

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

FORM No. 4
(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.

ORDERS SHEET

Original APPLICATION NO. 354 / 2001

Applicant (s) A. P. Pokharial

Respondant(s) U.O.I Govt (N.Y.S)

Advocate for the Applicant: M. Chanda, Mr. N.D. Goswami, G.K. Chakraborty

Advocate for the Respondant: Case

Notes of the Registry	Date	Order of the Tribunal
<p>Applicant is in form. but not for time consideration Petition is filed vide M.P. No. 210/2001 for A.S. 57 deposited vide IPO/BO No 79 548946 Dated 30.8.2001 Dy. Registrar</p>	4.9.01	<p>Present : Mr. K.K.Sharma, Administrative Member.</p> <p>Mr. M.Chanda, learned counsel for the applicant, has moved M.P. 210/2001 in this O.A.. The applicant by order dated 21st February, 1997 was considered for permanent absorption by Navodaya Vidyalaya Samity. By another order dated 27.3.1998, the applicant was reverted to his parent department. The applicant moved civil application to Hon'ble High Court, which stayed the operation of the order dated 27.3.98. On 23.4.2001, thereafter the case was transferred to this tribunal by Hon'ble High Court for want of jurisdiction. This tribunal by order dated 5.8.01 in O.A. 232/99 directed the respondents to consider the case of the applicant for permanent absorption as per rules of NVS with a further direction that till the completion of the exercise the order dated 23.4.98 of the Hon'ble High Court in petition No.8/98 shall remain operative. Shri Chanda, with M.P. 210/01 has filed copies orders passed on 29.8.01 and 3.9.01, whereby applicant has been informed that as per rules he could not be absorbed in the NVS and he also been released on 3.9.01. Mr. Chanda has stated the orders passed on 29.8.01 and 3.9.01 are violative of the notifications dated 21.6.01 by which rules for permanent</p>

Notice prepared along with
Misc application No 210/01 and
Sent to DLS for consideration
dent No. 1 to 5 by Regd A.W.

Vide S.I.No 3442-3446
dttd. 10/9/07

Contd/-

4.9.01

absorption had been amended. The amended rule is as under :-

"Person working on deputation for at least 02 years on a post in the Samity may be considered for permanent absorption"

Mr. Chanda, argued the amended rule was already in existence when the order dated 29.8.01 and 3.9.01 were passed.

Issue notice to the respondents as to why the interim order as prayed for shall not be passed. In the meanwhile, the ~~same~~ operation of the orders dated 29.8.01 and 3.9.01 shall remain suspended till the next date.

List on 20/9/01 for admission.

Member

mb
20.9.01

Heard Mr. M. Chanda, learned counsel for the applicant and also Mr. S. Sarma, learned counsel for the respondents.

The application is admitted. Call for the records.

List on 10/10/01 for further order. In the meantime, interim order dated 4.9.01 shall continue.

Vice-Chairman

mb
10.01.01

List the case on 15.10.2001 for appropriate order.

Interim ~~order~~ order shall continue.

Member

Vice-Chairman

bb
15.10.01

List on 27.11.01 for Orders. Interim order shall continue.

Member

lm

No. Reply has been
likened.

20/9/01

Order dtd 28/9/01
Communicated to the Parties
Council

pl. comply

103

10/10/01

Order dtd 10/10/01
Communicated to the
Parties Council

11/10/01

Order dtd 15/10/01
Communicated to the
Parties Council

18/10/01

① Service report were
still awaited.

26/11/01

Notes of the Registry	Date	Order of the Tribunal
	27.11.01	Amended Consolidated Application has been filed. The respondents are accordingly allowed 4 weeks time to file written statement. List on 3.1.2002 for order.
No written statement has been filed. <i>mb</i> <i>2.1.02</i>	<i>mb</i> 3.1.02 3.1.02	<i>IC Usha</i> Member <i>Vice-Chairman</i> Written statement yet to file Respondents are yet to file written statement. Sri S.Sarma, learned counsel for respondents again prayed for time to file written statement. Prayer is allowed. List on 1.2.2002 for order. In the meantime, interim order dated 4.9.2001 shall continue until further order.
Order dtd 31/02 Communicated to the parties counsel. <i>mb</i>		<i>IC Usha</i> Member <i>Vice-Chairman</i> Despite time granted respondents ^{had} did not file the written statement. Respondents are directed to file written statement if any, positively within four weeks from today. List on 4.3.2002 for order. In the meantime, interim order dated 4.9.2001 shall continue.
Notice returned in BLO Respondent No. 4 due to incomplete address. <i>mb</i> <i>22/1</i>	<i>mb</i> 1.2.02	<i>IC Usha</i> Member <i>Vice-Chairman</i> No written statement so far is filed. Mr. S.Sarma, learned counsel for the Respondents again prayed for time to file written statement. The matter requires disposal. Accordingly, the case be listed for hearing on 27.3.2002. The Respondent
No written statement has been filed. <i>mb</i> <i>31.1.02</i>	<i>mb</i> 4.3.02	<i>IC Usha</i> Member <i>Vice-Chairman</i> <i>4.3.02</i>
Order dtd 1/2/02 Communicated to the parties counsel. <i>mb</i> <i>5/2/02</i>		

Notes of the Registry

Date

Order of the Tribunal

4.3.02

No written statement so far is filed. Mr. S.Sarma, learned counsel for the Respondents again prayed for time to file written statement. The matter ^{Case} requires disposal. Accordingly, the case be listed for hearing on 27.3.2001. The Respondents may file written statement if any, within ten days from today. The applicant may file rejoinder, if any, ^{thereafter} in the meantime.

List on 27.3.2002 for hearing.

[Signature]
Member

[Signature]
Vice-Chairman

mb

27.3.02

Heard counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets.

The application is allowed in terms of the order. No order as to costs.

[Signature]
Member

[Signature]
Vice-Chairman

pg

5.3.2002
W/C submitted by the Respondent Nos 2, 3 and 4.

No rejoinder has been filed.

26.3.02

26.3.2002

Rejoinder submitted by the applicant in reply to W/C.

16/4/02
Copy of AS [unclear] has been sent to the Office for [unclear] 115 [unclear] as well as to NS/PP/19 [unclear] in the Records. [unclear]

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 354 of 2001.

Date of Decision 27.3.2002....

Sri Anusuya Prasad Pokhariyal

Petitioner(S)

Sri M. Chanda.

Advocate for the
Petitioner(s)

Versus-

Union of India & Others.

Respondent(s)

Sri S. Sarma & Sri B.C. Das.

Advocate for the
Respondent(s)

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

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

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 : Vice-Chairman.

X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.354 of 2001.

Date of Order : This the 27th Day of March, 2001.

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

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

Sri Anusuya Prasad Pokhariyal,
Son of Late Rudri Dutta,
Principal,
Jawahar Navodaya Vidyalaya,
Thenzawal, Dist. Aizawl.

...Applicant

By Advocate Sri M.Chanda.

- Versus -

1. The Union of India,
represented by the Secretary to the
Government of India,
Ministry of Human Resources Development,
Department of Education,
New Delhi.
2. The Director,
Navodaya Vidyalaya Samiti,
A-39, Kailash Colony,
New Delhi-110048.
3. The Deputy Director,
Navodaya Vidyalaya Samiti,
North Eastern Regional Office,
Nongrim Hills,
Shillong-3.
4. The Deputy Director (Personnel),
Navodaya Vidyalaya Samiti,
New Delhi.
5. The Director of Education,
Government of the National Capital
Territory of Delhi, Old Secretariat,
New Delhi.

...Respondents

By Advocate Sri S.Sarma, B.C.Das.

O R D E R

CHOWDHURY J.(V.C)

The legitimacy of the action of the
respondents in rejecting the prayer of the applicant for

contd..2

absorption in Navodaya Vidyalaya is the subject matter for adjudication of this proceeding.

2. It is the second round of litigation. The applicant earlier preferred a Writ Petition under Article 226 of the Constitution before the Gauhati High Court assailing the action of the respondents in repatriating him to his parent department instead of absorbing there. The High Court issued rule in Civil Rule No.8/98 suspending the order of repatriation dated 27.3.98. The said application was eventually and the Tribunal transferred to this Tribunal/after consideration of the rival claims. Directed the respondents to consider the case of the applicant for permanent absorption in the post of Principal in conformity with the law by its order dated 5.6.2001 in O.A.238/99. By the impugned order dated 20.2.2001 the prayer made by the applicant for his absorption in the department was turned down for want of vacancy. Consequently office orders dated 29.8.2001 and 3.9.2001 were passed relieving the applicant from 3.9.2001. Hence this application assailing the legitimacy of the order.

