

30/100

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

(DESTRUCTION OF RECORD RULES, 1990)

(1) MP 223/01 order page 1 INDEX  
19/9/01  
(2) MP 225/01 order page 1 dismission  
19/9/01

O.A/T.A No. 344/01  
R.A/C.P No. 41/01  
E.P/M.A No. 223 A. 225/01

1. Orders Sheet..... OA .....Pg. 1 .....to 4
2. Judgment/Order dtd. 30.10.12002 .....Pg. 1 .....to 7 dismission  
CP 41/01 order page 1 to 2 2103/1.02  
CA 344 & 345/01
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A..... 344/01 .....Pg. 1 .....to 25
5. E.P/M.P. 223/01 .....Pg. 1 .....to 7  
MP 225/01 page 1 to 6
6. R.A/C.P. 41/01 .....Pg. 1 .....to 7
7. W.S.....Pg. 1 .....to 19
8. Rejoinder.....Pg. 1 .....to 13  
Rejoinder to CP 41/01 page 1 to 5
9. Reply.....Pg. ....to .....
10. Any other Papers.....Pg. ....to .....
11. Memo of Appearance.....
12. Additional Affidavit..... 1. No. 1. Page 1 to 170 5 & 170 - 2 page 1 to 5
13. Written Arguments.....
14. Amendement Reply by Respondents.....
15. Amendement Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

6/12/17

FORM No. 4  
(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI.

ORDERS SHEET

APPLICATION NO. 344 / 2001

Applicant (s) Sri putul chetia

Respondant(s) V. U. S. S.

Advocate for the Applicant: Mr. D.R. Gogoi,  
Mr. P. Bhownik.

Advocate for the Respondant: K. V. S.

Notes of the Registry	Date	Order of the Tribunal
	29.8.01	Heard Mr. D.R. Gogoi, learned counsel for the applicant and also Mr. S. Sarma, learned counsel for the respondents (Caveater). Issue notice as to why the application shall not be admitted. Also issue notices as to why the interim order as prayed for shall not be granted suspending the order No. F. 10-4/2001/KVS(GR)/5138-42 dated 20.8.2001 so far transferring the the applicant Sri P. Chetia, Chabua to Pasighat. Returnable by 2 weeks. Mr. S. Sarma, learned counsel, accepts notice on behalf of the respondents. The operation of the aforesaid order shall remain suspended till the returnable day. List on 19/9/01 for admission.

This application is in form  
but not in time (Coordination  
Petition is filed vide  
M. P. No. X C.F.  
for Rs. 548922 vide  
IPO/Bu No. 548922  
Dated 28.8.2001

Dy. Registrar.

one copy is  
sent C.F. stamp  
in voluminous.

JS  
29/8/2001

Notice returned and sent to D/S  
for issuing the Respondent No  
1 to 5 by Regd A/D. vide  
S/No 3394 to 3398 dated 4/9/01

30/8/01

Vice-Chairman

(19) d 45  
Respondent No 1 Notice  
Unreceived due to incomplete  
address.  
19/10/07

O.A. 344 of 2001

(2)

19.9.01

Three weeks time is allowed to the respondents for filing of written statement. List the matter on 17.10.2001 for written statement and further orders.

Vice-Chairman

trd

No. ltr has been filed.

17.10.01

None present for the applicant. List on 21.11.01 for admission.

filing w.s. by.

pg

21.11.201

Order dtd. 22/11/07  
Communicated to the  
Parties. Amr

Two weeks time granted to the respondents to file written statement. List for orders on 7.12.01. The interim order dated 29.8.01 shall continue.

Vice-Chairman

No written statement  
has been filed.

nk m

7.12.01

Heard Mr. P. Showmik, learned counsel for the applicant and also Mr. S. Sarma, learned counsel for the respondents.

The respondents are yet to file written statement. Two weeks time is allowed to the respondents to file written statement.

List on 21.12.01 for admission. Interim order dated 29.8.01 shall continue.

No written statement  
has been filed.

Member (J)

Member (A)

mb

Notes of the Registry	Date	Order of the Tribunal
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Order dtd. 21/12/01  
Communicated to the  
Parties Court.

*AS*

10.01.2002

W/S has been filed  
on behalf of the  
R- 2, 3 & 4 at page  
26-45.

*AS*  
10/01/02

23.1.2002

A Reply has  
been filed by the  
applicant against the  
W/S filed by the Respondent  
No. 2, 3 & 4.

*AS*

21.12.01

Heard Sri P. Bhowmik, learned counsel  
for the applicant and also Mr. S. Sarma,  
learned counsel for the respondents.

No written statement has been filed.  
List on 23.1.2002 for final hearing.  
Respondents may file written statement  
within three weeks from today. Meanwhile,  
interim order dated 29.8.2001 shall  
continue.

*IC Usha*  
Member

mb

23.1.02

Heard Mr. P. R. Gogoi, learned Counsel  
for the applicant Mr. S. Sarma, learned  
Counsel for the respondent.

Hearing Concluded.

Judgment reserved.

*AS*  
*A. R. S.*  
23.1.02

Date

Order of the Tribunal

6  
O.A. 344 of 01 and O.A. 345 of 01

Notes of the Registry

Date

Order of the Tribunal

30.1.02

Judgment delivered in open  
Court. Kept in separate sheets.  
Application is dismissed. No costs.

Received  
for K.V.S  
5/2/02

lm

111 Ushay  
Member

Notes of the Registry	Date	Order of the Tribunal
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Notes of the Registry	Date	Order of the Tribunal
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Notes of the Registry	Date	Order of the Tribunal
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6

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 344/2001 and 345/2001.

Date of Decision. 30/01/02

S/Sri Putul Chetia, Durgeshwar Das

Petitioner(S)

Sri P.R.Gogoi and Sri P.Bhowmik.

Advocate for the  
Petitioner(s)

-Versus-

Union of India & Ors.

Respondent(-)

Sri S.Sarma

Advocate for the  
Respondent(s)

THE HON'BLE MR. K.K. SHARMA, ADMINISTRATIVE MEMBER.

THE HON'BLE

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 ?

Judgment delivered by Hon'ble :Member, Admn.

10/1/02



A

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 344 of 2001 and O.A.No.345 of 2001.

Date of Order: This the 30<sup>th</sup> Day of January, 2002.

HON'BLE MR.K.K.SHARMA, ADMINISTRATIVE MEMBER.

1. Shri Putul Chetia (O.A.NO.344 of 2001)  
Son of Late Girindra Nath Chetia  
Socially Useful Productive Teacher, Kendriya  
Vidyalaya, Air Force Station, Chabua,  
District Dibrugarh, Assam. .... Applicant.
2. Shri Durgeshwar Das, (O.A.No.345 of 2001)  
Son of Late Hiteswar Das,  
Drawing Teacher, Kendriya Vidyalaya  
Air Force Station, Chabua,  
District Dibrugarh, Assam. ...Applicant.

By Advocate Mr.P.R.Gosoi, Mr.P.Bhowmick.

-Vs-

1. Union of India  
Represented by the Secretary  
Ministry of Human Resources Department  
New Delhi.
2. The Commissioner,  
Kendriya Vidyalaya Sangathan,  
Sahid Jeet Singh Marg,  
New Delhi.
3. Shri D.K.Saini  
Assistant Commissioner,  
Kendriya Vidyalaya Sangathan,  
Regional Office, Maligaon Charali,  
Guwahati-12.
4. Principal  
Kendriya Vidyalaya, Airforce Station,  
Chabua,  
Dist.Dibrugarh, Assam  
Pin-786182.
5. Shri P.N.Singh  
Trained Graduate Teacher(Mathematics)  
Kendriya Vidyalaya,  
Air Force Station.  
P.O.Air Field, Chabua,  
District Dibrugarh, Assam. ... Respondents.

By Advocate Mr.S.Sarma,

O R D E R.

K.K.SHARMA, MEMBER(ADMN):

Both these applications are taken up together  
as the issue involved in the two applications is common.  
The two applicants have challenged the order No.10-4/2001/

11/1/02 contd/-

/KVS(GR)/15138-42 dated 20th August 2001(Annexure V) to the O.A. By the impugned order the applicant in O.A.No. 344 of 2001 has been transferred from Chabua to Pasighat and the applicant in O.A.No.345 of 2001 from Chabua to Tengavalley. The transfer order has been challenged on the ground of malafide and as violative of Article 14 and 16(4) of the Constitution of India.

