder and any rules made or deemed to be applicable to the employees of KVS shall apply to the extent to which they are relevant to the service hereby provided for and the decision of the Sangathan as to their applicability shall be final. It is expressly stated and agreed to by the party of the FIRST PART that any duration of the contract under this Agreement shall in no way to give him/her any right to claim for absorption in regular vacancies that exist or may arise in future in the particular KV or Sangathan.

Payment towards medical/LTC/Reimbursement of Tuition Fee/CEA etc. will not be admissible to the teacher so engaged on contract basis.

NOTWITHSTANDING anything herein before contained in this agreement, the COMMISSIONER,KVS shall be free to make departure from the terms and conditions of this Agreement in PUBLIC INTEREST.

34

Contd.... p/4.

✓ Spurred  
① arm  
✓ admiral

IN WITNESS WHEREOF THE PARTY OF THE FIRST PART AND On behalf of the OTHER PART have hereinto set their hands the day, month and year above written.

SIGNED BY

PARTY OF THE FIRST PART

(Signature with Date)

Address

ग्रन्थालय का दरवाजा  
असाम का विद्यालय  
गुवाहाटी

IN THE PRESENCE OF

1. Vijay Kumar Yadore  
Name of the witness  
Vijay Kumar  
10.8.99

Signature with date

Address P.E.T.K.V. Lekhapani

2. Nanoram Lukhori Singh

Name of the witness

Nanoram, 10.8.99

Signature with date

Address K.V. Lekhapani

SIGNED BY:

PARTY OF THE SECOND PART

(Signature with Date)

Address

ENDRANIYA VIDYALAYA

लक्ष्मपाल

Lekhapani

IN THE PRESENCE OF

1. M. HAZARIKAName of the witness  
M. H 10/8/99

Signature with date

Address L.D.E.K.V. Lekhapani2. S.K. Singh

Name of the witness

S.K. Singh 10/8/99

Signature with date

Address

K.V. Lekhapani

Address  
D. R. M.  
Advocate

(21)

Annexure

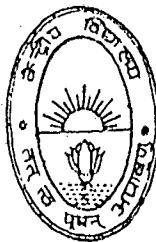
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केन्द्रीय विद्यालय, लेखापानी

KENDRIYA VIDYALAYA, LEKHAPANI

34

पो० ओ० लेखापानी  
 जिला तिनसुकीया (आसाम)  
 पिन - 786180



P. O. Lekhapani  
 Dist. Tinsukia (Assam)  
 Pin - 786180

Ref. No. F.E.C1.3/KVL/2000-01/

Date...30-04-2000..

To whom it may concern

This is to certify that

Shri Gurmeet Singh has been engaged as PRT on contract basis W.E.F 10-08-99 to 30th April 2000. Apart from his academic duties he has taken keen interest in games and sports and C.C. activities of the Vidayalaya

I wish him all the best.

(B.N. Paul)

Principal

\*\*\*\*\*

Attested  
 D. Paul  
 Principal

## KENDRIYA VIDYALAYA

No. F.72/KVD/2000-2001/567

Date: 5.8.2000

Mr. Gurumurti Singh  
 C/o Dr. Ajit Singh  
 Health Chair N.F.R.T. Secy (TSK)  
 ASSAM

Sir/Madam,

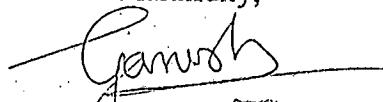
In order to supplement the teaching in this Vidyalaya, it has been decided to utilise your services for taking a few periods in certain classes on day to day basis. In case you are willing to offer your services on the terms and conditions mentioned below you are requested to start teaching I. 20.V.....class (name of the class and subject to be taught) and report to the undersigned on 17.8.2000 (date).

## Terms &amp; Conditions attached to the offer

- (1) You will be paid @ Rs. 50/- Per period..... for teaching I. 20.V.....classes, Rs. .... for teaching ..... Classes and Rs. .... for teaching ..... Classes on .....
- (2) Apart from teaching, you will also be responsible for home assignment, evaluation of answer scripts and conduct of examination in the said subject as also such other duties as may be assigned by the Principal. The payment/remuneration indicated above will be inclusive of all the services mentioned hereinbefore.
- (3) It is abundantly made clear that the assignment is purely of day to day nature and confers no right of appointment or your placement in the cadre of teachers. Your services will be utilised on the day to day basis depending upon the need and payment therefore will be made accordingly.
- (4) It is further abundantly made clear that the offer made in this letter shall automatically come to an end after the purpose for which the present offer is made is achieved.