3. As per pleadings the applicant was appointed as Principal in Navodaya Vidyalaya on deputation basis by the respondent No.2 by its communication dated 28.4.95. The applicant was selected for appointment to the post of Principal, Navodaya Vidyalaya on transfer on deputation basis. The appointment was initially made for one year and

eventually the term of appointment was extended vide order dated 16.5.96. While the applicant was serving as a Principal, Jawahar Navodaya Vidyalaya, Kakching the applicant was advised vide memo No.f-33/95/NVS(SHR)/8030 dated 21.2.97 alongwith three others to furnish his consent whether he was willing or not for permanent absorption in the Navodaya Vidyalaya latest by 5.3.97 so as to enable his office for consideration. According to the applicant he responded to the said communication and submitted his willingness for his permanent absorption as Principal in one of the Navodaya Vidyalaya. While he was serving as such at Kakching he was served with the order dated 27.3.98 repatriating him to the parent department with effect from 30.4.98. As eluded earlier the legality and validity of the order was assailed first before the High Court in Civil Rule No.8/98 which was subsequently transferred to this Tribunal. This Tribunal after hearing the parties remanded the matter to the department to consider the case of the applicant for permanent absorption in the post of Principal in conformity with the Navodaya Vidyalaya Samiti rules. at the earliest opportunity. In terms of the order of the Tribunal the applicant submitted his representation for his permanent absorption in Navodaya Vidyalaya sympathetically. The Deputy Director, Personnel by the impugned order communicated the decision of the

Director which is re-produced below :

"This is in compliance to Hon'ble Central Administrative Tribunal, Guwahati Bench Order dated 5th June 2001 in O.A. No.238 filed by Shri Anusuya Prasad Pokriyal, S/o Late Rudridutta, Principal, JNV, Thenzawl, Distt. Aizawl, Mizoram, to consider his case as per rules for absorption and appeal dated July 11, 2001 submitted by Shri Ansuya Prasad to the Director, NVS, for permanent absorption as Principal.

In this connection, I am directed to inform that the representation of Shri Ansuya Prasad dated 11.7.2001 has been carefully examined by the Director, NVS in the light of Hon'ble CAT orders and came to the conclusion that as per the available to absorb Shri Ansuya Prasad in the Navodaya Vidyalaya Samiti as the present vacant posts are either under Reserve Quota or Prootion Quota as per the present Recruitment Rules or Navodaya Vidyalaya Samiti.

This disposes of the representation dated July 11, 2001 finally."

Consequently the respondents passed order for release of the applicant. Assailing the legitimacy of the action of the respondents Mr M.Chanda, learned counsel for the applicant stated and contended that the respondents authority mechanically rejected his claim for absorption without application of mind. The learned counsel submitted that recruitment rules envisaged absorption. The applicant also fulfilled the eligibility criteria. He had served under the respondents for about seven years. There was no discernible reason for not absorbing the applicant. The learned counsel submitted that the

purported reason for non availability of vacancy was irrelevant as well as perverse. The applicant was already holding the post of Principal on deputation. He was to be absorbed in the post. In case of absorption there was no question of vacancy as was mentioned by the respondents. The learned counsel further submitted that even the statement cited in the impugned order about want of vacancy was based as a deliberate falsehood so much so the same authority made advertisement in the Employment News 13-19 October 2001 inviting applications for the post of Principal to be filled on deputation basis in the Jawahar Navodaya Vidyalaya mentioning the existence of 40 vacancies and in the same advertisement it was also mentioned about the likelihood of permanent absorption in NVS as per the rules. The learned counsel submitted that the respondents acted malafide and in a most arbitrary fashion in rejecting the claim for absorption of the applicant. Mr S.Sarma, learned counsel appearing for the respondents opposing the application submitted that absorption is not a matter of right. The case of the applicant for absorption was considered and since there was no vacancy available against direct recruitment the applicant could not be absorbed. The order of Deputy Director clearly indicated according to Mr Sarma that his case was carefully examined by the Director and in view of the non availability of the vacancy he could not be absorbed.

4. We have given out anxious consideration on the matter. As per clause 2(iii) of the revised Recruitment Rules of Navodaya Vidyalaya Samiti persons working on deputation for atleast 02 years on a post in the Samiti may be considered for permanent absorption. A power is conferred on the authority to consider the case of those deputationist who served for atleast 2 years on a post in the Samiti. Mr Sarma, the learned counsel for the respondents submitted that the recruitment rule only conferred discretion on the authority to consider the case and that discretion was exercised but the applicant could not be accommodated for want of vacancy. The learned counsel submitted that since it was a discretionary nature the said discretion was exercised in one way or the other. In our Constitutional set up discretion is not unfettered. The exercise of discretion is to be in conformity with the rules not with humour. A discretion conferred by the statue to consider the permanent absorption of a person who is/was holding the post on deputation. An application for absorption is needed to be considered on its individual merit as per law. The respondents authority in the instant case took into consideration extraneous consideration overlooking the relevant consideration. The applicant was holding a post on which he was appointed on deputation basis.


Therefore, vacancy was already there for absorption. That


apart the respondents authority advertised showing 40 vacancies for appointment on deputation basis by the Employment News dated 13-19 October, 2001. In rejecting the prayer for absorption of the applicant the Director took extraneous consideration overlooking the relevant consideration. The available materials clearly indicated that there was vacancy and applicant's case was required to be considered. As alluded earlier the applicant was serving in the department since 1995. The materials on record also did not indicate that for any other reason whatsoever the applicant was not required to be absorbed. The appointment order itself indicated that the applicant was paid the scale of pay. The applicant was for all practical purposes worked like a regular employee. The applicant was admittedly holding a higher post than his parent department and naturally he was drawing a higher scale of pay without any deputation allowance. The discretion conferred on the Director, NVS in respect of absorption of a deputationist is not arbitrary and unfettered. The discretionary power is also coupled with the duty to act justly, fairly and reasonably in conformity with the legal policy laid down in Article 14 of the Constitution. The reasons assigned by him in rejecting the prayer for absorption of the applicant showed that he had acted ultravires by taking into account the factors those were obviously irrelevant and

extraneous and by using his power in a way calculated to frustrate the policy of absorption. In the set of circumstances the impugned order dated 20.8.2001 is arbitrary and illegal and accordingly the same is set aside and quashed. The impugned order dated 29.8.2001 repatriating the applicant to his parent department as well as the impugned order No.11-43/2K-NVS(SHR)/Admn/1517 dated 3.9.2001 relieving the applicant on 3.9.2001 are also accordingly set aside and quashed. The respondents are directed to pass appropriate orders according to law and pay the salary and allowances which is said to be not paid to him since 1.8.2001 forthwith as per law. Till completion of the above exercise for absorption by the respondents the applicant shall hold the post of Principal, NVS as he was holding on the basis of the order dated 23.4.1998 passed by the Hon'ble Gauhati High Court in Civil Rule No.14 of 1998. The respondents are ordered to pass the necessary order on absorption of the applicant on and from appropriate date in accordance with law.

5. In reaching the above conclusion we took aid of the decision rendered by the Supreme Court in Rameshwar Prasad vs. Managing Director, U.P.Rajkiya Nirman Nigam Limited and others, reported in (1999) 8 SCC 381.

The application is accordingly allowed. There shall, however, be no order as to costs.


(K.K.SHARMA)
ADMINISTRATIVE MEMBER


(D.N.CHOWDHURY)
VICE CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

(CONSOLIDATED APPLICATION)

Title of the case : O.A. No. 354 of 2001

Sri Anusuya Prasad Pokhriyal : Applicant

-versus-

Union of India & Others: Respondents.

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F

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by

Date

Advocate

il

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by

Filed by me app lken
 signed N. D. Beegun
 Advocate
 27/11/2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

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

O.A. No. 354 of 2001

BETWEEN

Prasad
Sri Anusuya Pokhariyal
Son of Late Rudri Dutta

Principal

Jawahar Navodaya Vidyalaya,

Thenzawal,

District-Aizawl

(Temporarily attached in Navodaya Vidyalaya
Samiti, Regional Office, Shillong).

.....Applicant

-AND-

1. The Union of India,
(Represented by the Secretary to the
Government of India,
Ministry of Human Resources Development,
Department of Education,
Government of India, New Delhi).
New Delhi.
2. The Director,
Navodaya Vidyalaya Samiti
A-39, Kailash Colony
New Delhi-110048
3. The Deputy Director,
Navodaya Vidyalaya Samiti
North Eastern Regional Office,
North Eastern Region Office,

Anusuya Prasad Pokhariyal

Nongrim Hills,

Shillong-3.

4. The Deputy Director (Personnel),

Navodaya Vidyalaya Samiti

New Delhi.

.....Respondents

5. The Director of Education

Government of the National Capital

Territory of Delhi, Old Secretariat,

New Delhi.

.....Proforma Respondent.

DETAILS OF THE APPLICATION

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

This application is made against the impugned letter No. AD-19/95-NVS(Pers) dated 20.8.2001 issued by the Respondent No.4 denying the permanent absorption of the applicant in the post of Principal and also praying for a direction upon the Respondents to absorb the applicant in the post of Principal on permanent basis in accordance with the judgment and order passed by the Hon'ble Tribunal on 05.06.2001 in O.A. No. 238/99.

2. Jurisdiction of the Tribunal.

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

3. Limitation.

The applicant further declares that this application is filed within the limitation prescribed under section 21 of the Administrative Tribunals Act, 1985.

Ananya Prasad Potkharigal

4. Facts of the case.

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

4.2 That the applicant was originally working as a Post Graduate Teacher of Geography (later re designated as Lecturer) under the Education Department of the Government of National Capital Territory of Delhi and was posted in the Government Boys' Senior Secondary School, Netaji Nagar, New Delhi.

4.3 That while working in the aforesaid post in Government Boys' Senior Secondary School, Netaji Nagar, New Delhi, the applicant was appointed as Principal, Navodaya Vidyalaya on deputation basis by the Respondent No.2 vide his letter dated 28.4.1995 after observing all formalities and was posted as Principal, Navodaya Vidyalaya, Tuirom, Churachandpur District, Manipur.

Copy of the order dated 28.4.1995 is annexed hereto and marked as **Annexure-I**.

4.4 That the aforesaid appointment of the applicant as Principal on deputation basis was initially made for a period of 1 (one) year. Eventually, the terms of deputation was extended up to 22.6.1997 vide order dated 19.7.1996.