2. The applicants before the impugned order of transfer were working as teachers in Kendriya Vidyalaya , Chabua. Before the impugned transfer order certain incident took place which appears to have resulted in the transfer of the applicants. On 19.3.2001 the Principal, Kendriya Vidyalaya Chabua issued memorandum to both the applicants based on written complaint of Shri P.N.Singh, T.G.T(Match), that the Shri P.Chetia applicant had allegedly threatened P.N. Singh while he was conducting the examination in hall (Room No.3). The applicant No.1 Shri Putul Chetia entered the examination hall and when the respondent No.5 objected to entry Shri Chetia suddenly threatened him to kidnap and kill him. Shri D.Das applicant in O.A.No.345 of 2001 physically assaulted respondent No.5. The Principal asked the applicants to explain their conduct. The applicants replied by a letter dated 21.3.2001 Shri Putul Chetia replied that he had entered the room No.3 on reliever duty with due permission from invigillator Mr.I.D.Ram PGT English and he had not threatened to kidnap Respondent No.5. The applicant in O.A No.345 of 2001 replied that he had not threatened nor did he give any kick on the head of Mr.P.N.Singh. By letter dated 19.4.2001(Annexure III to the application) the applicants were directed to remain present in the Vidyalaya on 21st April 2001 before the Enquiry Officer in connection with the preliminary enquiry. The Principal, Kendriya Vidyalaya Narangi held the inquiry on 21st April 2001. Before the Enquiry Officer

*K. U. Khan*

the applicant)  
/denied the allegations against them. It was stated that when  
Mr. P. <sup>Chetia</sup> entered the room No.3 of the examination centre  
with due permission from invigilator Mr. I. D. Ram to ask  
for his help to conduct the examination. ~~xxx~~ suddenly the  
other invigilator, the Respondent No.5 Mr. P. N. Singh shouted  
and asked him <sup>to</sup> get out of the room. The transfer order dated  
20.8.2001 was the result of indident <sup>that</sup> /occured on 17.3.2001  
and as such the transfer order was issued in a malafide manner  
on the basis of some concocted stories made out by the  
Respondent No.5 in order to facilitate his own transfer  
to his native state of Bihar. The Respondent No.5 prevailed  
upon the Respondent No.3 to issue the impugned order. It is  
stated that the applicants have completed the tenure in  
Chabua and they are entitled to their choice posting which  
has been ignored.

3. Shri P. R. Gogoi the learned counsel appearing for  
the applicants reiterated the pleading made in the applica-  
tion. He referred to the letter dated 18.4.2001 of Principal,  
Kendriya Vidyalaya Chabua to the Assistant Commissioner,  
Guwahati and submitted that the Principal had reported  
~~xxx~~ that Mr. P. N. Singh Respondent No.5 had made hue and cry  
to disturb the peace of the place. The learned counsel referred  
to the fact that the Respondent No.5 had left the Station  
without prior information neglecting his duty and without  
sanction of proper leave. The Principal had also stated in the  
letter dated 18.4.01 there was no reason for Mr. Singh <sup>to</sup> feel ~~to~~ inse-  
cure. It was argued that the applicant's explanation was not taken  
note of by the Enquiry Officer. He had also made allegaions  
against the Respondent No.5. The learned counsel for the  
applicants referred to the Supreme Court Judgment (1997) 1 532,  
Najamal Hussain Mehadi, Vs. State of Maharashtra and Others

11/11/01

contd/-

The respondent have filed their written statement. It is stated therein that the transfer has been made as per Clause 3 of transfer guidelines which <sup>is</sup> reproduced below:-

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

4. Mr.S.Sarma learned counsel for the respondents submitted that para 3 of the transfer guidelines authorised transfer on administrative ground. The rule of choice posting is applicable to outsiders who had completed their tenure in the N.E. Region. As per Rule the applicant, are not entitled to their choice posting. Mr.Sharma referred to the para 5 of the written statement and stated that Shri Chetia the applicant had not been given any relieving duty in Room No.3 on 17.3.2001 and when he entered the room the invigilator Shri P.N.Singh objected to his entry. The applicant Shri D.Das in O.A.No. 345 of 2001 Drawing Teacher had beaten the Respondent No.5. The Enquiry officer conducted the preliminary enquiry and submitted the report on 23.4.2001. The Enquiry officer had suggested the transfer of the applicant, from Chabua. The Respondents were within their right to transfer the applicants in public interest on administrative ground. The matter was discussed at various levels and finally the concerned authority without going for any major punishment decided to place them in another shhool for their improvement. The enquiry was

*U. U. Sharma*

contd/-

was not held behind the back of the applicants, the applicants were given opportunity of being heard. Lastly, Mr.S.Sarma learned counsel for the respondents referred to the Supreme Court Judgment Prabodh Sagar, Vs. Punjab State Electircity Board and others (2000) <sup>SCC</sup> (5) 630. In the submissions it was stated that there was no malafide in the transfer order.

5. I have heard the learned counsels for the parties at length and have also perused the documents filed with the applications. Mr.Sharma the learned counsel for the respondents also produced the report of the Enquiry Officer dated 23rd April 2001. The main objection of the applicants against the impugned transfer order is on the ground of malafide. On 17.3.2001, when the examination was being conducted, Shri P.Chetia one of the applicants entered the examination room No.3. The invigilator present in the room Shri P.N.Singh objected to his entry. It is admitted that Shri P.N.Singh asked the applicant to get out. The applicant was offended and the subsequent ~~of~~ beating incident took place. Shri P.N. Singh Respondent No.5 alleged that he was beaten by D.Das applicant in O.A.No.345 of 2001. Shri P.Chetia on the other had alleged Shri P.N.Singh of using filthy language. The matter was investigated by an independent party viz Principal, Kendriya Vidyalaya, Narangi. The the Enquiry Officer took deposition of two applicants. The Enquiry Officer also took deposition of ~~one~~ of the two witnesses Shri M.Paswan and Shri A.K.Sinha who were present when respondent No.5 was beaten on his head by one of the applicants Shri D.Das. The Enquiry Officer also found that the applicant Shri P.Chetia was on reliever duty of room No.1 and 2 while the incident took place. in room No.3. Thus from the report of the Enquiry Officer it is evident that the entry of the applicant

10/11/01

contd/

Shri P.Chetia in room No.3 was unauthorised. Shri P.Chetia applicant in O.A. No.344 of 200q has stated in his letter dated 17.3.2001 to the Principal, Kendriya Vidyalaya, Chabua that he entered room No.3 with due permission to invigilator Mr.I.D.Ram PGT(Eng). The Enquiry Officer has stated that when Shri P.Chetia entered into the Room No.3 during the time of examination, he had not taken any permission <sup>from Mr. I.D.Ram</sup> while entering into the room. The Enquiry Officer also stated that the Respondent No.5 was new to the school and he might not have been familiar with all the staff members and he might not have recognised Mr.P.Chetia. The findings of the Enquiry Officer against the applicants is reproduced below:-

"(iii) It seems the situation is blown beyond its proportion by Mr.P.Chetia, and provoked Mr.D.Das, Drawing teacher to beat Mr.P.N.Singh on his head brutally.

iv) It is also felt that Mr.P.N.Singh did not receive sympathy from the Principal which made him aloof and frightened to continue his stay at K.V. Chabua.

Suggestion :

- i) Mr.P.Chetia, SUPW teacher and Mr.D.Das , Dr.Teacher have completed their long tenure at K.V. Chabua and developed strong hold in the area being local standing. This kind of situation may be defused by shifting both the teachers in the best interest of the vidyalaya.
- ii) Immediate transfer of the above two teachers may control the entire situation and restore normalcy in the Vidyalaya."

Having gone through in detail the facts and the findings of the Enquiry Officer I am of the opinion that the applicants have not conducted themselves with dignity which was expected from them. The applicants were holding responsible position of teacher. Their conduct is observed by hundreds of children in the school. During the working hours in the school, the applicants have physically assaulted one of the colleagues.


10/11/01

contd/-

It can be inferred that the impugned order of transfer has been made on account of conduct of the applicants<sup>U</sup>. The transfer of teachers who have not conducted themselves properly, on administrative ground cannot be treated as mala-fide, whether any order is mala-fide or not depends on the facts of the case. The facts have been verified by an independent authority, who was not connected with the school where the applicants were working. The finding of the enquiry has shown that one of the applicants entered and disturbed the conducting of examination. There is no malice or illegality in the consequential transfer of the applicants. ~~No~~<sup>U</sup> illegality is inferred in the impugned order dated 20.8.2001 and it calls for no interference.

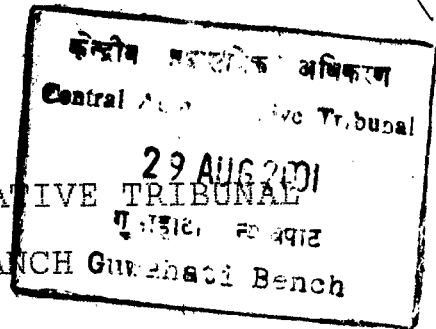
The application<sup>U</sup> are dismissed. There shall however, be no order as to costs.

The interim orders dated 29.8.2001 are vacated.

  
(K.K. SHARMA)  
ADMINISTRATIVE MEMBER

LM

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BRANCH Guwahati Bench



O.A. NO. 344 OF 2001

Shri Putul Chetia..... Applicant.

- Versus -

Union of India & Ors. .... Respondents.

I N D E X

<u>Sl.No.</u>	<u>Description of documents relied on</u>	<u>Page No.</u>
1.	Original Application	1 to 15
2.	Annexure - I	16
3.	Annexure - II	17 - 18
4.	Annexure - III	19 - 20
5.	Annexure - IV	21
6.	Annexure - V	22 - 23
7.	Annexure - VI	24
8.	Annexure - VII	25

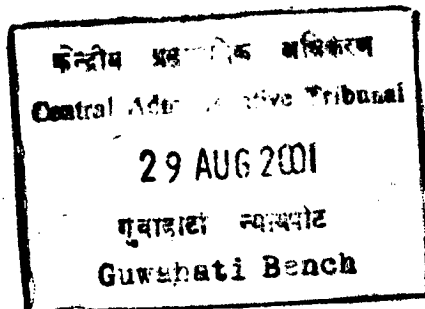
Filed by :

*Pallabh Bhowmick*

Pallabh Bhowmick.