Shashi  
 D. Singh  
 Adarsh  
 10/8/2000  
 KENDRIYA VIDYALAYA

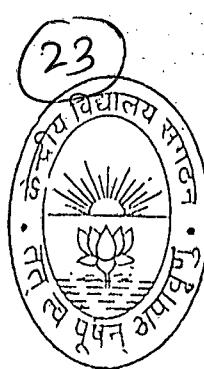
Yours faithfully,

  
 Gurumurti Singh  
 (Principal)  
 KENDRIYA VIDYALAYA

दूरभाष: ८८४९०  
एस०टी०टी०: ०३७४

केन्द्रीय  
KENDRIYA

पोस्ट: विनजान, भारमि  
द्वारा: पानीतोला (असम)  
पिन-७८६१८५



Phone: 88490  
STD: 0374

विद्यालय *Anscome* -  
VIDYALAYA

P.O. DINJAN, ARMY  
Via: PANITOLA (Assam)  
Pin-786185

प्रांक/Ref. No. F. 86/KVD | 2001-2002/

दिनांक/Dated... 05.05.2002

TO WHOM IT MAY CONCERN

This is to certify that Mr. Gurmit Singh has worked as PRT on Part Time Contractual basis w.e.f. 07.08.2000 to 05.05.2001 in this Vidyalaya. He is very co-operative and industrious. His services are to the entire satisfaction of his superiors.

I wish him all success in his future life.

*Alberda*  
Principal 05/05/2001  
K.V. Dinjan Army  
Assam  
Principal  
K. V. Dinjan

*Selma* *Bar*

*Alberda*  
*Dinjan*  
*Assam*

ANNEXURE - H

**KENDRIYA VIDYALAYA DINJAN (ARMY) 786185 (ASSAM)**

**Recruitment of teachers on part time basis**

Application giving full details are invited from the eligible candidates for following vacant posts of teachers in K V Dinjan on part time basis.

Sl.No.	Post	Subject	Vacancy	Educational Qualifications
1.	PGT	(Hindi)	01	Atleast Second Class Master Degree in subject concerned with B.Ed.
2.	PGT	(Physics)	01	Atleast Second Class Bachelor's degree in subject concerned with B.Ed.
3.	TGT	(English)	01	Atleast Second Class Bachelor's degree in subject concerned with B.Ed.
4.	TGT	(PCM)	02	Atleast Second Class Bachelor's degree in subject concerned with B.Ed.
5.	TGT	(CBZ)	01	Atleast Second Class Bachelor's degree in subject concerned with B.Ed.
6.	TGT	(S.S.I)	01	Atleast Second Class Bachelor's degree in subject concerned with B.Ed.
7.	PRT		04	Higher Secondary/Intermediate/plus 02 with J.B.T.
8.	Computer Instructor		01	Degree/Diploma in Computer Science (with 01 yr experience)
<b>Other terms and conditions</b>				
1.	Payment: As per KVS rules			
2.	Date of interview/written test: 22 June 2001 (10 A.M.)			
3.	Last date of receipt of application form: 20 June 2001 (4 P.M.)			
CDISV/3000/1 (20.01.2001) Principal				

1. 2001  
2. 2001  
3. 2001

ANNEXURE - I

**KENDRIYA VIDYALAYA DINJAN (ARMY)**  
**NOTIFICATION**  
**RECRUITMENT OF TEACHERS ON PART TIME BASIS :**  
 Applications are invited from the eligible candidates for the following vacant posts of teachers in Kendriya Vidyalaya, Dinjan (Army) on part time basis.

S.No.	Post	Subject	Vacancy	Educational Qualification
1.	PGT	Hindi	01	At least Second Class Master Degree in subject concerned in the B.Ed.
2.	PGT	Physics	01	do.
3.	TGT	S. Std. (leave)	01	At least Second Class Bachelor Degree in subject concerned (leave) with B.Ed. (vacancy)
4.	TGT	PCM	01	do.
5.	PRT		02	Hr. Se./Intermediate/+2 with JBT.