Copy of the order of extension dated 19.7.1996 is annexed hereto and marked as **Annexure-II**.

4.5 That while working as Principal as stated above in the nd2 term of deputation, the Respondent No.3 issued a most urgent communication dated 21.2.1997 asking the applicant along with four other Principals working in different Navodaya Vidyalaya to submit their willingness or otherwise for permanent absorption as Principal in Navodaya Vidyalaya latest by 5.3.1997 for consideration of the NVS Headquarters.

Copy of communication dated 21.2.1997 is annexed hereto and marked as **Annexure-III**.

Ananya Prasad Pokharoyal

4.6

That in response to the aforesaid communication dated 21.2.1997, the applicant submitted his willingness/Consent on 1.3.1997 for his permanent absorption as Principal in one of the Navodaya Vidyalayas. Meanwhile, by an order dated 19.11/1996, the applicant was directed by the Respondent No.3 to take over the additional charge of the Principal of Jawahar Navodaya Vidyalaya, Khumbong in the State of Manipur due to temporary absence of the Principal who proceeded on leave and was further directed to guide Dr. B.K. Pandey, the acting Principal of the said Vidyalaya and was conferred with all the powers of Principal in respect of the said Vidyalaya for restoring the normal functioning of the said Vidyalaya which was in shambles then.

Copy of the order dated 19.11.1996 is annexed hereto and marked as Annexure-IV.

4.7

That eventually the applicant was transferred and posted as Principal of Navodaya Vidyalaya, Kakching, while working there, he was again attached as Principal of Navodaya Vidyalaya at, Thenzawal in Aizawl district of Mizoram on temporary basis vide order dated 26.2.1998 in order to improve the working of the said vidyalaya which was in a very bad shape and on the verge of closure as per the inspection report of Sri Mohan Das Moses, Education Consultant in the Ministry of Human Resources Development, Government of India. Copy of the order dated 26.2.1998 is annexed hereto and marked as Annexure-V.

4.8

That it was a matter of great pride and privilege for the applicant in having such special assignments time and again, shouldering additional responsibilities for the larger interest of the Organisation which is a clear indication of not only his ability but also the trust and confidence which the Respondents had on him.

Anusuya Prasad Potchariyal

4.9

That the applicant begs to state that while he was thus discharging the onerous task of rebuilding and improving the working conditions of the Navodaya Vidyalaya, Thenzawl and was hoping to be absorbed by the Respondents in their organization as a reward for his devotion and dedication to duty, to his utter surprise and dismay, the Respondent No.2 issued an order dated 27.3.1998 whereby the applicant was repatriate to his parent department with effect from 30.4.1998 on administrative grounds.

Copy of the order dated 27.3.1998 is annexed hereto and marked as Annexure-VI.

4.10

That your applicant begs to submit that while the Respondents had been entrusting all responsible functions and powers on the applicant reposing their full faith and confidence on him and treating him as the most efficient Principal, such a sudden decision of repatriation of the applicant by the Respondents is quite arbitrary, whimsical, mala fide, unjust, unfair and illmotivated. The ground of repatriation shown by the Respondents as "Administrative Grounds" is vague one and bears adequate testimony of a hidden conspiracy and the vice of mala fideness is writ large on the face of the impugned order.

4.11

That being aggrieved by the aforesaid impugned order dated 27.3.1998, the applicant filed a writ petition before the Hon'ble High Court of Guwahati at Aizawl Bench in Writ Petition No.8 of 1998 (Civil Rule No. 14/98) stayed the operation of the order dated 27.3.1998.

Copy of the order dated 23.4.1998 is annexed hereto and marked as Annexure-VII.

Ansuya Pousad Pokharigal

4.12

That eventually case of the applicant having been transferred to the Hon'ble Central Administrative Tribunal, the applicant approached this Hon'ble Tribunal after examining the case thoroughly, passed its judgment and order under dated 5.6.2001 in O.A. No. 238 of 1999 directing the Respondents to consider the case of the applicant for permanent absorption in the post of Principal in conformity with the Navodaya Vidyalaya Samiti Recruitment Rules and the existing norms adhered to by the NVS.

Copy of the judgement and order dated 5.6.2001 is annexed hereto as Annexure-VIII.

4.13

That following the judgement and order dated 5.6.2001 of this Hon'ble tribunal, the applicant submitted his application dated 11.7.01 to the Respondent No.2, enclosing therewith the copies of the order of the Hon'ble High Court dated 23.4.1998 and the order dated 5.6.01 of the Hon'ble CAT and praying for his absorption in terms of the direction of the Hon'ble CAT. Copy of the application dated 11.7.01 is annexed hereto and marked as Annexure-IX.

4.14

That eventually the Respondent No.4 issued the impugned letter No. AD-10/95-NVS(Pers) dated 20.8.2001 informing the applicant that there is no vacancy available for his absorption in the Navodaya Vidyalaya Samiti as the present vacant posts are either under Reserve Quota or promotion quota as per the present recruitment rules of Navodaya Vidyalaya Samiti and rejected his application dated 11.7.2001. Copy of impugned letter dated 20.8.2001 is annexed hereto and marked as Annexure-X.

4.15

That your applicant begs to submit that the Respondent No.4 issued the aforesaid letter dated 20.8.2001 without any application of mind and exhibited his most casual and

Ananya Prasad Pokhriyal

disregarding attitude towards the orders of the Hon'ble Tribunal showing some vague reasons for non-absorption of the applicant which are not sustainable in the eye of law. It is quite apparent from the said impugned letter dated 20.8.2001 that the Respondents simply attempted to avoid the compliance of the orders of the Hon'ble Tribunal and denied to absorb the applicant on some irrational and unacceptable grounds, which tantamount to contempt of court.

It is almost an absurd proposition that in an organisation all the vacant posts are either under Reserved quota or promotion quota. It is pertinent to mention here that the consent/willingness for permanent absorption in the post of Principal was obtained from the applicant along with four others in March 1997 only which clearly indicates the availability of posts and since none of those 5 applicants was absorbed, thereafter, as such those posts must have been lying vacant till now. The contention of the Respondents that there is no vacant post is therefore mala fide, ill motivated and a colourable exercise of power. The Hon'ble Tribunal may be pleased to direct the respondents to produce the All India vacancy position with category wise break up as no date in respect of the NVS in order to substantiate this contention/statement made in their impugned letter dated 20.8.2001 before the Hon'ble Tribunal

4.16

That as per the latest Recruitment rules of the NVS, the absorption are regulated as per the principle which reads as follows :

"Persons working on deputation for at least 02 years on a post in the Samity may be considered for permanent absorption:"

The above principle is evident from the Notification No. 11/95-NVS (Admn) dated 21.06.2001 issued by the Director, NVS. In the instant case, the applicant has served for more than 6 years by now as Principal on deputation basis and as such he

Ananya Prasad Potkarni

is entitled for being absorbed in the said post on permanent basis.

Copy of Notification dated 21.6.2001 is annexed hereto and marked as Annexure-XI.

4.17

That your applicant begs to submit that non consideration of his permanent absorption in the post of Principal, NVS by the Respondents, is a gross injustice to his committed and dedicate service for years together which is not only in consistent with the Recruitment Rules of the NVS but against all principles of natural justice, particularly in view of the fact that all those who came to the Respondent Organisation as Principals on deputation basis prior to 1994 have already been absorbed as Principal. Thus the Respondents violated the provisions under Article 14 and 16 of the Constitution of India and it is a fit case for the Hon'ble Tribunal to interfere with and to protect the valuable rights of the applicant.

4.18

That it is further stated that some Principals have been recruited directly under General Category from 1995 onwards and consent/willingness of the applicant also for such absorption was obtained by the Respondent since March, 1997 which eventually was not done on some flimsy and untenable grounds as stated in the impugned letter dated 20.8.2001.

4.19

That your applicant further begs to state that as understood from reliable sources, the Respondents, after issuing their impugned letter dated 20.8.2001, have been possessing for repatriation of the applicant as per their earlier conspired design and it is apprehended that the order of repatriation may be issued at any time and the applicant may be released, thus causing irreparable loss to the applicant.

4.20

That your applicant being highly aggrieved by the impugned order dated 20.8.2001 passed by the Director Navodaya vidyalaya Samiti, New Delhi, disposing the representation of the applicant inter alia stated that there is no scope for consideration of the case of the applicant for absorption in the Navodaya Vidyalaya Samiti to the post of Principal in total disregard to the direction contained in the judgment and order dated 5.6.2001 passed by the Hon'ble tribunal in O.A. No. 238 of 1999, and also in violation of revised recruitment rule issued under Notification dated 21.6.2001. Annexure-I to the O.A., again approached this Hon'ble Tribunal through O.A. No. 354 of 2001. The said O.A. 354 of 2001 is now pending consideration before this Hon'ble Tribunal. The matter has been fixed for consideration of admission on 4.9.2001. It is stated that the said O.A. has been filed on 3.9.2001. Most surprisingly the respondents particularly the Deputy Director, Navodaya Vidyalaya Samiti, Regional Office, Shillong issued the order of repatriation along with the order, relieving the applicant from his duty on 3.9.2001 at 05.00 P.M. without providing any opportunity to the applicant for representing his case. The impugned order of repatriation issued under letter No. F. No. I43/2K-NVS(SHR)/Admn/1517 dated 03.09.2001 and the said impugned order has been passed in pursuance of the Headquarter letter No. FAD0/95-NVS(Personnel) dated 29.8.2001. The entire episode seems to be a bid conspiracy against the applicant and the manner in which the impugned order has been issued on 3.9.2001 at 05.00 P.M. that too along with the relieving order smacks male fide and the said order is just contrary to the direction passed by this Hon'ble Tribunal in the judgment and order dated 5.6.2001 passed in O.A. No. 238 of 1999 and also contrary to their own "Notification" dated 21.6.2001 whereby revised recruitment rule is issued. Contention of Director's letter dated 20.8.2001 is false and misleading. Therefore finding no other

Aranya Prasad Patkoraigal

alternative the applicant approaching the Hon'ble Tribunal by way of filing this Misc. Petition to the O.A. No. 354/2001 and also the impugned order dated 29.8.2001 referred to above otherwise it will cause irreparable loss too the service prospect of the applicant and the Hon'ble Tribunal further be pleased to direct the respondents to allow the applicant to continue in his service in the same capacity till disposal of this application. If the said impugned order of repatriation dated 3.9.2001 is implemented the applicant will be deprived from the fruits of the judgment and order dated 5.6.2001 passed by the Hon'ble Tribunal in O.A. No. 238 of 1999.