Putul Chetia





17

Filed by:-  
Pallab Bhattacharya  
Advocate, 29.8.2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI  
BENCH AT GUWAHATI.

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

ORIGINAL APPLICATION NO. 344 OF 2001

1. Shri Putul Chetia  
Son of Late Girindra Nath Chetia,  
Socially Useful & Productive  
Teacher, Kendriya Vidyalaya,  
Air Force Station, Chabua,  
District Dibrugarh, Assam.

..... Applicant.

- Versus -

1. Union of India  
Represented by the Secretary  
Ministry of Human Resources Development  
~~Department~~, New Delhi.
2. The Commissioner,  
Kendriya Vidyalaya Sangathan,  
Sahid Jeet Singh Marg,  
New Delhi.
3. Shir D.K. Saini  
Assistant Commissioner,  
Kendriya Vidyalaya Sangathan,  
Regional Office, Maligaon Charali,  
Guwahati-12.

Putul Chetia

## 4. Principal

Kendriya Vidyalaya, Air Force  
Station, Chabua,  
Dist. Dibrugarh, Assam.  
Pin - 786182.

## 5. Shir P.N. Singh

Trained Graduate Teacher  
(Mathematics)  
Kendriya Vidyalaya,  
Air Force Station,

P.O. Air Field, Chabua,  
District Dibrugarh, Assam.

..... Respondents.

1. Particulars of the order against, which  
application is made :

Impugned common transfer order No. 10-  
4/2001/KVS (GR)/15138-42 dated 20.8.2001 issued by  
Shir D.K. Saini, Assistant Commissioner, Kendriya  
Vidyalaya Sangathan whereby the applicant had been  
sought to be transferred from Kendriya Vidyalaya,  
Chabua to Kendriya Vidyalaya, ~~pasighat~~ in a

Putul Chetia

malafide manner at the behest of Shri P.N. Singh, Trained Graduate Teacher [Mathematics] (hereinafter referred to as T.G.T. [Maths]).

2. Jurisdiction of the Tribunal :

The applicant declares that the subject matter of the order against which he wants redressal is ~~within~~ the jurisdiction of this tribunal.

3. Limitation :

The applicant further declares that the application is ~~within~~ the limitation period prescribed under in Section 21 of the Administration Tribunals Act of 1985.

4. Facts of the Case :

i) That the applicant who belongs to M.O.B..C. Community is a diploma holder in Engineering and is presently serving as S.U.P.W. Teacher in the Kendriya Vidyalaya, Chabua. The petitioner was appointed to the said post on 29.3.94. He is serving at the said post with honesty and sincerity and there is no blemish of any kind in his service career till date.

Putul Chetia

ii) That the applicant states that he was shocked and surprised to receive memorandum date 19.3.2001 issued vide Reference No. FPF(pc)/KVCHB/2000-2002/811 dated 19.3.2001 whereby the Principal Kendriya Vidyalaya, Air Force Station, Chabua was pleased to inform the applicant that as per written complain received from Shri P.N. Singh T.G.T.(Maths) the applicant has allegedly threatened Mr. Singh in the examination hall(Room No.3) to see him after the class and further alleged that the applicant even threatened him to kidnap and kill accompanied by Shri D. Das Drawing Teacher who physically assaulted Mr. Singh in stall room the same day. The applicant was therefore requested to explain the reason of his misconduct in writing within three days from the date of receipt of the memorandum dated 19.3.2001.

A copy of the aforesaid memorandum dated 19.3.2001 is annexed and marked as Annexure-I.  
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iii) That the applicant states that on receipt of the aforesaid memorandum dated 19.3.2001 he submitted his explanation on 21.3.2001 wherein he stated that on 17.3.2001 the applicant was assigned examination relieving duty for the Secondary Section. He entered Room No.3 with due permission of the invigilator Mr. I.D. Ram P.G.T. (English) in order to ask for his help to conduct the

Putul Chatter

examination, he did not display any unruly or uncouth behaviour. He had neither threatened to kidnapp nor kill Shri. P.N. Singh i.e. respondent No.5 as it is not possible to threaten or to kidnap a person at first sight, on the other hand it was the respondent No.5 who has rudely behaved with the applicant in the varandah of the School for which the applicant has lodged written complaint with the respondent No.4 on 17.3.2001. The applicant categorically stated in his explanation dated 21.3.2001 that Mr. D. Das, Drawing Teacher was nowhere present at the scene and is not at all connected with the incident. The applicant also stated in the explanation that in his 7(seven) years of service in the Vidyalaya he has neither committed any misconduct nor has misbehaved with anybody. The complaint lodged by Shri P.N. Singh against him is totally false, baseless and motivated.

A copy of the complaint dated 17.3.2001 and a copy of the explanation dated 21.3.2001 is annexed herewith and marked as Annexure-II & III respectively.

iv) That the applicant states that on 19.4.2001 he was served with a copy of an office order issued

Putul Chetty

under reference No. F13/KVCHB/2001-2002/31 by the respondent No.4 whereby the applicant was directed to remain present in the Vidyalaya on 21.4.2001 before the Enquiry Officer in connection with the Preliminary Enquiry on the basis of the complain received.

A copy of the Office order dated 19.4.2001 is annexed herewith and marked as Annexure-IV.

v) That the applicant accordingly appeared before the Enquiry Officer on 21.4.2001 and deposed before him. In his deposition the applicant denied the allegations levelled against him and stated that the same is false because on 17.3.2001 he entered the room No.3 of the examination centre with due permission from one of the invigillator Mr. I.D. Ram to ask for his help to conduct the examination. But suddenly the other invigillator i.e. the respondent No.5 shouted at him by using filthy and unparliamentary language and asked him to get out of the room. The applicant also stated in his deposition that after the incident he felt very humiliated in front of one of his colleagues and students and as such he lodged a written complaint before the respondent No.4 on 17.3.2001.

A copy of the aforesaid deposition dated 21.4.2001 is annexed herewith and marked as Annexure-V.

Putul Chetia

vi) That the applicant states that thereafter he was shocked and surprised to receive transfer order No. F : 10-4/ 2001/ KVS (GR)/ 15138-42 dated 20.8.2001 which he received on 24.8.2001 whereby he has been sought to be transferred from Kendriya Vidyalaya, Chabua to Kendriya Vidyalaya, ~~Parghat~~ allegedly in public interest.

A copy of the aforesaid transfer order dated 20.8.2001 is annexed hereto and marked as Annexure-VI.

vii) That the applicant states that on receipt of the transfer order dated 20.8.2001 on 24.8.2001, he immediately sent a representation to respondent No.3 and prayed for cancellation of the same as the said transfer order has been issued in a malafide manner on the basis of some concocted stories created by the respondent No.5 in order to facilitate his own transfer to his native state of Bihar.

A copy of the aforesaid representation is annexed hereto and marked as Annexure-VII.

viii) That the applicant states that the aforesaid transfer order dated 20.8.2001 has been engineered by the respondent No.5 who had prevailed

Putul Chetia

upon the respondent No.3 to issue the same, thereby creating an impression before the authorities that it is not safe for the respondent No.5 to serve at Chabua so that he would also manage to be transferred back to his home state of Bihar. In this connection it would be pertinent to mention that the, respondent No.5 had not attended school since the date of his lodging of the alleged complaint on 17.3.2001.

ix) That the applicant states that it is indeed very unfortunate on the part of the respondent No.3 to have issued the impugned order of transfer dated 20.8.2001 solely on the basis of the complaint lodged by the respondent No.5 disregarding the explanation put forward by the applicant and after ignoring his testimony before the Enquiry Officer. In this connection it would be pertinent to mention that the statement of respondent No.4 was also recorded in the preliminary Enquiry on 21.4.2001 wherein the respondent No.4 categorically stated in the Enquiry that no untoward incident took place in the Vidyalaya on 17.3.2001. As such the only inference that can be drawn in the facts and circumstances of the case is that the respondent No.5 had prevailed upon the respondent No.3 to have issued the impugned order of transfer in a malafide manner. In this connection the applicant begs to

Putul Chetia



state that though he had been sought to be transferred by the order dated 20.8.2001 which was received by him on 24.8.2001 he has not been released from K.V. A.F.S., Chabua, till date and for all practical purposes he is on the rolls of the K.V., A.F.S., Chabua. That apart as per the transfer/policy in force the applicant has completed his tenure at K.V. A.F.S., Chabua and is entitled to choice posting as per the said policy. Accordingly he has exercised his option to be posted at K.V. Tinsukia, no reason has been cited in the impugned transfer order as to why this transfer policy in question has not been taken into consideration while transferring the applicant to K.V. Pasighat. The records of the Preliminary Enquiry if called for by the Hon'ble Tribunal would substantiate the truth of the statements made herein.

The applicant craves leave of this Hon'ble Tribunal to refer to and rely upon the said transfer policy at the time of hearing.