6.	Computer Teacher	Computer Science	01	M.Tech/B.E/B.Tech/MCA/M.Sc/(Comp. Sc.)/M.Sc (Maths/Sc.) with B.Sc. (Comp. Sc.)/M.Sc. (Maths/Sc.) with PGDC/A/M.Sc (Maths/Sc.) with DOEACC 'A' Level.
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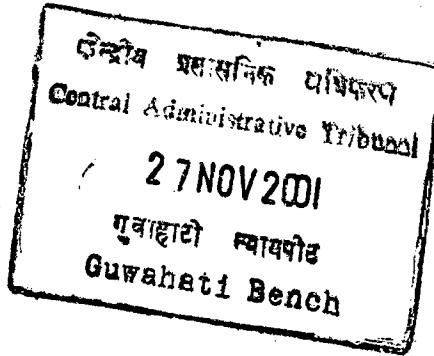
Other Terms & Conditions

1. Payment: As per KVS rules.
2. Date of Interview: 30.07.2001
3. Time: 10.00 a.m.
4. Last date of receipt of application form 25.7.2001.

Note: Those candidates who have already applied earlier need not apply again.

IT is 12.30 A.M. on 19.7.2001  
 (G.P. Chauhan)  
 Principal.  
 (SV/3480/1230 A.M. 19.7.2001)

Verbal  
 Dated  
 19.7.2001



39  
Foliot by Dr. C. B.  
Benni  
Anderson, M.D. Boston

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH :  
GUWAHATI.

In the matter of -

O. A. No. 300 of 2001.

Shri Gurmit Singh,

..... Applicant.

### -Versus-

Union of India & others.

..... Respondents.

- 605 -

In the matter of -

Written Statement on behalf of  
Respondent No. 2 and 3.

I. That copies of the original application being No. 300 of 2001 have been served upon us wherein we have been arrayed as party Respondent Nos. 2 and 3. The Respondent No. 2 has directed me to look into the case. I have gone through the documents and understood the contents thereof and filed this affidavit-in-opposition being acquainted with the facts and circumstances of the case.

2-1-2-1-1

- 2 -

2. That save and except what is specifically admitted in this Affidavit-in-opposition and the statements which are inconsistent and contrary to records shall be deemed to have been denied.

3. That before controverting the made in the original application the deponent raised preliminary objection regarding the maintainability of the application vis-a-vis, the relief sought for on the following grounds viz ;

i) That the communication dated 6.8.2000  
~~xx~~ (vide Annexure - F at page 22) would show that in order to utilise the service of the applicant for taking a few periods in certain classes on day to day basis, an offer was made subject to the conditions mentioned therein and after going through the conditions mentioned in the offer so made, the applicant has accepted the offer to take classes from I to V and the remuneration was fixed at Rs. 50/- per period and in the said offer there was a specific clause that the offer is so made shall automatically come to an end after the purpose is achieved and the purpose for which offer was made having come to an end, the applicant cannot make

a grievance.....

a grievance against the said offer before the Hon'ble Tribunal and as such no case has been made out for interference by this Hon'ble Tribunal in the facts and circumstances of the case ;

- ii) That the relief sought for in the application is to allow the applicant to continue in service in terms of appointment letter dated 5.8.2001 as contractual teacher until the post is filled up through the regular basis and in the context the deponent states that the offer being contractual and on a fixed remuneration of Rs. 50/- (Rupees Fifty) per period which came to an end by efflux of time and hence he has no right to continue in the post, more so, when the posts have already been filled up by the candidates selected by the duly constituted selection committee ;
- iii) That the applicant has sought further relief for setting aside the select list and the appointment of Respondent Nos. 7, 8, 9 and 10 and to set aside the advertisement dated 19.7.2001 (vide Annexure - I at page 25). The comparative table of the educational qualification of the selected candidates already appointed and the marks obtained by them in the selection vis-a-vis the

applicant.....

- 4 -

applicant would show that he has failed to make out a case of biasness for interference in the process of selection made out by the Selection Committee, viz;

Name of the candidate.	Qualification.	Teaching Experience.	Percentage of Marks obtained.		
			Hr. Sec/mt.	B. A.	B. Ed.
B. Sc.					
1. Shri Gurmit Singh	B. A. (III) B. Ed. (III).	1 yr 6 months.	41%	39.3%	40.6%
(Applicant.)				✓	
2. Mrs. Nidhi Bedani.	B. Sc. (II) B. Ed. (I)	1 Yr. 7 months.	55%	58.5%	61.3%
3. Mrs. Anita Chouhan.	M. A. (III) B. A. (II) B. Ed. (II).	3 Yrs. 7 months.	58.7%	45.9%	55.2%
4. Mrs. T. Mazumdar.	B. Sc. (II) B. Ed. (II).	1 yr 2 months.	58%	47.2%	50.8%
5. Miss Minati Chetia.	M. A. (III) B. A. B. Ed. (I).	3 yrs. 6 months.	47%	46%	62%

The Marks obtained in the Selection by the candidates.