A copy of the impugned order dated 3.9.2001 and 29.8.2001 are annexed hereto and marked as Annexure XII and XIII respectively.

4.21

That it is further stated that although the applicant submitted representation on 12.9.2001 and also 13.9.2001 indicating passing of the interim order by the Hon'ble Tribunal suspending impugned order dated 29.8.2001, 3.9.2001 and order dated 20.9.2001 and also requested the authorities to allow him to discharge his duties in compliance with the Hon'ble Tribunal's interim order. But surprisingly the applicant has been treated in a very bad manner and in fact he is not allowed to discharge his duties at the instance of the Deputy Director Sri B.S. Ranawat (In charge). Moreover, he has expressed his displeasure after going through the interim order of the Hon'ble Tribunal and expressed his helplessness to allow him to discharge his duties on the strength of the interim order passed by the Hon'ble Tribunal and surprisingly thereafter the applicant is not allowed to discharge any official works till filing of this amendment application.

It is also relevant to mention here that the respondents particularly Navadoya Vidyalaya Samiti stop the payne of

Ananya Prasad Pokharwal

salary to the applicant with effect from 1..8.2001 till date thereby it is abundantly clear that the stoppage of salary to the applicant amounts to deliberate violation of the Hon'ble Tribunal's order passed in M.P. No. 210/2001 in O.A. No. 354/2001. In this connection it is relevant to mention here that the respondents also stopped payment of pension contribution to the parent organisation of the applicant with effect from 1.2.1997, in spite of the fact that an interim order passed by the Hon'ble High Court which is still operating apart from the interim order passed by this Hon'ble Tribunal. As such a Suo moto contempt is liable to be initiated against Sri B.S. Ranawat, Deputy Director (In Charge), Shillong and further be pleased to direct the respondents to pay the salary of the applicant with effect from 1.8.2001 to the date of actual payment.

Copy of the representation dated 12.9.2000 and 13.9.2001 are enclosed as Annexure XIV and XV respectively.

4.20 That this application is made bonafide for the cause of justice.

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

5.1 For that the Recruitment Rules of the Navodaya Vidyalaya Samiti provides that persons working on deputation for at least 02 years on a post in the Samiti may be considered for permanent absorption.

5.2 For that the applicant has already served as Principal on deputation for more than 06 years by now in the Samiti and has therefore acquired a valuable legal right for permanent absorption.

- 5.3 For that the applicant discharged his functions and responsibilities up to the full satisfaction of the Respondents who even trusted him with special assignments on several occasions and in all those occasions the applicant came out successful even by risking his life.
- 5.4 For that the Respondents obtained the willingness/consent of the applicant in March '97 for permanent absorption as Principal in NVS in the existing vacant posts.
- 5.5 For that all those who came to serve as Principal on deputation in the Samiti prior to 1994 have already been absorbed on permanent basis and as such non-consideration of the case of the applicant for such absorption is a violation of Article 14 and 16 of the Constitution of India.
- 5.6 For that the Hon'ble High Court of Gauhati stayed the operation of the impugned order of repatriation dated 27.3.1998 by its order dated 23.4.1998 in W.P. No. 8 of 1998 and that this and this Hon'ble Tribunal and also did not find authentic administrative reason for repatriation of the applicant and directed the respondents by its order dated 05.06.2001 in O.A. No. 238 of 1999 for consideration of the case of the applicant for permanent absorption as per existing rules of the NVS.
- 5.7 For that the impugned order issued under letter dated 3.9.2001 and 29.8.2001 are contrary to judgment and order dated 5.6.2001 passed in O.A. No. 238/99, as such the same is liable to be set aside and quashed.
- 5.8 For that the non-payment of salary of the applicant in spite of the interim order passed by the Hon'ble High Court as well as Hon'ble Tribunal which is still in force amounts to violation of Tribunal's order.

Ananya Prasad Pokharne

6. Details of remedies exhausted.

That the applicant states that he has no other alternative and other efficacious remedy than to file this instant application before the Hon'ble Tribunal. The representation of the applicant and even the order dated 05.06.2001 of this Hon'ble Tribunal could not yield any result.

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

The applicant further declares that he had filed an application before the Hon'ble Tribunal which was registered as O.A. No. 238 of 1999 and the said O.A. was disposed of on 5.6.2001 with direction to the respondents to consider for permanent absorption of the applicant in the post of Principal as per the existing rules of NVS but the respondents have rejected the case of the applicant. The applicant declares that no such application is pending before any other authority or any other Bench of the Tribunal.

8. Reliefs sought for :

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

8.1 That the impugned letter dated 20.8.2001 of the respondents rejecting the claim of the applicant for permanent absorption be set aside and quashed.

8.2 That the Respondents be directed to absorb the applicant in the post of Principal in the Navodaya Vidyalaya Samiti on permanent basis. In terms of the Hon'ble Tribunal's order dated 05.06.2001 in O.A. No. 238 of 1999.

Ananya Prasad Pokhariyal

- 8.3 That the Respondents be directed to allow the applicant to continue in the post of Principal on deputation till the process of permanent absorption is completed.
- 8.4 That the impugned order No. F. No. 11-43/2-NVS(SHR)/ADMN/1517 dated....31.9.2007 and No. F. AD-10/95-NVS(PERS) dated 29.8.2001 be set aside and quashed.
- 8.5 That the respondents be directed to pay the salary and allowances of the applicant with effect from 1.8.2001 till date with immediate effect and also be pleased to direct the respondents to pay the salary from the current month henceforth and also to send outstanding pension contribution in respect of the applicant to his parent organisation.
- 8.6 Costs of the application.
- 8.7 Any other relief or reliefs to which the applicant is entitled to, as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

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

- 9.1 That the Hon'ble Tribunal be pleased to restrain the respondents from repatriating the applicant to his parent department and to allow the applicant to continue in the post of Principal in the Navodaya Vidyalaya in the same capacity on deputation basis till the process of permanent absorption is completed.
- 9.2 That the Hon'ble Tribunal be pleased to suspend the operation of the impugned order No. F. AD-10/95-NVS(PERS) dated 29.8.2001 and No. F. No. 11-43/2K-NVS(SHR)/Admn/1517 dated 03-09-2001 till disposal of the O.A."

Al-L

- 9.3 That the respondents be directed to pay the salary of the applicant with effect from 1.8.2001 till date and further be pleased to pay the salary of the applicant for the current month, henceforth.

10.
This application is filed through Advocates.

11. Particulars of the I.P.O.

- i) I.P.O. No. :
- ii) Date of issue :
- iii) Issued from : G.P.O., Guwahati.
- iv) Payable at : G.P.O., Guwahati.

12. List of enclosures.

As stated in the index.

VERIFICATION

I, Shri Anusuya Prasad Pokhriyal, S/o Late Rudri Dutta, aged about 53 years, presently working as Principal, Jawar Navodaya Vidyalaya, Thenzawl, District Aizawl, Mizoram, (temporarily attached in NVS, R.O. Shillong) Cantonment area, Shillong, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the ...day of
.....November, 2001.

Anusuya Prasad Pokhriyal

Annexure-I

NAVODAYA VIDYALAYA SAMITI
MINISTRY OF HUMAN RESORUCE DEVELOPMENT
DEPARTMENT OF EDUCATION
A-39, KAILASH COLONY, NEW DELHI 110048

Dated 28 April 1995

F. No. 1-52/95-NVS(Pers)

To

Dy. Director of Education
South District, Defence colony
Administration Branch,
New Delhi

Sub : Appointment to the post of Principal in Navodaya Vidyalaya
transfer on deputation basis.

Sir,

I am directed to inform you that on the basis of the recommendations of the Selection Committee, Mr./Mrs. Anusuya Prasad, PGT (Geo) New Delhi, of your organisation has been selected for appointment to the post of Principal in Navodaya Vidyalaya Samiti, on transfer on deputation basis in scale of pay of Rs. 3000-100-3500-125-4500/-

The appointment will be on transfer on deputation basis for a period of two years in the first instance. Mr/Mrs. Ansuya Prasad, will also be entitled to draw dearness and other allowances at the rates admissible subject to the conditions laid down in the Rules and Orders governing the grant of such allowances in force as amended from time to time. The general terms and conditions of deputation on foreign service are enclosed.