5. Grounds for relief alongwith legal provisions :

- i) For that from the facts and circumstances of the case it is quite apparent on the face of the records that the transfer order dated 20.8.2001 has been issued by the respondent No.3 in a malafide

Putal Chetia

manner just to serve the cause of respondent No.5 due to reasons best known to him. It is clear instance of colourable exercise of power by respondent No.3 to grant undue privilege to the respondent no.5 in order to achieve collateral gain. As such the impugned transfer order dated 20.8.2001 is liable to be set aside and quashed.

ii) For that the applicant states that it is unfair on the part of the respondent No.3 to have issued the impugned order of transfer dated 20.8.2001 ignoring the testimony of the respondent No.4 who clearly deposed before the Enquiry Officer in clear and unequivocal terms that no untoward incident took place in the Vidyalaya on 17.3.2001 as alleged by the respondent No.5. It is, therefore clear that consideration other than just and bonafide has prevailed upon the respondent No.3, as because there is no justifiable reason on the part of the respondent No.3 to have ignored the testimony of the respondent No.4 in the preliminary enquiry. It is, therefore, clear that the impugned order dated 20.8.2001 has been issued in a malafide manner by the respondent No.3 as such it is preeminently a fit case wherein this Hon'ble Tribunal would be pleased to set aside and quash the impugned order of transfer dated 20.8.2001.

Putul Chetia

iii) For that the applicant states that because the impugned order dated 20.8.2001 is highly arbitrary it amounts to denial of equality and is therefore, in violation of Article 14 of the Constitution of India, as such it is liable to be set aside and quashed forthwith.

iv) For that the arbitrary action of the respondent no.3 in issuing the transfer order dated 20.8.2001 amounts to denial of equality of opportunity in matters relating to public employment and is therefore, violative of Article 16(4) of the Constitution of India and, as such, the impugned order dated 20.8.2001 is liable to be set aside and quashed.

v) For that the transfer policy in question governing the service of the applicant has been violated with all impunity by the respondents in, as much as, the transfer policy clearly stipulates that on completion of a tenure of five years where the incumbent has been posted by the authorities, he is entitled to choice posting. Accordingly options are were called for from the applicant, but all on a sudden the applicants choice has been ignored and he has been transferred to Pasighat in a malafide manner.

vi) For that the impugned order ~~smacks~~ malice is in as much as, that both your applicant and Shri Durgeswar Das who was alleged to be the accomplice as per allegation set out in the memorandum dated 19.3.2001 has also been transferred to Tengavalley despite the fact that Shri. Durgeswar Das gave his option to be transferred to Duliajan on expiry of his tenure at K.V. A.F.S., Chabua. The impugned order being not a regular transfer which had been done by way of punishment the same is illegal, arbitrary and as such the same is liable to be set aside and quashed.

vii) For that in any view of the matter the action of the respondent No3. in transferring the applicant from K.V., Chabua, to K.V., Pasighat is bad in law and liable to be set aside and quashed.

6. Details of remedies exhausted :

i) That the applicant have submitted representation before the respondent No.3 on 24.8.2001 and the same has not been considered till date.

7. Matters not previously filed or pending in any Court :

i) That the applicant further declares that he had not previously filed any application, writ

Putul Chetia

petition or suit regarding the matter in respect of which this application has been made before any Court or any other bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. Relief Sought :

(24) It is, therefore, prayed that this Hon'ble Tribunal would be pleased to admit this application call for the records of the case and direct the respondents to show cause as to why the impugned order of transfer No. F :- 10-4/2001/KVS(GR)/15138-42 dated 20.8.2001 issued by the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Guwahati should not be set aside and quashed and upon such cause or causes that may be shown and upon hearing the parties may be pleased to set aside and quash the impugned transfer order dated 20.8.2001 and/or pass such further order or other orders as may be deemed fit and proper.

9. Interim Order, if any, prayed :

To direct the respondents to keep in abeyance the operation of transfer order no. F :- 10-4/2001/KVS(GR)/15138-42 dated 20.8.2001 issued

Putul Chatter

by the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Guwahati.

10. This application is filed through Advocates.

11. Particulars of postal orders in respect of the application filed.

I.P.O. No. 76 546922  
 Dated 18.6.2007  
 Issued by G.R.O. Guwahati.  
 Payable at Guwahati.

12. List of enclosers :

As stated in the index.

..... Verification.....

Putul Chetia

VERIFICATION

I, Sri Putul Chetia, son of Late Girindra Nath Chetia, aged about 36 years, presently serving at S.U.P.W. Teacher, at K.V., A.F.S., Chabua, do hereby verify that the contents of the paragraphs 1, 2, 3, 4, 6, 7, 10, 11 & 12 are true to my personal knowledge and those made in paragraphs 5, 8 & 9 are believe to be true on legal advise and I have not suppressed any material fact.

Date :

Putul Chetia  
Signature of the applicant.

Place :

24  
choice + number - Disorgateh.

Para 306  
rejoinder

1997 1 SCC - 532

Nizamul Husaini Mahab VS Mah.

Ann VII (54)

71. on complaint wala fide

S. S. Mahab

cl 3 - to policy - (10) of WS, Para 3

winstead of drawing dehtl proceedings - transferred

Page 4 - of WS - sph. was given - enquiry  
not behind their back

nowale fide -

2000 - 55CC 630 - Para 10 &  
Prasodh Sapan VS PSE P

- 16 -

ANNEXURE I

PHONE: 87509

केन्द्रीय  
KENDRIYA



विद्यालय  
VIDYALAYA

पो. चबुआ एअर फ़िल्ड  
डि. डिब्रुगढ़ (असम)  
पिनकोड : 786 102

CHABUA  
Chabua Air Field  
Dist: Dibrugarh (Assam)  
PIN : 786 102

पत्रांक / Ref. No. P. RE. (PG) / KYCHS / 2000-2001 / 8 / दिनांक / Date 19-03-2001

MEMORANDUM

Sri Putul Chatia SUPW teacher is hereby informed that on 17-03-2001 at 9.25 AM he threatened Sri P.N. Singh TGT(Maths) in the examination hall(Room No.3) to see him after the class. Sri Singh has further alleged in his written complain that Sri Chetia even threatened to kidnap & kill him. Sri Chetia then accompanied Sri D.Das Drawing teacher who physically assaulted Sri Singh, in staff room the same day.

Sri Chetia is therefore requested to explain the facts & the reasons for his misconduct in writing to the undersigned within 3 days from the receipt of this letter for further action at this end.

To

Sri P.Chetia SUPW Teacher,  
Kendriya Vidyalaya AFS, Chabua  
P.O.Chabua Air Field  
Dist: Dibrugarh (Assam)

(S.K. CHOPDAR)

PRINCIPAL

केन्द्रीय विद्यालय वायु सेना चबुआ

Kendriya Vidyalaya AFS Chabua

पो. चबुआ डि. डिब्रुगढ़

ASSAM-786102

*Putul Chatia*  
*Principal*



Annexure-II.

Chabua : 17.3.2001

To

The Principal  
K.V., A.E.S., Chabua.

Sub : Complaint against misconduct and  
mishandling by Mr. P.N. Singh, T.G.T. Maths.

Sir,

This is with reference to the subject cited  
I am bring your kind notice to the following  
points.

1. That I was assigned to reliever duty in the  
Secondaery Section in which Session Ending  
Examination 2001 was going on.

2. When I came to the Room No.3 taking permission  
from one of the invigillator Mr. I.D. Ram P.G.T.  
Eng. suddenly Mr. P.N. Singh T.G.T. Maths who was  
also invigillating duty of that room, rushed to me  
and shouted and lifting his hands in the presence  
of all examines that "Get out, Get out."

I was very humiliated and came out from  
that room. At that moment Mr. P.N. Singh T.G.T.  
Maths shouted me some obsolete and unparliamentary

*Santhi Bina*  
*[Signature]*

language "Kutta, Challa, Log Kahan Se Atta Hai" and  
blowed on my back in the varandah and scolded very  
roughly" with filthy and unparliamentary  
language.....

Sir, I felt insulted very badly and came  
out of that block and sat in my S.U.P.W. room for  
some time in depressed mood.

Therefore, you are requested in a earnest  
manner to look into the matter.

Thanking you,

Your's faithfully,

Sd/- Illegible,

Date : 7.3.2001.

P. Chetia

S.U.P.W. Teacher.

Annexure-III.

Date: Chabua, 21.3.2001.

To

The Principal  
K.V., A.F.S., Chabua.

Sub : Explanation of your Ref. No. F.P.F.(PC)/  
KVCHB/2000-2001/811 dated 19.3.2001.

Sir,

This is with reference to your letter as mentioned above, I beg to submit the following few lines for your kind informations.

1. Sir I was assigned as an examinations reliever duty for the secondary Section on the dated 17.3.2001. I entered the Room No.3 with due permission from invigillator Mr. I.D.Ram PGT Eng. for any help about examinations. I did not do any unrully and uncouth behave in it. It is not possible to threatened to kidnap and kill to a person af first sight. In place of that it was he who behaved me rudely in the varandah which was already mentioned in my written complain submitted you on 17.3.2001.