Total marks obtained by out of 150.

1. Shri Gurmit Singh (Applicant.)	59.
2. Mrs. Nidhi Bedani.	107.
3. Mrs. Anita Chouhan.	100.
4. Mrs. T. Mazumdar.	94.
5. Miss M. Chetia.	93.

The marks.....

The marks obtained by the candidates selected  
is vis-a-vis the applicant and the Hon'ble Tribunal  
may not interfere with, more so, when the case  
relates to advertisement and selection by the  
selection committee and hence the case is liable  
to be dismissed in limine.

4. That with regard to the statements made in paragraphs  
4.2 of the application, the deponent states that the  
averments made therein are matters of record and any  
statements which are not borne out by the records shall be  
deemed to have been denied.

The deponent further states that the offer to utilise  
the service of the applicant would show he has no right  
to continue after the purpose was achieved for which the  
offer was made. It is not a fact that the Respondent No. 4 has  
issued the appointment letter on 5.8.2000 as stated because  
the Respondent No. 4 had joined the school on 5.4.2001 in  
K. V. Dinjan.

5. That with regard to the statements made in paragraph  
4.3 of the application the deponent states that in pursuance  
of the advertisement twenty candidates as admitted had  
appeared before the Selection Board consisting of Chairman,  
an Educationist and a member Secretary which had been duly  
constituted.....

constituted for the purpose of selection. The comparative table as stated hereinabove would show that the applicant has failed to make out a case for interference in the matter of selection. It is a not a fact that the selection was made on the influence of the relations of the candidates as alleged. Moreover, the averments made therein would show that the applicant has failed to make out a case of biasness of the Selection Committee in the process of selection as alleged. The allegation in respect of selection of Respondent No. 7, being the wife of a Captain and the selection Committee was influenced by the Captain is baseless. If the selection Committee had acted on the influence of the Captain then Mrs. Ranjana Deb, wife of Lt. Col. would have been selected by the Selection Committee and as such the wild allegations made therein is absolutely baseless. In regard to selection of Respondent No. 8 the comparative table would show that the averments are not factually correct. In respect of the allegation in the selection of Respondent No. 9, the Respondent No. 4 had withdrawn himself from the Selection Committee when she had appeared in the selection and as such the allegations made therein are baseless and afterthought. Similarly the Respondent No. 9 was

selected.....

selected on her own performance in the selection without being influenced and/or biasness as alleged. It is not a fact that the Respondent No. 10 is a wife of an Air Force Officer. She is unmarried and she was selected on her own merit and performance in the selection. The Respondent Nos. 7, 8, 9 and 10 were selected according to their own performance and on merit and they have already been appointed in the school and they are performing their respective duties and as such the allegations made therein are baseless and liable to be dismissed in the facts and circumstances of the case.

6. That with regard to the statements made in paragraphs 4.4. of the application the respondent disputes the correctness of the same and states that the advertisement was issued by the Principal and not by the Respondent No. 3 as alleged. The advertisement so published would reveal that the candidates who had earlier applied need not be applied again and the applicant had failed to appear in the selection scheduled to be held on 30.7.2001 and cannot be allowed to make any grievance in the matter of selection held on 30.7.2001.

7. That with regard to the statements made in paragraphs 4.5, 4.6, 4.7, 4.8, and 4.9 of the application the deponent disputes the correctness of the same and denied that the Respondent Nos. 3 to 6 and II had acted mala fide and biasness with an ulterior motive to deprive the applicant in the selection. The applicant has miserably failed to qualify himself in the selection though he had appeared in the selection held on 20.6.2001 and the candidates who had failed to qualify in the selection held on 20.6.2001 had also appeared in the selection held on 30.7.2001 and none has debarred the applicant to appear in the selection held on 30.7.2001 and as such he has failed to make out a case for interference by the Hon'ble Tribunal in the matter relates to selection and appointment and hence the application is liable to be dismissed in limine. Moreover, the interview held on 20.6.2001 and 30.7.2001 and the candidates who have qualified in the selection have already been appointed in the vacant posts and there is no vacant post in the school and as such the applicant who has failed to qualify himself cannot be appointed in the facts and circumstances of the case, more so, when the application has not been made bona fide and for the ends of justice.