The other terms and conditions of the appointment will be as follows

:-

- i) The appointment will be on transfer on depuration initially for a period of two years, which may be curtailed or extended at the discretion of the Competent Authority without assigning any reason or notice. However, extension may be granted to an incumbent in consultation with his/her parent organisation, after completion of the initial period of deputation of two years.
- ii) The appointment will be subject to the condition that his/her lien will be kept by his/her parent organisation for the period of deputation/contended deputation on the post held by him/her in the organisation where he/she is presently working and he/she will be taken back on or before the expiry of the deputation or extended period of deputation.

- iii) Pay while on deputation will be governed in accordance with the instructions contained in the Ministry of Finance O.M. No.10(24)E :iii/60 dated 4th May, 1961 as amended from time to time.
- iv) He/She will have the option to draw his/her grade pay plus deputation duty allowance in accordance with the prevailing rules or to have the pay fixed in the scale of pay of the post in Samiti subject to the instructions/restrictions contained in the Department of Personnel and Training O.M. No.6/30/86Estt. (pay-ii) dated 9.12.1986 and Department of Personnel and Administrative Reforms O.M. No. 1.84Estt.(Pay-ii) dated 26.12.1984. The option will have to be exercised within one month from the date of joining. Option once exercised will be final.
- v) He/She will have to submit the LPC and Relieving Orders in original from his/her parent organisation in the prescribed proforma to this effect. (Proforma is enclosed).
- vi) If any declaration given or information furnished by him/her proves to be false or if he/she is found to have wilfully suppressed any material/information or HIS/HER SERVICES ARE NOT FOUND SATISFACTORY or otherwise during his/her tenure on deputation in the Samiti, his/her services are liable to be repatriated to his parent organisation without assigning any reason/ground or notice. //
- vii) Other conditions of service will be governed by relevant Rules and orders in force in the Samiti as amended from time to time
- viii) Though the present posting will be as under, but subject to exigencies of work HE/SHE IS LIABLE TO BE POSTED ANYWHERE IN INDIA, during the period of deputation in teh samiti.

NAME OF THE VIDYALAYA : TUINOM
 DISTRICT : Churachandpur
 STATE : MANIPUR

It is requested that the concerned official may be informed accordingly and in case he/she is willing to accpt this offer, he/she may be relieved from his/her duties immediately SUBJECT TO THE CONDITION THAT NO VIGILANCE CASE IS PENDING/CONTEMPLATED AGAINST HIM/HER, with teh direction to report to the Deputy Director, Navodaya Vidyalaya Samiti, Regional Office, at Navodayalaya Vidyalaya Samiti, Upper Lachumiere, Shillong, Meghalaya-793001. Tel. No. 27836 & 7609 latest by 29 May 1995 as

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Principal in the Samiti on transfer on deputation basis, failing which this offer would be treated as cancelled.

Enclosures

1. Terms & conditions of deputation
2. Relieving order proforma

Yours faithfully,

Sd/- Illegible

(C.A.S. Raghavan)

Deputy Director (Pers.)

Copy to

1. Mr. Anusuya Prasad
D-613, Netaji Nagar
New Delhi.
2. The deputy Director, NVS, Regional Office, Shillong. The above named officer may please be allowed to join the duties subject to verification of relieving order and other related documents. On his/her joining, the JOINING REPORT LPC and the RELIEVING ORDER (AS PRESCRIBED BY THE SAMITI), IN ORIGINAL, may be forwarded to the Samiti at an early date.
3. The District Magistrate & Chairman, VMC, District Churachandpur, State Manipur.
4. The Principal/Incharge Principal, Navadaya Vidyalaya Tuinom, Distt. Churachandpur State Manipur, with a request to hand over the charge to the newly posted Principal as per the directions of Deputy Director, Regional Office, Shillong.

Annexure-1(Contd.)

NAVODAYA VIDYALAYA SAMITI
NEW DELHI

TERMS OF DEPUTATION

1. PERIOD OF DEPUTATION

The deputation will be for a period of two years. The deputation will commence from the date on which the Officer hands over the charge of his post under the parent office and will end on the date on which he resumes charge under the parent office on reversion after availing of joining time, if any, as admissible under the rules.

2. PAY AND ALLOWANCES

During the period of deputation the incumbent will have the option either to elect the grade pay of the deputation post of pay of the parent office and usual deputation allowance as per the Rules of Government of India as modified from time to time and such other general or special orders issued by Ministry of Finance/Department of Personnel, in addition to other usual allowances as admissible under the rules of the borrowing organisation.

3. JOINING TIME PAY AND TRANSFER I.A.

The incumbent will be entitled to TA and joining time pay both on joining the post on deputation and on reversion therefrom to the parent department under the rules of the borrowing authority to which he is deputed. The expenditure on this account will be borne by the borrowing authority.

4. I.A. FOR JOURNEY ON DUTY DURING THE PERIOD OF DEPUTATION.

I.A. for journey on duty while on deputation will be regulated under the rules of the borrowing organisation.

5. LEAVE AND PENSION

During the period of deputation on temporary transfer, he/she will continue to be governed by the leave and pension rules of the parent employer applicable to him/her before such transfer.

6. MEDICAL CONCESSION

He/She will be entitled to these concessions under the rules of the borrowing organisation.

7. RESIDENTIAL ACCOMMODATION

He/She will be provided residential accommodation in the Vidyalaya premises as available on site.

8. REIMBURSEMENT OF TUITION FEES/CHILDREN EDUCATION ALLOWANCE.

The office will be entitled to get Children Education allowance @ Rs. 150/- (Rupees One Hundred Fifty Only) per month per child for a maximum of two school going children subject to general conditions as laid down by the Samiti.

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9. LEAVE TRAVEL CONCESSION

The Officer will be eligible to avail the leave travel concession on the scale and conditions contained in the Ministry of Home Affairs O.M. No. 43/1/55-Estt.(II) P.O. II dated 11.10.1956 as amended from time to time and cost thereof will be borne by the borrowing authority.

10. The samiti will be liable to pay leave salary in respect of any disability incurred in and through foreign service even though such disability manifests itself after the termination of foreign service.

11. The whole expenditure in respect of any compensatory allowance for the period of leave in or at the end of foreign service shall be borne by the Samiti.

12. GPF/CPF CONTRIBUTIONS

During the period of deputation he/she will continue to subscribed to the Provident Fund of the Parent Organisation in accordance with the Rules of parent organisation.

13. In case of deputation of a employee who is governed by the Contributory Provident Fund Rules, in his parent office, his parent organisation to who he/she is deputed for the period of deputation

14. The samiti will be liable to pay leave salary and pension contribution to the parent organisation on the rates prescribed by the Government of India from time to time during the period of deputation. The rates will be communicated by the lending department.

15. The samiti will not forward any application of the Officer seeking employment elsewhere without the prior approval by the lending department.

16. The Officer will not be absorbed permanently by the Samiti before the expiry of the period of which his lien has been retained in the parent office and it would be binding on the Samiti to consult the parent office before issuing orders for his final absorption and in no such case orders will be issued till the Officer's resignation has been accepted by the lending department. These orders would take effect from the date of acceptance of his/her resignation.

17. The Officer will not be allowed to revert back to his parent organisation at his/her own request before completion of one year service except on administrative grounds. He/She can be reverted back to his/her parent organisation on administrative grounds at any time during deputation period.

Annexure-II

GOVT. OF N.C.T.
OFFICE OF THE DY. DIRECTION OF EDUCATION
DISTT. SOUTH WEST, NEW DLHRI
(AMDN. BRANCH)

No. /Admn./96

Dated 19.7.96

To

The Assistant director (Personnel)
Navodaya Vidyalaya Samiti,
A-39, Colony,
New Delhi-48.

Sub : Deputation period of Sri Ansuya Prasad to the Principal,
Navodaya Vidyalaya samiti.

Sir.

With reference to your letter No. f. No. AD-10/95-NVS (Pers.) dated 16.5.96 I am directed to convey the sanction of the Director of Education for extension of deputation period in respect of Shri Ansuya Prasad, presently working as Principal in Navodaya Vidyalaya samiti w.e.f. 22.06.96 to 21.06.97. He will continue to hold lien on his.....

Sd/-

Dr. T.P.S. CHAUHAN
Dy. Director of Education
Distt. South West.

No. /Admn/96/5326

Dated 19.7.96

Copy to :

1. The Principal, G.B. S.S.S., Netaji Nagar, New Delhi.
2. Sh. Ansuya Prasad, PGT(...) presently working as Principal, Navodaya Vidyalaya samiti.
3. A.O. (E.II) Dte. Of Edn., Old Sectt. Delhi.
4. Office order file.

Sd/-

Dr. T.P.S. CHAUHAN
Dy. Director of Education
Distt. South West

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Annexure-III

MOST URGENT

NAVODAYA VIDYALAYA SAMITI, REGIONAL OFFICE, SHILLONG

No. f-33/95/NVS(SHR)/8030

Dt. 21 February, 1997

To

1. Shri V.K.Tyagi, Principal, JNV Lepajoring
2. Shri Ansuya Prasad, " " Kakching
3. Shri J.P. Shukla " " Bishnupur
4. Shri D.S. Khati " " Bepamera
5. Shri K.K.Baruah, " " Jorhat

Subject : Permanent absorption of Principals working on transfer on deputation basis.

Sir,

The samiti is considering permanent absorption of Principals working on transfer on deputation basis who have completed their normal/extended period of deputation up to 30.6.1997 as per their suitability.

You are, therefore, requested to furnish your consent whether you are willing or not for permanent absorption in the N.V.S. as in the enclosed specimen pro forma latest by 5.3.1997 positively so as to enable this office forward your case to NVS Hqrs for consideration.

Please treat the matter as MOST URGENT.