*Submitted to the Principal*  
*B. B. B.*  
*21.3.2001*

2. I have not accompanied by Mr. D. Das Art Treacher. So it cannot be a mater for physical assault.

As surely, you are intimated with a humble manner that I have been working in this Vidyalaya without any arguments and conflict. It is not look well in the teachers community to use such a language "kidnap and kill". It is baseless and malafide. The complain brought by Mr. P.N. Singh TGT Maths. to you is quite upset and fabricated. It is the preplanned that he tried to spread communal feeling among the teachers to ruin peace and harmony of the Vidyalaya.

Thanking you,

Your's faithfully,

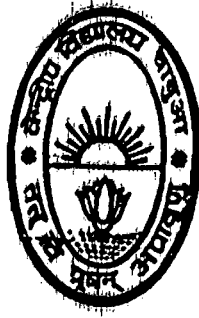
Sd/- Illegible

Date : 21.3.2001

P. Chetia

S.U.P.W.Tr.

केन्द्रीय  
KENDRIYA



विद्यालय  
VIDYALAYA

PHONE : 87509

चाबुआ  
पो० चाबुआ एयर फ़िल्ड  
डि० डिब्रुगढ़ (असम)  
पिनकोड : 786 102

CHABUA  
Chabua Air Field  
Dist. : Dibrugarh (Assam)  
PIN 786 102

पत्रांक / Ref. No. P.13/KVCHB/2001-02/31

दिनांक / Date 19-4-2001

OFFICE ORDER

Dr. P. Chakraborty is hereby directed to remain present in the vidyalaya on 21st April 2001 before the Inquiry Officer related to the preliminary enquiry on complains received.

To

Dr. P. Chakraborty

Super. Teacher

K.V. Chabua

Principal  
PRINCIPAL

काबुआ/PRINCIPAL  
केन्द्रीय विद्यालय चाबुआ एयर फ़िल्ड  
Kendriya Vidyalaya AFS Chabua  
डि० डि० डि० Dist. Dibrugarh  
ASSAM-786102

Sent to  
Principal

Annexure - V.

To

The Enquiry Officer,  
K.V., A.F.S., Chabua.

Date : Chabua, 21.4.2001.

Sub : Personal statements and explanations.

Sir,

Most respectfully, I want to draw few line, to you for your kind information.

1. Sir, I would to come Room No.3 with due permission from one of invigillator Mr. I.D. Ram PGT Eng. for any examinations help for them. But suddenly, another invigillator Mr. P.N. Singh ordered me and lifted his hands and shouted that "Get Out, Get Out" and then rushed to me and blowed on my back by his hand in the varandah.

2. Sir, I was humilited in the presence of one of my colleague and all students.

3. When I came to my S.U.P.W. Room. Then Mr. P.N. Singh T.G.T. Maths, he scolded me from my behind with some obsolete words in the varandah. he shouted and scolded to my community - in filthy and unparliamentary language.....

*Sanjay Kumar*  
21.4.01

4. Sir, I came to my S.U.P.W. Room and sat for some time. Then I submitted written complain of misconduct and mishandling of Mr. P.N. Singh T.G.T. Maths to our Principal.

Thanking You,

Your's faithfully,

Sd/- Illegible

Date : 21.4.2001

P. Chetia

S.U.P.W. Tr.

Original copy received

Sd/- Illegible

Date : 21.4.2001.



-24-

ANNEXURE VI

Phone : 571797, 571788  
Fax : 571789

## केन्द्रीय विद्यालय संगठन KENDRIYA VIDYALAYA SANGATHAN

क्षेत्रीय कार्यालय      Regional Office  
मालीगाँव चारियाली      Maligaon Chariali  
गुवाहाटी : 781 012      Guwahati : 781 012

समांक :  
No. F. : 10-4/2001/KVS(GR)/ 15138-42

दिनांक :  
Dated : 20.03.2001

### TRANSFER ORDER

The transfer of the under mentioned teachers are hereby ordered with immediate effect in Public interest.

Sl.No.	Name of the employee with designation.	From KV	Transferred To KV
01.	Mr. P. Chetia, SUPW Teacher.	Chabua	Pasighat.
02.	Mr. D. Das, Drawing Teacher.	Chabua	Tengavalley.

*(D. K. BAINI)*  
ASSISTANT COMMISSIONER

### DISTRIBUTION TO :-

- ✓ Individual concerned.
2. The Principal, Kendriya Vidyalaya, Chabua alongwith copies of transfer orders in respect of above teachers with the direction to handover the copies to them and dated signature may please be obtained. They may immediately be relieved. Their date of relief should immediately be intimated to the undersigned.
3. The Principal, Kendriya Vidyalaya, Tengavalley
4. The Principal, Kendriya Vidyalaya, Pasighat.
5. The Dealing hand (K. Das) Kendriya Vidyalaya Sangathan, Regional office, Guwahati.

The date of joining of above teachers may be intimated to the undersigned

ASSISTANT COMMISSIONER

\*\*\*\*

*(Signature)*



Annexure - VII.

To

Date : 24.8.2001.

The Assistant Commissioner  
Kendrya Vidyalaya Sangathan,  
Regional Office,  
Maligaon Chariali,  
Guwahati - 12.

Sub : Transfer order No.F:- 10-4/2001/ KVS(GR)/  
15138-42 dated 20.8.2001.

Sir,

With due regards I beg to state that I am shocked and surprised to have been served with the aforesaid a transfer order which is not a rutin one.

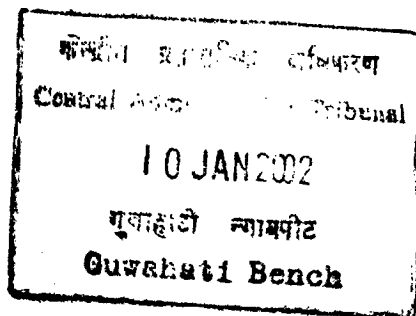
There is a reasonable apprehension in my mind that the aforesaid a transfer order is a punitive measure initiated against me on the basis of some false complaints lodged by Shri P.N. Singh, T.G.T. (Maths) to serve his own interest.

As such I prayed at the aforesaid order of transfer be immediately cancelled as it is not possible on my part to leave for Pasighat as there is none to take care in my family of my minor sister who is a cardiac patient as my elder brother who is serving in N.F. Railway as Chief Ticket Inspector has to be out of station most of the time in connection with his official duty.

Your's faithfully,  
Sd/- Putul Chetia  
(Putul Chetia)  
S.U.P.W. Teacher,  
K.V., A.F.S., Chabua,  
Assam. Pin : 786102.

~~Handwritten signature~~

*Handwritten signature*



-26-

42

Filed by :-  
Assistant Commissioner  
Kendriya Vidyalaya Sangathan  
through :-  
Bargachar  
Officer Advocate  
10/1/2002

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI  
AT GUWAHATI

Original Application No. 344/2001.

Sri Putul Chetia

..... Applicant

-VERSUS-

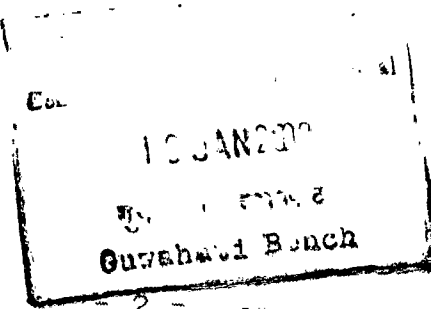
Union of India and ors

..... Respondents.

The Respondent No. 2, 3 and 4 above  
named beg to file their Written  
Statement as follows :

1. That all the averments made in the Original Appli-  
cation (hereinafter referred to in short as the application)  
are denied by the answering respondents save and except what  
has been specifically admitted herein and what appears from  
the records of the case.

2. That with regard to the statements made in para-  
graph 1 of the application the answering respondents begs to  
submit as follows. The impugned common transfer Order No.10-  
4/2001/KVS(GR)/5/38-42 dated 20.8.2001 was served upon the  
applicant as per clause 3 of the transfer guidelines that  
provide for transfer of teachers in terms of all India  
transfer liability at any time depending upon the adminis-



trative exigencies/administrative grounds. Based on the adverse enquiry report submitted by the enquiry officer, who was appointed by the competent authority to enquire into the alleged acts of misconduct indulged in by the applicant <sup>and one of his colleagues, the applicant</sup> was transferred on administrative ground in order to maintain a conducive atmosphere for teaching and learning process at KV AFS Chabua. Therefore, the transfer order of the applicant is very much in accordance with the law and not mala-fide as alleged by him.

A copy of the transfer guidelines is annexed herewith and marked as Annexure:- 1.

3. That with regard to the statement made in paragraphs 2, 3 & 4, the answering respondents has no comment.

4. That with regard to the statements made in paragraph 4.ii of the application the answering respondents begs to submit that as per the complaint received from Sri P.N. Singh, TGT (Maths) teacher on 17.3.2001 by the Principal, KV AFS Chabua the applicant was serve the memorandum dated 19.03.2001 asking for his explanation about the alleged act of misconduct indulged in by him on 17.3.2001. Opportunity as provided under the law has been offered to him as per Article 14 of the Constitution of India and laws framed thereunder.

28-44

- 3 -

A copy of the complaint dated 17.3.2001 is annexed herewith and marked as Annexure :- 2.