8. That with regard to the statements made in paragraphs 5.1 to 5.5, the deponent states that the applicant has failed to make out a case for relief as prayed for in the case and the same is liable to be dismissed.

9. That with regard to the averments made in paragraphs 8.1 to 8.6, and 9.1. to 9.2 of the application, the deponent submits that no relief can be granted in the facts and circumstances of the case and the application deserves to be dismissed in limine.

VERIFICATION.

I, Shri Shashtri Pada Baruji son of late Ram Lakshmi Baruji aged about 58 years, resident of Silchar, P.O.-Silchar, do hereby solemnly verify that the statements made in paragraphs 1, 2, 6 and 7 are true to my knowledge, and those made in paragraphs 3, 4 and 5 are true to my information based on records and rest are my humble submissions and I had not suppressed any material facts.

I sign this verification on this the 27th day of  
May 2001 at Gauhati.

Shashtri Pada Baruji

Deponent.

Central Administrative Tribunal
Guwahati Bench
25 FEB 2002
Case No.
Guwahati Bench

Filed by the  
Petitioner  
through  
Advocate  
Dilip Basumatary  
25-2-2002

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :::: GUWAHATI

O.A. NO. 300 OF 2001

Shri Gurmit Singh

..... Applicant.

- Vs -

Union of India & Ors.

..... Respondents.

Counter affidavit against the written statement filed by the respondent Nos. 2 and 3.

I, Shri Gurmit Singh, son of late Mahendra Singh, aged about 24 years 9 months about C/O. Sri S.K. Pandey, R-14, Sibsagar, ONGC, do hereby solemnly affirm and state as follows :

1. That I am the applicant in the instant original application No. 300/2001. A copy of the written statement filed by the Respondent No. 2 and 3 has been served on through my counsel. I have gone through the same and understood the contents thereof. Save and except what has been specifically admitted in this affidavit, all the averments made in the written statement\$ may be taken to have been denied by this deponent.

2. That with regard to the statement made in para 1 and 2 of the written statement, the deponent has no comments as the same are stated in the original application.

3. That with regard to the statements made in para 3(i), I beg to state that I worked as PRT w.e.f. 10.8.99 to 30.4.2000. After expiry of that period again I was appointed vide letter No. F-72/KVI/2000-2001/567 dated 5.8.2000. But surprisingly on 5.5.2001, the respondents had issued a certificate, wherein it was certified that "Mr. Gurmit Singh has worked as PRT on part time contractual basis w.e.f. 7.8.2000 to 5.5.2001 in this Vidyalaya. He is very co-operative and industrious. His services are to the entire satisfaction of his superiors." There is no such order of termination of service of the applicant nor there was any prior notice before issuing the so-called certificate. In fact the respondent No.4 acted malafide in issuing the said certificate which is a termination order in disguise. This is a clear proof of malafide and hence, the said order (certificate) can not operate in law and is liable to be quashed and set aside and the respondents are liable to be directed to pay the applicant all his consequential benefit considering him to be in deem service.

In this connection, I also say that the appointment letter dated 5.8.2000 (Annexure- F in OA) is void, illegal and opposed to public policy. The petitioner being a poor person and the only earning member of his family and being in search of a job had no choice or option but to accept whatever he get to earn his livelihood for survival. The petitioner being in the weaker position and unequal to the respondents/employer had no power to bargain. Hence he was compelled to accept whatever terms and conditions laid down on the appointment letter dated 5.8.2000 even of those were illegal, void or

or opposed to public policy. The clause (4) in the ~~appxx~~ appointment letter dated 5.8.2000 that " the offer made in this letter shall automatically come to an end after the purpose for which the present offer is made is achieved". These conditions are vague, uncertain and oppose to public policy and violative of Article 14, 21, 39(a) and 41 of the Constitution of India. Hence, the impugned order dated 5.8.2000 is liable to be set aside and quashed. In absence of any notice, it can not be understood as to how and when the terms of appointment has come to an end and how and at what point the purpose of offer is achieved.