Enclo above.

Yours faithfully,

Sd/-

(Dr.U.C. BAJPAI
DEPUTY DIRECTOR

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Annexure-IV

NAVODAYA VIDLAYA SAMITI
SHILLONG REGION
SHILLONG

F. No. 1-7/KNVKH/96/12581-861

Dated 19.11.1996

ORDER

1. Haider Ali, Principal JNV Khumbong is granted one month Earned leave w.e.f 20.11.96. He is also permitted to a Home town L.T. for self and family A.I. L.T.C. as per rule.
2. During the period of Principal's leave Dr. ram Kailash Pandey PGT (Hindi) will function as Incharge Principal of the Vidyalaya.
3. Apart from his normal duties of Principal JNV, Kaching Dist. Thoubal Sri A.P. Pokhariyal will also take over the charge of JNV, Khumbong during the outstation of Mr. Haider Ali and guide Dr. R.K. Pandey in functioning and restoring normalacy in the Vidyalaya.
4. Bank accounts of the Vidyalaya will be operated as before in place of Principal (Haider Ali), Shri A.P. Pokhariyal will sign the cheque.
5. Before joining in the Vidyalaya on expiry of his leave Haider Ali Principal will report R.O. Shillong.

Sd/-

D. Hazarika

A.D.(Admn.)

R.O.Shilling

Camp : Shillong

F. No. 1-7/JNVKH/96

Dated 19.11.1996

Copy to

1. The D.C. Imphal for favour of kind information please.
2. The D.C. Thoubal for information please.
3. The Principal, JNV, Khumbong for information please.
4. Haider Ali (Personal Copy)
5. Shri A.P. Pokhoriyal, Principal JNV, Kakching for information compliance.
6. Dr. R.K. Pandey for compliance.
7. Office copy JNVKH
8. Office copy R.O. Shillong.

Sd/-

D. Hazarika

A.D.(Admn.)

Camp : JNVSH

Annexure-V

Regional Office

NAVODAYA VIDYALAYA SAMITI
Ministry of Human Resource Development
(Deptt. Of Education)

No. F.1-7/AP/95/NVS(SHR)/7620

Dated 26.2.98

OFFICE ORDER

Sri Ansuya Prasad Pokhariyal, Principal JNV, Kakching is hereby attached temporarily till further orders to JNV, Thenzawl, Mizoram in the same capacity. He is provided with a copy of the inspection note of Shri Mohan Das Moses, Education Consultant in the Ministry of HRD, Govt. of India who has violated the Vidyalaya earlier. Shri Pokhariyal is directed to go through the report and try to improve the things in the Vidyalaya with special concentration on the academic and discipline. He will draw his salary as Principal from his parent Vidyalaya till further orders. Shri Pokhariyal also will take of the charge of the Vidyalaya from I/c Principal and also will perform the duties of D.D.O.

For his temporary attachment he will be entitled to the actual fare duty.

Sd/- Illegible
(D.C.MISHRA)
DEPUTY DIRECTOR

To

Shri Ansuya Prasad Pokhariyal,
Principal,
Jawahar Navodaya Vidyalaya,
Kakching (at Shillong).

Copy for information to :-

1. The Joint Director(Admn.), Navodaya vidyalaya samiti, New Delhi.
2. Shri V.K.Sharma, Deputy Director (Pers), Navodaya vidyalaya Samiti, Hqr. This is with reference to Shri A.N. Ramachandra, asstt. Director (SA) letter No. F.27-145/88-NVS(SA) dated 3.2.98 marked urgent. As a follow up Shri Pokhariyal is being posted to JNV, Aizawl to improve the thing.
3. The deputy Commissioner, Aizawl cum-Chairman VMC for favour of his information please.
4. I/c Principal, Mr. Nair, JNV, Thenzawl. He will immediately handover the charge of the Vidyalaya to Dr. Pokhariyal on his assumption of charge as Principal on attachment duty.

Deputy Director

NAVODAYA VIDYALAYA SAMITI
(An autonomous Organisation of Ministry of Human Resource Development,
Department of Education)

A-39, KAILASH COLONY, NEW DELHI-110048

Dated 27.3.1998

No. AD-10/95-NVS(Pers)

OFFICE ORDER

The services of Shri Ansuya Prasad, Principal, JNV, Kakching, Manipur are hereby repatriated to his parent department i.e. Director of Education, South Delhi, Defence Colony, New Delhi with effect from 30.4.98 on administrative grounds.

He is entitled for transfer TA and other transfer benefits as per the Samiti Rules.

This issues with the approval of Director, NVS.

Sd/- Illegible

23.3.98

(V.K.SHARMA)

DY. DIRECTOR (PERS).

To

Shri Ansuya Prasad,
Principal,
JNV Thenzawl
Mizoram

Copy to :

1. The Dy. Director of Education, Distt. South Defence Colony, New Colony.
2. The Dy. Director, Regional Office Shillong with a request to conduct the audit of JNV Kakching (Manipur) and to ensure that there remains nothing outstanding against him at the time of relief.
3. The Distt. Magistrate, Kakching, Manipur.
4. The Distt. Magistrate, Kakching, Manipur.
4. The Principal, JNV, Kakching, Manipur.
5. Accct. Wing/V.O./Fin. Wing]Office Order File.

Annexure-VII

Annexure-VII

IN THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM ; NAGALAND ; MEGHALAYA ; MANIPUR ; TRIPURA ; MIZORAM
& ARUNCHAL PRADESH)

AIZAWL BENCH

CIVIL RULE No. 14/98

Sh. Ansuya Prasad Pokhariyal : Petitioner

-versus-

1. Union of India (Represented by - Respondents
the Secretary to the Govt. of India, Ministry of
Human Resources development, Department of Education,
New Delhi).
2. The director, Navodaya Vidyalaya Samati,
A-39, Kailash Colony,
New delhi-110048.
3. The Deputy Director, Navodaya
Vidyalaya Samiti, North Eastern
Regional Office, Upper Lachumiere,
Shillong-1.
4. The Director of Education, Govt.
of the National Capital Territory of
Delhi, Old Secretariat, Delhi.

PRESENT

THE HON'BLE MR. JUSTICE H.K.K.SINGH

For the Petitioner : Mr. G. Raju

For the Respondent :

DATE
23.4.98

ORDER

Heard Mr. G. Raju, the learned counsel for the
petitioner.

Let the records be called for.

Let a rule issue calling upon the respondents to
show cause as to why a writ should not be issued as
prayed for; or why such further or other orders should
not be passed as to this court may deem fit and proper.

This rule is made returnable within a period of 6
(six) weeks. Petitioner to take steps for service of
notice upon the respondents within a period of 2 (two)
days.

In the interim and until further order the operation of the impugned order dated 27.3.98 passed by the respondent No.2 shall remain suspended.

Sd/-
H.K.K.Singh
Judge.

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 238 of 99

Date of order : This the 5th day of June 2001.

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

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

Sri Anusuya Pokhariyal
Son of Late Rudri Dutta
Principal
Jawahar Navodaya Vidyalaya,
Thenzawal,
District-Aizawl
Mizoram

.....Applicant

-versus-

-AND-

1. The Union of India,
(Represented by the Secretary to the
Government of India,
Ministry of Human Resources Development,
Department of Education,
Government of India, New Delhi).
New Delhi.
2. The Director,
Navodaya Vidyalaya Samiti
A-39, Kailash Colony
New Delhi-110048
3. The Deputy Director,
Navodaya Vidyalaya Samiti
North Eastern Regional Office.

Nongrim Hills,
Shillong-1.

.....Respondents

4. The Director of Education
Government of the National Capital
Territory of Delhi, Old Secretariat,
Delhi.

.....Proforma Respondent.

D.N.CHOWDHURY, VICE-CHAIRMAN

By order dated 28th April 1995 the applicant was appointed to the post of Principal in Navodaya Vidyalaya Samiti on transfer on deputation basis. The said appointment was made for a period of 2 years in the first instance. By order dated 16.5.96 the term of the deputation as Principal was extended up to 22.6.97. The third year extension of the applicant was to end only on 21.6.98. By letter dated 21st February 1997 the applicant along with 4 others were advised to furnish his consent as to whether he was willing or not for permanent absorption in NVS and accordingly he was asked to submit his consent within the period specified. While things rested at that stage the impugned order dated 27.3.98 was passed by which the applicant was repatriated to his parent department with effect from 30.4.98 on administrative grounds. The afore mentioned order of repatriation is under challenge in this O.A. The respondents seriously contested the case and submitted its written statement.

In course of proceedings the records were submitted. We have heard Mr. M.Chanda learned counsel appearing on behalf of the applicant and also heard Mr. K.N.Choudhury assisted by Mr. S.Sarma and Mr. B.C.Das learned counsel representing the respondents. The materials on record do not indicate any administrative reason for repatriating the applicant before expiry of the period of deputation. Be that as it may, on the strength of the order dated 23.4.98 passed by the Hon'ble Gauhati High Court in Writ Petition (C) No.8 of 98 the applicant is continuing to hold the post of Principal under the respondents. On an overall consideration of all aspects we are of the view that ends of justice would be met if a

direction is issued to the respondents to consider the case of the applicant for permanent absorption in the post of Principal in conformity with the Navodaya Vidyalaya Samiti Recruitment Rules and the existing norms adhered to by the NVS. The applicant has already given his option. The authority may take formal steps for considering his case as per rule for absorption at the earliest opportunity. Till completion of the aforesaid exercise the order passed in Writ Petition No.8 of 98 by the High Court on 23.4.98 shall remain operative. With the above observations the application is disposed of. There shall, however, be no order as to costs.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (Adm).