5. That with regard to the statements made in paragraph 4.iii of the application the answering respondents begs to submit as follows. The applicant was not given any duty related to the examination in room No.3 on 17.03.2001, but still he entered the said room that day and when one of the invigilators Mr. P.N. Singh, present there objected to his entry, the applicant then instigated Sri D. Das, Drawing teacher to beat the respondent No.5 i.e Sri P.N. Singh in the staff room on the same day. In any case these incidents has got no nexus with the present case.

6. That with regard to the statements made in paragraph 4.iv of the application the answering respondents begs to submit that the preliminary fact finding enquiry was conducted as per the directive of the competent authority on 21.4.2001 and the applicant was directed to appear before the Enquiry Officer. The Assistant Commissioner, KV Guwahati Region vide office Order No. 13-2/2001-KVS(GR)/11090-91 dated 4.4.2001 ordered the conduct of a preliminary enquiry.

A copy of the office Order No. 13-2/2001-KVS(GR)/11090-91 dated 4.4.2001 is annexed as Annexure:- 3.

7. That with regard to the statements made in paragraph 4.v of the application the answering respondents has

no comments.

8. That with regard to the statements made in paragraph 4.vi of the application the answering respondents begs to submit as follows. the enquiry officer in his report dated 23.04.2001 submitted to the competent authority, i.e., the Assistant Commissioner, RO, Guwahati, observed that the applicant ~~blew~~ the situation out of proportion and also provoked Sri D. Das, drawing teacher to beat Sri P.N. Singh on his head. The enquiry officer also suggested the immediate transfer of the applicant from K.V A F.S Chabua. Accordingly, the transfer order was served upon the applicant by the Assistant Commissioner, KVS, RO, Guwahati in public interest. If public interest has to be served the applicant's movement becomes necessary. The respondent organisation i.e., KVS, RO, Guwahati has acted well within its rights to transfer an employee in public interest on administrative ground. The matter was discussed at various level to find out its solution and finally the concerned authority without going for any major punishment decided to place them in a other school for their improvement. This measure has been taken as a very special case taking into consideration the plight of the applicant.

9. That with regard to the statements made in para-

graph 4.vii of the application the answering respondents begs to submit that no representation from the applicant was received by the respondent No.3. As already submitted in paragraph 2 of this Written statement, the applicant was transferred as per clause 3 of the KVS transfer guidelines. Hence the allegation of the applicant that the transfer order has been issued in a malafide manner is baseless and incorrect.

10. That with regard to the statements made in paragraph 4.viii of the application the answering respondents begs to submit as follows. It is not correct to state that the respondent 5 prevailed upon respondent 3 to issue transfer order dated 20.08.2001 to the applicant. As per the account of respondent 5, he left Chabua fearing for his life. It is true that the respondent No. 5 has not been reporting for duty at KV AFS, Chabua since 24.3.2001 without prior permission from the authorities.

11. That with regard to the statements made in paragraph 4.ix of the application the answering respondents begs to repeat what has been submitted in the preceding paragraph that the respondent 5 did not prevail upon respondent 3 to serve the transfer order on the applicant.

The answering respondents further begs to submit that the applicant was served with the transfer order dated 20.08.2001 on 24.08.2001 and he was relieved of his duties

-- from KV AFS Chabua on the forenoon of 27.08.2001 vide relieving order No. 17/KV/CHB/2001-02/359-361. The said relieving order was send to the applicant by speed post on 28.08.2001 as the Post Office at AFS Chabua was closed on 27.08.2001 due to Dibrugarh Bandh on that day.

It is further submitted that the policy of choice posting is applicable only to outsiders who have completed their tenure in the North Eastern Region, Sikkim, A & N Islands and listed hard stations taking into consideration the OM dated 14.12.83. This is very much clear from the definition of tenure provided in clause 2(viii) of the transfer guidelines. Therefore, as per rules the applicant is not entitled to a choice posting.

Copies of the relieving Order dated 27.08.2001 and Speed Post receipts are enclosed as Annexure:- 4

12. That with regard to the statements made in paragraph 5.i to 5.ii the answering respondents begs to repeat and reiterate what has been stated in the aforesaid paragraphs and state that the grounds are baseless and contrary to law.

13. That with regard to the statements made in paragraph 6.i of the application the answering respondents begs to reiterate what has been already submitted in paragraph 9

of this Written Statement that no representation from the applicant has been received by the respondent No.3 on 24.8.2001.

14. That with regard to the statements made in paragraph 7.i of the application the applicant is put to the strictest proof of the correctness of the statements made therein.

15. That with regard to the statements made in paragraph 8 of the application, the answering respondents beg to state that taking into consideration the statements and submissions made by the applicant as well as various transfer guidelines and also taking into consideration the statements made by the respondents in the preceding paragraphs the present Original Application deserve to be dismissed with costs.

16. That with regard to statements made in paragraph 9 of the application, the answering respondents begs to state that in view of the factual and legal aspects involved in the present case, the interim order passed by this Hon'ble Tribunal dated 29.8.2001 is required to be modified/vacated.



VERIFICATION

I, Shri Deo Kishan Saini, Son of Sri C. L. Saini, aged about 53 years, presently working as the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Guwahati Region, Maligaon Chariali, Guwahati-12, do hereby verify that the statement made in paragraphs 3, 7, 9, 10, 12, <sup>13 to 16</sup> are true to my knowledge and those made in paragraphs 2, 4 to 6, 8, 11 are based on records.

And I sign this verification on this the 10<sup>th</sup> day of January, 2002 at Guwahati.

Place : Guwahati

Deo Kishan Saini  
DEPONENT

Date : 10-1-2002

- 9 -

Ret. 10/1/2000/KLS  
(9K)/96/2/1  
A-2  
39-  
- 1.

## TRANSFER GUIDELINES

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

2. In these guidelines unless the context otherwise requires:

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

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

Unless the context otherwise indicates:

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

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

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

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

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

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

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

iii. Mutual transfers as provided in para 12.

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

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

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

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

**RATING OF PERFORMANCE**

**ENTITLEMENT POINTS**

Outstanding	10 for each year
Very Good	6 for each year
Good	4 for each year
Average	0 for each year
Unsatisfactory	(-10 for each year

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

S.No.	REASONS/GROUND	ENTITLEMENT POINTS
-------	----------------	--------------------

A. Blind and orthopaedically handicapped persons. The standards of physical handicap will be the same as prescribed by the Govt. of India for sanction of Conveyance allowance. 15

**B. SPOUSE CASES**

(i) Where spouse is a Sangathan employee 20

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

**Note for 'Spouse Cases' :**

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

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

OR

Teachers who have less than 2 years to retire.	20
--	----

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

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

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

Unless the context otherwise indicates:

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

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

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

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

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

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

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

iii. Mutual transfers as provided in para 12.

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

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

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

**RATING OF PERFORMANCE**

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Good	4 for each year
Average	0 for each year
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A. Blind and orthopaedically handicapped persons. The standards of physical handicap will be the same as prescribed by the Govt. of India for sanction of Conveyance allowance. 15

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(v)	Other spouse cases	10

**Note for 'Spouse Cases' :**

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

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

OR

Teachers who have less than 2 years to retire.	20
--	----

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

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



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

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

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

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

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

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

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

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

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

(7)

39-5  
ANNEXURE-1 Contd.

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

(iii)

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

(iv)

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

19.  
applic

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

20.  
pass  
tenure

18. Notwithstanding anything contained in these guidelines,

21  
decide

(a) a teacher or an employee is liable to be transferred to any Kendriya Vidyalaya or office of the Sangathan at any time on short notice on grounds mentioned in clause 5 and 6 (i) of these guidelines.

22.

(i)

(b) the Commissioner will be competent to make such departure from the guidelines as he may consider necessary with the prior approval of the Chairman;

(ii)

(c) the request of a teacher may be considered for transfer to a station in respect of which no other person has made a claim or request even if such teacher has not submitted the application in the prescribed proforma at the time of annual transfer or within the time limit prescribed for the purpose;

(d) Following cases will not be considered for transfer

(i) cases of Education Officers/Assistant Commissioners for transfer without completing three years' stay at the place to which they were posted upon promotion.

(ii) cases where a teacher, Education Officer, or Assistant Commissioner was transferred on grounds mentioned in paras 5(i), 6 and 7 of these guidelines will not be considered for transfer without completing 5 years' stay at the station to which they were so posted.

(7)

- (iii) Principals, Education Officers and Assistant Commissioners will not be transferred back (to the same station from where they were transferred earlier on completion of period as specified in para 4 above) unless a period of three years has elapsed.
- (iv) cases of fresh postings whether on direct recruitment or on promotion unless they complete three years of stay at the place of their posting except that, in case of women teachers, the request for posting to a place of choice can be considered after stay of one year. This will not, however, be applicable in cases covered by paras 5, 6, and 7(i) of these Guidelines.
- 19. These Guidelines shall mutatis mutandis apply to non-teaching staff to the extent applicable.
- 20. If any difficulty arises in giving effect to these guidelines, the Commissioner may pass such orders as appears to him to be necessary or expedient for the purpose of removing such difficulty.
- 21. If any question arises as to the interpretation of these guidelines, it shall be decided by the Commissioner.
- 22. The attention of all the employees is invited to Rule 55(27) of the Education Code and rule 20 of the CCS(Conduct) Rules which provide as under:
  - (i) As per Rule 55(17) of Education Code:

"No teacher shall represent his grievance, if any, except through proper channel, nor will he canvass any non-official or outside influence or support in respect of any matter pertaining to his service in the Vidyalaya."
  - (ii) As per Rule 20 of CCS(Conduct) Rules:

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

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

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

11/11/41  
(28)

The Principal,

R.V. Chakrav.