With regard to the averments made in para 3(ii), & 3(iii), I say that the service contract dated 5.8.2000 being vague and uncertain, time was not made an essence and no time limit was laid down therein. Hence, the respondents/ employer can not raise the issue of time now. Moreover, they have not shown as to how and when the purpose of appoint<sup>ment</sup> is achieved. In this connection, I also re-iterate and re-assert the statements made in the Original Application and also say that the matter relating to appointment Committee, Recruitment and qualifications of teachers etc. are provided in the "Education Code For Kendriya Vidyalaya". As provided in the said Code, the requisite qualifications for PRT has been prescribed as under :

" Primary Teachers

(i) Higher Secondary with JBT ( 2 years )

or

Intermediate with JBT (one year) or plus Two Examination (Senior School Certificate Examination) with JBT (one year).

(ii) Competence to teach both through English and Hindi.

Note: In the case of candidates who have passed Higher Secondary Intermediate/Plus two examination in First Class and also have first class Bachelor's Degree, possession of a certificate of teaching is relaxable. Such candidates, if selected, will be placed on trial initially for a period of 2 years which may be extended by one year if the candidate is not able to acquire the requisite teaching certificate,"

The Code also provides that " the members of the Vidyalaya Appointment Committee including the Principal will scrupulously observe the healthy convention of not selecting a son/wife/near relatives in the same Vidyalaya. Any contravention of this convention will entail removal from service of the person so appointed, apart from any further action that may be considered necessary by the Sangathan".

It is also provided in the Code that " there shall be a Vidyalaya Management Committee and the Vidyalaya Management Committee shall appoint a Vidyalaya Appointment Committee. The Vidyalaya Appointment Committee shall consist of the Chairman of the

Appointment Committee and two other members of the ~~the~~ Vidyalaya Management Committee elected from amongst themselves. The Principal shall be ex-officio member secretary of Appointment Committee. The Vidyalaya Appointment Committee may, if it thinks fit, Co-opt a local subject expert. Three members shall form the quorum. The Chairman may nominate any other members of the Vidyalaya Management Committee as Chairman of the Appointment Committee at any of its meeting."

From the tabular statements given in this para by the respondents, it is explicit that out of 20 candidates, the appointment Committee selected as many as 5 candidates including this deponent and also the wife of the Principal-Cum-Member Secretary of the Appointment Committee and this deponent was placed on 5th positions. The total marks for selection is shown as 150. But it is not explained and shown how such 150 marks are allocated for education, experience general knowledge etc if any. In absence of the original records of assessments, of candidates and allocation ~~of~~ of marks nothing could be admitted and given in evidence. It is also not disclosed as to how the allocation marks are made and the basis thereof. This Hon'ble Tribunal may kindly direct the respondents to produce all such relevant records at the time of hearing of the case.

I also submit that out of the select list the respondents/employer appointed 4 candidates including the wife of the Principal-Cum Member Secretary of the Appointment

Appointment Committee excluding this deponent; whereas there were two other vacancies available even after the appointment of the said four candidates. The respondents/employer, instead of appointing this deponent from the select list, had again issued the advertisement ( as in Annexure-1 in O.A. ) with their (Particularly the respondent No.4) ulterior motive to deprive this deponent of his legitimate claim for appointment as PRT. This is a clear case of malafide where this Hon'ble Tribunal would be pleased to set aside and quash the selection and appointment of the respondent No. 7, 8 9 and 10 as void and vitiated by malafide.

4. That with regard to the statements made in para 4 of the Written Statements, I say that the appointment letter (service contract) dated 5.8.2000 is void and vitiated with malafide and the same is violative of section 23 of the Indian Contract Act, 1972. Hence the service of the deponent is liable to be considered as continuous and this deponent is entitled to payment of salaries/wages since 5.5.2001 onwards and he may be allowed to continue as PRT with the respondents/employer till such time when his services are regularised as per law.