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Annexure-IX

July 11, 2001

To

The Director
Navadaya Vidyalaya Samiti
A-39, Kailash Colony
New Delhi.

Sub : **Absorption and transfer in Navodaya Vidyalaya Samiti as Principal.**

Ref : Hon'ble High Court, Guwahati Order dated 24.4.98 and Hon'ble Central Administrative Tribunal, Guwahati Order dated 5.6.2001.

Respected Sir,

With due respect and humble submission, I beg to state that the undersigned was appointed as Principal by Navodaya Vidyalaya Samiti on transfer or deputation basis for a period of two years w.e.f. 22.6.95 and was posted in JNV Thoubal, Manipur which was further extended for another one year up to 22.6.96 without formal consent of undersigned. In the mean time, by letter dated 21st February, 1997, NVS Regional Office, Shillong, the undersigned along with four others from NER was requested to furnish the consent for permanent absorption in NVS which was willingly submitted to the NVS within specified period.

Sir, all of a sudden, an order dated 27.3.98 was issued by NVS Headquarter to repatriate the undersigned in my Parent Organisation, department of Education, Govt. of NCT of Delhi before 30th April, 1998 on administrative grounds vide which the undersigned was temporarily attached in JNV Thenzawl, Aizawl w.e.f. 28.2.1998 to improve the condition of the Vidyalaya with special concentration on disciplinary and academic field on the basis of an adverse report of the Vidyalaya submitted by Shri Mohan Das Moses, IAS, Education consultant, Govt. of India. To other institutions of Mizoram i.e. JNV, Lunglei and Chintuipui were closed. The undersigned accepted the challenge and tried his level best to bring the Vidyalaya in the right track in spite of several problems.

Sir, the undersigned tried a lot to contact the Headquarter but the Hon'ble Director was out of station and there was no other solution except to file the Writ Petition before Hon'ble High court of Guwahati. The Hon'ble High Court of Guwahati passed a Stay Order on 23.4.98. Ever since, the undersigned has been working in the same capacity at JNV Thenzawl, Aizawl since 28th February, 1998 under temporary attachment and so far, no transfer order from JNV HQ in this regard has been issued.

Sir, further the petition was transferred to Hon'ble Central Administrative Tribunal (CAT), Guwahati in 1999. After long proceedings and number of hearings, the Hon'ble CAT in its verdict on 5.6.2001 did not find any administrative reason for repatriation before expiry of the extended period of

deputation and indicated your esteemed authority to issued a direction to the undersigned for permanent absorption in the post of Principal in conformity with the Navodaya Vidyalaya Samiti Recruitment Rules and the existing norms adhered to by the NVS.

Sir, the undersigned has been working sincerely and honestly in the extreme remotest area of the North East since 26.6.96 and has been faithful to the Navodaya Vidyalaya Samiti and has been working in the Vidyalayas like Thenzawl, a remotest pocket of the country, where the first generation of learning has been studying. The undersigned tried to urbanise and to develop the skill of reading habits of students by different means. If an opportunity is given to the undersigned to serve continuously under NVS, the undersigned assures that I shall leave no stone unturned to fulfill the objective of NVS to uplift the System and bring laurel to this esteemed organisation.

I therefore, request your esteemed authority to kindly consider my case of permanent absorption in NVS sympathetically and transfer me from NER to any suitable place of Uttaranchal or Western Uttar Pradesh and oblige. Your initiative and cooperation in this regard will highly solicited.

With profound regards and thanking you in anticipation.

Enclo : Copies of the decision of
Hon'ble HC/CAT, Guwahati.

Yours sincerely,
Sd/- Illegible 11.7.2001
(ANUSUYA PRASAD)
THENZAWL, DISTT. AIZWL
MIZORAM
Temporarily attached in NVS,
RO, Shillong.

Annexure-X

NAVODAYA VIDYALAYA SAMITI
(An autonomous Organisation of Ministry of Human Resource Development,
Department of Education)

Date 20.8.2001

No. F.No. AD-10/95-NVS(Pers)

Shri Ansuya Prasad,

Principal,

JNV Aizawl

Mizoram

(Temporarily attached in RO Shillong)

Sub : Absorption and transfer in NVS as Principal - reg.

Ref : Hon'ble High Court, Guwahati Order dated 24.4.98 and Hon'ble Central Administrative Tribunal, Guwahati Order dated 5.6.01.

Sir,

This is in compliance to Hon'ble Central Administrative tribunal, Guwahati Bench Order dtd 5th June 2001 in O.A. No. 238 filed by Shri Ansuya Prasad Pokriyal, S/o Late Rudridutta, Principal, JNV, Thenzawl, Distt. Aizawl, Mizoram, to consider his case as per rules for absorption and appeal dated July 11, 2001 submitted by Shri Ansuya Prasad to the Director, NVS, for permanent absorption as Principal.

In this connection, I am directed to inform that the representation of Shri Ansuya Prasad dated 11.7.2001 has been carefully examined by the director, NVS in the light of Hon'ble CAT orders and came to the conclusion that as per the available position on date and rules, there is no vacancy available to absorb Shri Ansuya Prasad in the Navodaya Vidyalaya Samiti as the present vacant posts are either under Reserve Quota or Promotion Quota as per the present Recruitment Rules of Navodaya Vidyalaya Samiti.

This disposes of the representation dated July 11, 2001 finally.

Yours faithfully,

Sd/- Illegible 20.8.2001

(V.K.SHARMA)

Dy. Director (Pers)

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Annexure-XI

NAVODAYA VIDYALAYA SAMITI
(An autonomous Organisation of Ministry of Human Resource Development,
Department of Education)

Date 21.06.2001

No. F.No. 1-5/95-NVS(Admn)

NOTIFICATION

In exercise of the powers conferred under Rule 24 of the Rules of the Navodaya Vidyalaya Samiti, the Chairman, NVS, hereby makes the following Rules for regulating and method of absorption in Navodaya Vidyalaya Samiti by modifying the clause-2(iii) of the Rules notified through Notification No. F.2-29/94-NVS(Admn) dated 22nd June, 1995.

1. The Notification No. F.2-29/94-NVS(Admn), dated 22nd June, 1995 along with the Revised Recruitment Rules, 1995, the Clause-2(iii) may now be read as under :

"Persons working on deputation for at least 02 years on a post in the Samiti may be considered for permanent absorption."

Sd/- Illegible
(S.P. Kaur)
Director, NVS

To

1. All regional Officers of the samiti
2. All Jawarhar Navodaya vidyalaya.
3. All Officers at NVS Hqrs.

Annexure-XII

REGIONAL OFFICE
NAVODAYA VIDYALAYA SAMITI
SHILLONG
Ministry of Human Resource Development
(Deptt. Of Education)

No. F. No. 11-43/2K-NVS(SHR)/Admn/1517

Dated 03.09.2001

OFFICE ORDER

In compliance with Office Order No. Ad10/95-NVS(Pers) dated 29th August 2001 (Original copy addressed to Shri A. Prasad, Principal is enclosed heretih), from Deputy Director (P & F), NVS, New Delil, Shri Ansuya Prasad, Principal (attched with R.O. Shillong) is hereby releived on 3rd September 2001 (A/N).

Encllo : Office Order No. AD-10/95-

NVS(Pers) dated 29.08.2001

Sd/- Illegible 3.9.2001
(V.S.RANAWAT
DEPUTY DIRECTOR I/C

To

Shri Ansuya Prasad,
Principal (attached to R.O. Shillong).

Copy to :

1. **The Deputy Director of Education, Govt. of NCT of New Delhi, Distt. South West, Vasant Vihar (Science Centre), New Delhi.**
2. **The Dy. Director (P&E), NVS, New Delhi.**

Annexure-XIII

NAVODAYA VIDYALAYA SAMITI
I.G.I. STATIDUM, NEAR I.T.O.
NEW DELHI-02

OFFICE ORDER

In pursuance of Hon'ble CAT Guwahati Branch, Application No. 238 of 99 dated 5th June, 2001 the representation made by Ansuya Prasad, Prasad, Principal (attached with RO Shillong) has been considered by the Competent Authority and as per rules he cannot be absorbed and the same has already been informed to Shri Ansuya Prasad vide letter No. F. AD10/95-NVS (PERS.) dated 20.8.2001. //

In view of the above, Shri Ansuya Prasad is hereby repatriated to his parent department i.e. Govt. of N.C.T. of Delhi.

Shri Ansuya Prasad is entitled for transfer TA etc. as per the rules of the Samiti.

Sd/- Illegible 29.8.2001

(V.K. SHARMA)
DY. DIRECTOR (P & E)

Shri Ansuya Prasad,
Principal
(Attached to RO Shillong)

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Annexure-XIV

To

The Dy. Director
Navodaya Vidyalaya Samiti
Regional Office,
Shillong.

Sub : Request to release leave salary and Pension contribution.

Respected Sir,

The undersigned has been working as Principal on transfer on deputation basis since 22 June 1995 in JNV Thoubal, Manipur and was attached to JNV Thanzawl Aizawl, Mizoram w.e.f 28th Feb 1998. The monthly salary and all allowances of the undersigned was drawn from parent Institute JNV Thoubal upto July, 1999, from where my leave salary and pension contribution was discontinued w.e.f. 1st Dec 1997. Under reference letter No. F3-18/2K/JNVSA/TBL/2977 dated 16.08.2000 from JNV, Thoubal, the Vidyalaya was not in a position to pay leave salary and pension contribution w.e.f. dated 01.02.1997 because no leave records during my attachment in JNV Thanzawl has been received. The undersigned was allowed to draw monthly salary from JNV Thanzawl from Aug 1999 under reference letter No. T/P/95-NVS(SHR)/2151 and discontinuation of the leave salary and pension contribution from JNV Thoubal, the undersigned was not in a position to continue to release the same to my parent deptt. Directorate Education, Govt. of NCT of Delhi.