Alam. Mohd. Khan

Through R/Sir.

W

With due regard I want  
place before you the following facts for your  
kind consideration and favorable remarks  
sympathetic <sup>as well as humanitarian</sup> ~~governor~~

1. Sir J. P. N. Singh was doing investigation duty in Room no 3
2. At 9.25 AM. (17.3.2001) Mr. Chaitan Singh Teacher entered into room no 3. without due permission / prior information
3. I being a new person in the school couldn't recognise him and requested to go back from the class. As his intention was to help some one in exam, he became very angry. He threatened to see me often (I had even to withdraw my wife and child).
4. As I could not know the teacher to a student I started begging excuse for my act / as I had told him to leave the exam-hall.

Like anything.  
5. Even though for when I went into the staff room, he came with some of the Mr. D. Dan. some of the teachers and members gave me a big back (kicked me).

Received this copy  
By his hand on my head I just said that I am suffering from a head pain.  
On 17.3.01  
I want to request you to do what you can and provide me the doctor's bill.

CTC  
N. S. Khan

दूरभाष / Phone : 571797, 571798  
Fax : 571799



केन्द्रीय विद्यालय संगठन  
KENDRIYA VIDYALAYA SANGATHAN

क्षेत्रीय कार्यालय Regional Office  
मालीगौन चारियाली Maligaon Chariali  
गुवाहाटी : 781 012 Guwahati : 781 012

पत्रांक :  
No. F. : 13-2/2001-KVS(GR)/11090-91

दिनांक :  
Dated 4.4.2001

OFFICE ORDER

This office has received the following complaint/papers against the concerned employees of Kendriya Vidyalaya, Chabua regarding indiscipline caused by them.

With a view to finding the facts in-to the matter Shri G.S.C. Bose babu, Principal Kendriya Vidyalaya, Narangi is here by detailed to conduct the preliminary enquiry in this case and submit detailed report along with supporting evidences within 15 days.

To,

Shri G.S.C. Bose Babu,  
Principal,  
Kendriya Vidyalaya,  
Narangi.

( D. K. SAINI )  
ASSISTANT COMMISSIONER

Copy to :-

The Principal Kendriya Vidyalaya, Chabua  
for information and necessary action.

CTC  
N.M.  
Principal  
Kendriya Vidyalaya AFS Chabua  
Dist. Dibrugarh  
ASSAM-786109

4

27-03-2008

**RELIVING ORDER**

With reference to the letter no.10-4/2001/NVS(CN)/10130-42 dt.20-08-2001 Sri Putul Chetia, SUPN teacher of the Vidyapeeth -YA is hereby relieved of his duties in the forenoon of 27-08-2001 with instruction to report to the Principal, C/o Pasighat without fail.

He is entitled to transfer T.A. as per KVS rules.

To:  
Sgt. Paul Patton  
Sgt. Kershner  
Sgt. A. J. Charnin

(H. M. VARADHARAJULU)  
PRINCIPAL  
KV. AEC. CHANNA

Copy to me

1. The Principal, K. V. Pandharpur.
2. The Assistant Commissioner,  
KVS. Gunaoti Region.

PRINCIPAL

PRINCIPAL

[illegible]

SIGNATURE

CUSTOMER COPY

SPEED POST



No.

ED840282111IN

DATE

28/8/01

TIME

1300

HRS

WEIGHT

18

GMS

CHARGE

15

Rs.

SIGNATURE

CUSTOMER COPY



- 19 - 44 -

ANNEXURE

4

For enquiry, please contact your Speed Post Centre.

A-5

DEPARTMENT OF POSTS - INDIA  
SPEED POST RECEIPT

भारतीय डाक



INDIA POST

TO

Putal Chetia  
Kadaman  
Dibrugarh

41

TEL.

PIN

786001

SENDER

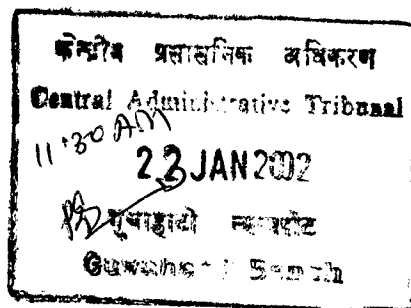
K. V.  
Chakra DP

TEL.

PIN

786102

For enquiry, please contact your Speed Post Centre.



Filed by the applicant  
Shri Putul Chetia  
Mr. Angli:  
Pallab Bhattacharya  
Advocate, 23.01.2002.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH:

AT GUWAHATI

ORIGINAL APPLICATION NO. 344/2001

Shri Putul Chetia ... Applicant

-Versus-

Union of India & Ors.. Respondents

-AND-

IN THE MATTER OF:

A rejoinder filed on behalf of the applicant against the written statement filed by the Respondents No. 2, 3 & 4.

1. That all averments and submissions made in the written statements (hereinafter referred to as counter ) is denied by the applicant save and except what has been specifically admitted herein and what appears from the records of the case.

2. That the applicant denies the correctness of the statements made in paragraph 1 of the counter and reiterates and reaffirms the statements made in paragraph 1 of the Original Application. The impugned transfer order dated 20.8.2001 is out and out a malafide

Contd...p/-

Putul Chetia



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[ 2 ]

order and the same has been passed at the behest of Shri P.N. Singh, Trained Graduate Teacher (Mathematics) (hereinafter referred to as T.G.T(Maths)). The applicant had been transferred on the basis of an enquiry report submitted by the Enquiry Officer who was appointed by the respondent No. 3 to enquire into the alleged acts of misconduct committed by the applicant. The said enquiry was ordered on the basis of the complain made by the respondent No. 5. Curiously enough, the said enquiry report has not been brought on record by the applicants. The respondent No.4 vide letter No.PF/KVCHB/2001-02/43 dated 18.4.2001 informed the respondent No. 3 about the alleged acts of misconduct by the applicant whereby the applicant has been stated to have threatened the respondent No. 5 inside the school campus. The respondent No.4 while forwarding the complain of the respondent No. 5 stated that not a single incident threatening the Security of staff member was ever heard and that the member of the staff co-exist peacefully at KV Chabua. On 17.3.2001 both the applicant and the respondent No. 5 has been stated to have made complains accusing each other. It has also been stated by respondent No. 4 in his letter dated 18.4.2001 that the respondent No. 5 left the Station without prior information neglecting his duty of evaluation and preparation of Annual Result

A copy of the aforesaid letter dated 18.4.2001 is annexed herewith and marked as Annexure - VIII.

Contd...p/-

Pritul Chetia

[ 3 ]

3. That as has been stated in paragraphs 4 of the counter on receipt of complain from respondent No. 5 on 17.3.2001 the applicant was served with Memorandum dated 19.3.2001 asking for his explanation for his alleged misconduct by the respondent No. 4. On receipt of which the applicant submitted his explanation on 21.3.2001 which has not been taken into consideration by the enquiry officer while submitting his report as has been stated in the preceeding <sup>paragraph</sup> in spite of such overwhelming evidence about the conduct of the applicant on 17.3.2001, it is not understood as to what prevailed upon the officer to submit an adverse report about the conduct of the applicant on 17.3.2001. The only inference that can be drawn in the facts and circumstances of the case is that the respondent No. 5 has prevailed upon the enquiry officer to submit an adverse report against the applicant ignoring the testimony of the respondent No. 4 and also upon the respondent No. 3 to post him at Kendriya Vidyalaya, Borjhor inspite of he being absent from duty from 24.3.2001 without obtaining any prior permission to leave his headquarter or without any kind of leave being sanctioned as has been intimated by the respondent No. 4 to respondent No.3 vide letter No.FRF/PNS/KVCHB/2001-02/10 dated 19.4.2001.

A copy of the aforesaid letter dated 19.4.2001 is annexed hereto as Annexure-IX.

Contd...p/-

Putul Chetia

[ 4 ]

4. That the applicant denies the correctness of the statement made in paragraph 5 of the counter and reiterates and reaffirms all the averments made in paragraph 4 (iii) of the Original Application. It appears from the averments made in paragraph 5 of the counter that the respondents are approbating and repro-bating at the same time. On the one hand they say that the applicant had been transferred on the basis of the enquiry report submitted by the Enquiry Officer who was appointed to enquire into the alleged misconduct committed by the applicant against the respondent No.5, while on the other hand they say that the entry of the applicant into room No. 3 of the examination centre on 17.3.2001 wherefrom the alleged altercation between the applicant and the respondent No. 5 had originated has got no nexus with the present case. And that the applicant was not given any duty related to examination in room No. 3 on 17.3.2001. It is crystal clear from Memorandum No. PE(PNS/KVCBH)/2000-2001/81B dated 19.3.2001 that the applicant had entered room No. 3 as reliever on 17.3.2001 and it is the respondent No. 5 who had shouted at the applicant and asked him to get out of examination hall in presence of the examinees and thus insulted him. The respondent No. 5 has also used unparliamentary language against the applicant and has *shouted at* him back in the verandah.