5. That with regard to the statements made in para 5, of the Written Statements, I say that as admitted by the answering respondents in their written statements, the selection Committee ( appointment committee ) was constituted with the Chairman, an educationist and the Principal-Cum-member Secretary. This is as per requirements of law as for Selection Committee (appointment Committee ) presence of 3(three ) member would from the quorum. As admitted by the answering respondents, the

the member-Secretary had withdrawn from the Committee while his wife was interviewed by the Committee. In absence of cogent proof it can not be admitted such statement that the member Secretary had withdrawn while his wife was interviewed by the Selection Board (appointment Committee). Therefore, if the member-Secretary continued in the Board/Committee while his wife was interview and she got selected, then the selection if self would stand as vitiated with biasness which would amount to violation of natural justice. On the other hand, if it is proved that the member secretary had actually withdrawn from the Committee while his wife was interviewed, then also such the entire selection and the select list <sup>would be</sup> <sub>6</sub> illegal and void due to lack of quorum ( 3 members from the quorum ) as required by law. Hence, the Constitution of the Selection (appointment) Committee and the Selection, thereby is illegal and violative of principles of natural justice, more particularly, when the wife of the member-secretary (Principal) is selected and appointed depriving this deponent.

6. That with regard to the statements made in para 6 of the written statements, I deny the correctness of the statements and say that the respondent No.4 (inadvertently stated as respondent No.3 in the O.A.) knowingly and intentionally inserted the conditions (Note) in the advertisement to prevent, this deponent from applying to the post of PRT ( as in Annexure -I in OA ) . Moreover, this advertisement was issued while the select list including the name of this deponent persuant to the advertisement dated 3.6.2001 was validly in existence (Annexure -H in O.A.). I also re-assert my submission made in the O.A.

in this regard.

7. That with regard to the statements made in para 7 of the written statements I reiterate and re-assert the foregoing statements made in this affidavit and also the Original Application. The answering respondents/employer has categorically admitted that they have allowed candidates who also appeared in the interview held on 20.6.2001 (as per advertisement in Annexure-H) and could not qualify, to appear in the interview held on 30.7.2001 persuant to the advertisement as in Annexure-I in O.A. whereas the respondent No.4 laid down clause (Note ) that those candidates who had applied earlier need not apply again. But inspite this condition, I went to appear in the interview Committee held on 30.7.2001 but I was not allowed to appear in the interview . Hence, allowing candidates who failed to qualify earlier to appear again in the next interview in violation of the condition of advertisement ( as in Annexure-I ) and precluding this deponent by not allowing him to appear in the interview held on 30.7.2001, the respondents/employer and the Appointment Committee and more particularly the respondent No.4 acted malafide and hence the selection of candidates by the appointment made there of is grossley illegal, arbitrary and such selection is liable to be set aside and quashed.

8. That with regard to the statements made in para 8 and 9 of the written statements I re-assert the foregoing statements made in this affidavit and also the statements made in the original application. I also say that in view of the facts and circumstances of the case and the provisions of law, the so-called termination of service as in the certificate dated

dated 5.5.2001 (Annexure-G in O.A.) is illegal and is liable to be set aside and quashed and consequently I may be treated to be in service with all consequential benefits. I also respectfully submit that the selection and appointment made pursuant to the advertisements (as in Annexure-H & I in O.A.) and the interview held on 20.6.2001 and 30.7.01 are vitiated with malafide, violation of principles of natural justice and other provisions of law and as such the appointment of the respondent No.7,8,9 and 10 and also the appointment of those two who are selected and appointed by selection on 30.7.2001 are liable to be set aside and quashed.

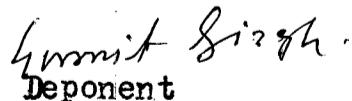
9. That I also respectfully submit that I have been deprived of my livelihood by the answering respondents/employer and such actions of the respondents amounts to violation of rights under Article 21 of the Constitution of India. Hence this is a fit case where this Hon'ble Tribunal would be pleased to interfere to allow this deponent to continue in service as ERT and also set aside the selection and appointment of respondent No. 7,8,9 and 10 and also those appointed in pursuant to the advertisement and interview held on 30.7.2001 ( as in Annex-I in O.A.).

10. That the statements made in para 2,9 and 10 are true to my knowledge and belief, those made in para 1,3,4,5,6,7 and 8 being matters of records are true to my information derived therefrom and the rest are my humble submission made before this Hon'ble Tribunal I have not suppressed any material facts.

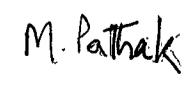
And I sign this affidavit (rejoinder) on this 25th day of February, 2002 at Guwahati.

Identified by me-

  
Advocate 25/2/2002

  
Deponent

Solemnly affirmed and signed before me by the deponent who is identified by Sri Dilip Barnah Advocate, on this the th day of February, 2002 at Guwahati.

  
M. Pathak  
Advocate.