Contd...p/-

Putul Chetia

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[ 5 ]

A copy of the aforesaid Memorandum dated 19.3.2001 is annexed hereto as Annexure-X.

5. That the applicant denies the correctness of the statement made in paragraph B of the counter and reiterates and reaffirm all the averments made in para 4(vi) of the application. In this connection the applicant begs to state that it is quite apparent that the transfer order of the applicant is punitive in nature. It is perhaps needless to point out that no public interest would be served to transfer the applicant from KV Chabua on the basis of the false and frivolous complaint lodged by the respondent No. 5. On the other hand it would have a detrimental effect on the moral of the applicant who is a sincere and hard working teacher, the respondent no. 5 on the other hand has been a premium as because he has been transferred from KV Chabua to KV Borjhar even though he has not attended school from 24.3.2001 as it is apparent from Annexure IX to this rejoinder. It is surprising<sup>as</sup> to why no disciplinary action has been initiated against that Respondent No. 5 even though he had abstained from duty since 24.3.2001. It is therefore clear that the respondent No. 3 has gone out of his way to grant undue privilege to the respondent No. 5 which is detrimental to the interest of the applicant without any rational basis or intelligible differentia. Therefore from the facts and

Contd...p/-

Putal Chetia

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circumstances of the case it can safely be inferred that considerations other than just and bonafide had prevailed upon the Respondent No. 3 in issuing the impugned order of transfer and, as such, the same is malafide in nature and is therefore liable to be set aside and quashed.

6. That the applicant denies the correctness of the statements made in para 9 of the counter and reiterates and reaffirm all the averments made in para 4(vii) of the application. As has been explained above the impugned order of transfer is malafide in nature and therefore the action of the respondent No. 3 can not be allowed to be justified by invoking clause 3 of the transfer guide lines.

7. That the applicant denies the correctness of the statement made in para 10 of the counter and reiterates and reaffirm all averments made in para 4 (viii) of the application . It is not understood why no disciplinary action has been initiated against the respondent No.5 who as per his own admission of the answering respondent has unauthorisely absented himself from duty since 24.3.2001 in spite of the clear and unequivocal <sup>stand</sup> record of the respondent No. 4 that the life of the respondent No.5 has been never under threat at Chabua from any quarter. It is yet another instances of the malafide intent <sup>of</sup> the respondent No. 3 in issuing the impugned order of transfer.

Contd...p/-

Pudul Chetty

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[ 7 ]

8. That the applicant denies the correctness of the statement made in para 11 of the counter and reiterates and reaffirms all averments made in para 4(ix) of the application. In this connection the applicant begs to state that after being served with a copy of the transfer order dated 20.8.2001 on 24.8.2001 he had applied for leave. As such he was not aware of the alleged relieving order dated 27.8.2001 which had been received by him by Speed Post on 1.9.2001. As such the alleged relieving order dated 27.8.2001 was not within the knowledge of the applicant while filing this application on 29.8.2001 .

9. That the applicant denies the correctness of the statements made in paragraphs 12, 13, 14, and 15 of the application and reiterates and reaffirms all the averments made in paragraphs 5, 6, 7 and 8 of the application.

10. That under the facts and circumstances stated above it is respectfully submitted that it is quite apparent from what has been stated in the preceding paragraphs that the transfer order dated 20.8.2001 is out and out a mala fide order and has been issued by the Respondent No. 3 to served the interest of the Respondent No. 5 so as to get <sup>a lame</sup> ~~same~~ excuse in order to transfer him from KV Chabua to KV Porjhar which is definitely

Contd...p/-

Putul Chetia

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[ 8 ]

close to his native State of Bihar as well as to indicate the false and unsubstantiated allegation levelled by him against the applicant inspite of clear and overwhelming documentary evidence to the contrary. As such this Hon'ble Tribunal may please to set aside and quash the impugned order of transfer dated 20/8/2001.

Contd...

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#### VERIFICATION

I, Shri Putul Chetia Son of Late Girindra Nath Chetia, aged about 37 years, presently serving as S.D.P.W. Teacher at KV Chabua do hereby verified that the contents of paragraphs 1,2,3,4,5,6,7,8, and 9 are true to personal knowledge and that I am not suppressed any material facts.

Place: Guwahati

Date: 23.07.2002.

Putul Chetia  
Signature



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ANNEXURE - VIII

PF/KVCHB/2001-02/43

18.4.2001

To  
The Assistant Commissioner,  
Kendriya Vidyalaya Sangathan,  
Regional Office, Guwahati -12.

Sub: Forwarding of application i.r.o. Sri P.N. Singh  
TGT (PCM).

Sir,

Forwarding herewith application in duplicate received from Sri P.N. Singh TGT (PCM) of this Vidyalaya along with the following remarks for your kind information and necessary action.

(1) That Sri Singh joined this Vidyalaya on 12.3.2001 on transfer from K.V. Mokamaghat vide letter No. F.7-1(1)/2000-KVS (East-III) dt. 16.2.2001 on public interest.

(2) On the incident of 17.3.2001 the undersigned received letters of complain from Sri P.N. Singh TGT (PCM) and Sri P. Chetia SUPW teacher accusing each other. The undersigned issued separate memorandums to both of them to know the facts, Sri D. Das (Dr. Teacher) was also asked to explain about the alleged misconduct.

(3) The statement that Sri Singh became unconscious (as stated in para 4) is not a fact. He was simply making a hue and cry to disturb the peace of the place. He was invited by the undersigned to Principal Chamber and assured him to look into the complain personally and to do justice. But Sri Singh was too adamant to listen. On three occasions Sri Singh was given time to be heard in person but of no avail.

*Attested*  
*P. Bhattacharya*  
*Advocate*  
*23.07.02*

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(4) Finally he left the station without prior information neglecting his duty of evaluation and preparation of Annual result as a class teacher causing a lot of inconvenience to the Vidyalaya management. He even did not get any leave sanctioned before leaving. The same is being communicated to you vide letter No.PF/PNS/KVCHB/2001-2002 dtd. 9.4.2001 by regd post. The letters related to E.L. and station leaving permission attached with the complain are not submitted to me.

(5) Members of staff co-exist peacefully at this station the life of Sri Singh is insecure as stated by him is not a fact. Most of the staff members are staying outside Air Force Camp. and not a single incident threatening the security of staff member is over heard. The statement that on 20.3.2001 Sri Singh was threatened by two people of dire consequences was never brought to the notice of the undersigned. This seems to be a fabricated story to attract the attention of higher authorities.

(6) Sir on your visit to the Vidyalaya on 26.3.2001 the undersigned apprised you of the incident, also all the papers related to the incident was submitted to you for your kind information and necessary action.

Thanking you sir,

Encl:as above

Yours faithfully  
( S.K.CHOPDAR)PRINCIPAL,  
Kendriya Vidyalaya, AFS Chabua  
Dist.Dibrugarh, Assam-786102.

(56)  
XV

-12-

ANNEXURE - IX

FRF/PNS/KVC/2001-02/10

9.4.2001

To  
The Assistant Commissioner,  
Kendriya Vidyalaya Sangathan,  
Regional Office, Guwahati - 12  
Sub: Unauthorised absence of Sri P.N.Singh TGT(PCM).

Sir,

It is for your kind information that Sri P.N. Singh, TGT(PCM) of this Vidyalaya has not been reporting to duty since 24.3.2001 without getting any prior permission to leave the H.O. or sanction of any kind of leave. He being the class teacher and only TGT(PCM) in the Vidyalaya the Management faced a lot of inconvenience in preparing the Annual result.

Sri Singh joined this Vidyalaya on 12.3.2001 on transfer from K.V.Mokamaghat. The undersigned is unable to contact him officially as his service book has not yet been received nor he did leave any address for correspondence in this office.

This is for your necessary action please.

Thanking you sir,

Yours faithfully,

( S.K. CHOPDAR )

PRINCIPAL

Kendriya Vidyalaya AFS Chabua

Dist. Dibrugarh, Assam

Attested  
P. Bhattacharya  
Advocate  
23.01.02

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ANNEXURE -X

PF(PNS)/KVCHB/2000-2001/B1B

19.03.2001

MEMORANDUM

Shri P.N.Singh TGT(Maths) is hereby informed that the undersigned has received a written complain from Sri Putul Chetia SUPW teacher alleging.

1. That on entering room No.3 as the reliver on 17.3.2001 Sri Singh shouted at him asking him to get out of the exam hall in the presence of examinees thus insulted the teacher.

2. That Sri Singh followed Sri Chetia out of the hall and remarked "KUTTA, CHALLA, LOG KAHAN SE ATTA HAI"

He also blowed him at the back in the veranda.

3. That Sri Singh has stated in his letter to the undersigned dated 17.3.2001 that Mr Chetia had entered the hall with an intention to help some one kindly justify the allegation.

4. Sri Singh is therefore requested to explain the reasons for his alleged misconduct in writing 3 days from the date of receipt of this letter for further action at this end.

To,

(S.K. CHOPDAR)

Shri P.N.Singh TGT(Maths)

PRINCIPAL

Kendriya Vidyalaya AFS, Chabua.

*Attested  
P. Bhawan  
Adm. Secy  
23.04.02*