Sir, under present circumstances, the undersigned has been repatriated by letter dated 29.03.2001 and also relieved letter dated 3.9.2001. The undersigned again challenged the above mentioned orders and filed a writ petition in honourable Central Administrative Tribunal, Guwahati and got stay on dated 4 September, 2001 to regularised my services up to next date of hearing i.e. 20.09.2001. The discontinuation of the leave salary and pension contribution.

You are requested you esteemed authority to direct the principal of JNV Thoubal and JNV Thanzawl, Aizawl to release the arrear of my leave salary and pension contribution to the Pay and Accounts Officer, P.O-II, Sector-I, R.K. Puram, New Delhi. and oblige.

You are further requested to ask my parent department, the Deputy Director South Delhi, Department of Education, Govt. of New Delhi, Science Branch, Vasat Vihar, New Delhi, regarding my fixation under New Pay Scale from January, 1996, calculate the arrear of the subject cited above.

Your cooperation and vital initiative in this regard will be highly solicited.

Thanking you,

Dated Shillong

The : 12.9.2001

Regional Office, Shillong.

Yours faithfully,
Sd/- Illegible 12.9.2001
(ANSUYA PRASAD)
Principal JNV Thanzawl,
Aizawl,
Presently attach to NVS

Annexure-XV

To

The Deputy Director
Navodaya Vidyalaya Samiti
Regional Office, Shillong.

Sub : Allotment of duties and salary regarding.

Dear Sir,

With due respect I beg to state that I have joined my duties on dated 06.09.2001 FN according the order passed by the honourable Central Administrative Tribunal dated 29.8.2001 suspending your both orders dated 29.8.2001 and 03.09.2001 till next date i.e. on 20.09.2001; but no any duty is assigned to me till date.

You are requested your honour to utilize the services of the undersigned upto the further direction of the honourable CAT, Guwahati and oblige.

Sir, it is the matter of surprising that the salary of the undersigned for the month of August is banned. A person was sent by the undersigned to Serchhip S.B.M. about 500 km away from this office to collect salary but it is great sorrow that in spite of the cooperation the undersigned is harassed, depressed both mentally and financially. Is it not the violation of the human rights and explanation of a Govt. Servant?

You are therefore further requested your esteemed authority to take action against the Principal I/c of N.V. Thengawal, Aizawl, and direct him to release salary by Demand Draft to this office. Sir, my two increments falls due on date 1.6.2000 and 1.6.2001 have not been added with my basic salary. So the arrear of the same may kindly be released as I am staying in a hotel at Shillong and facing a lot of economic problem.

Your co-operation in this regard will be highly satisfied.

Thanking you,

Yours faithfully,
Sd/- Illegible
Anusuya Prasad
Principal.

NVS
R.O. Shillong
Dt. 13.09.2001

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

3 SEP 2001

गुवाहाटी न्यायपीठ

Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

Title of the case : O.A. No. 354/2001

Shri Anusuya Prasad Pokharia : Applicant

- Versus -

Union of India & Others: Respondents.

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Filed by

Date : 3.8.2001

Advocate

Ahul

Filed by the applicant
through advocate Shri
G. N. Chakravarty on 3.8.2001.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

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

O.A. No. 354/2001

BETWEEN

Sri Amsuya Prasad Pokhariyal

Son of Late Rudri Dutta

Principal,

Jawahar Navodaya Vidyalaya,

Thenzawal,

District-Aizawl

(Temporarily attached in Navodaya Vidyalaya

Samiti, Regional Office Shillong).

.....Applicant

-AND-

1. The Union of India
(Represented by the Secretary to the
Government of India, Ministry of Human
Resources development, Department of Education,
Government of India, New Delhi).
2. The Director,
Navodaya Vidyalaya Samiti
A-39, Kailash Colony
New Delhi-110048
3. The Deputy Director,
Navodaya Vidyalaya Samiti
North Eastern regional Office,
Nongrim Hills,
Shillong-3.
4. The Deputy Director (Personnel),
Navodaya Vidyalaya Samiti,
New Delhi.

.....Respondents.

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5. The Director of Education
Government of the National Capital
Territory of Delhi, Old Secretariat
New Delhi.

■■Proforma Respondent

DETAILS OF THE APPLICATION

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

This application is made against the impugned letter No. AD-10/95-NVS(Pers) dated 20.8.2001 issued by the Respondent No. 4 denying the permanent absorption of the applicant in the post of Principal and also praying for a direction upon the Respondents to absorb the applicant in the post of Principal on permanent basis in accordance with the judgment and order passed by this Hon'ble tribunal on 05.06.2001 in O.A. No. 238/99.

2. Jurisdiction of the Tribunal.

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

3. Limitation.

The applicant further declares that this application is filed within the limitation prescribed under section 21 of the Administrative Tribunals Act, 1985.

4. Facts of the case.

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

4.2 That the applicant was originally working as a Post Graduate Teacher of Geography (later redesignated as Lecturer) under the Education Department of the Government of the National capital Territory of

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Delhi and was posted in the Government Boys' Senior Secondary School, Netaji Nagar, New Delhi. ✓

- 4.3 That while working in the aforesaid post in Government Boys' Senior Secondary School, Netaji Nagar, New Delhi, the applicant was appointed as Principal, Navodaya Vidyalaya on deputation basis by the Respondent No.2 vide his letter dated 28.4.1995 after observing all formalities and was posted as Principal, Navodaya Vidyalaya, Turom, Churachandpur District, Manipur.

Copy of the order dated 28.4.1995 is annexed hereto and marked as **Annexure-I.**

- 4.4 That the aforesaid appointment of the applicant as Principal on deputation basis was initially made for a period of 1 (one) year. Eventually, the terms of deputation was extended upto 22.6.1997 vide order dated 19.7.1996.

Copy of the order of extension dated 19.7.1996 is annexed hereto and marked as **Annexure-II.**

- 4.5 That while working as Principal as stated above in the ^{2nd} year of his term of deputation, the Respondent No.3 issued a most urgent communication dated 21.2.1997 asking the applicant alongwith four other Principals working in different Navodaya Vidyalaya to submit their willingness or otherwise for permanent absorption as Principal in Navodaya Vidyalaya latest by 5.3.1997 for consideration of the NVS Headquarters.

Copy of communication dated 21.2.1997 is annexed hereto and marked as **Annexure-III.**

- 4.6 That in response to the aforesaid communication dated 21.2.1997, the applicant submitted his willingness/Consent on 1.3.1997 for his permanent absorption as Principal in one of the Navodaya Vidyalayas. Meanwhile, by an order dated 19.11.1996, the applicant was directed by the Respondent No. 3 to take over the additional charge of the Principal of Jawahar Navodaya Vidyalaya, Khumbong in the state of Manipur due to temporary absence of the Principal who proceeded on leave and was further directed to guide Dr. B.K.Pandey, the acting

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Principal of the said Vidyalaya and was conferred with all the powers of Principal in respect of the said Vidyalaya for restoring the normal functioning of the said Vidyalaya which was in shambles than.

Copy of the order dated 19.11.1996 is annexed hereto and marked as **Annexure-IV.**

- 4.7 That eventually the applicant was transferred and posted as Principal of Navodaya Vidyalaya, Kakching, while working there, he was again attached as Principal of Navodaya Vidyalaya at, Thenzawal in Aizawl district of Mizoram on temporary basis vide order dated 26.2.1998 in order to improve the working of the said Vidyalaya which was in a very bad shape and on the verge of closure as per the inspection report of Sri Mohan Das Moses, Education Consultant in the Ministry of Human Resources Development, Government of India.

Copy of the Order dated 26.2.1998 is annexed hereto and marked as **Annexure-V.**

- 4.8 That it was a matter of great pride and privilege for the applicant in having such special assignments time and again, shouldering additional responsibilities for the larger interest of the Organisation which is a clear indication of not only his ability but also the trust and confidence which the Respondents had on him.

- 4.9 That the applicant begs to state that while he was thus discharging the onerous task of rebuilding and improving the working conditions of the Navodaya Vidyalaya, Thenzawal and was hoping to be absorbed by the Respondents in their Organisation as a reward for his devotion and dedication to duty, to his utter surprise and dismay, the Respondent No.2 issued an order dated 27.3.1998 whereby the applicant was repatriated to his parent department with effect from 30.4.1998 on administrative grounds.

Copy of the order dated 27.3.1998 is annexed hereto and marked as **Annexure-VI.**

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4.10 That your applicant begs to submit that while the Respondents had been entrusting all responsible functions and powers on the applicant reposing their full faith and confidence on him and treating him as the most efficient Principal, such a sudden decision of repatriation of the applicant by the Respondents is quite arbitrary, whimsical, mala fide, unjust, unfair and illmotivated. The ground of repatriation shown by the Respondents as 'Administrative Grounds' is vague one and bears adequate testimony of a hidden conspiracy and the vice of mala fideness is writ large on the face of the impugned order.

4.11 That being aggrieved by the aforesaid impugned order dated 27.3.1998, the applicant filed a writ petition before the Hon'ble High Court of Guwahati at Aizawl Bench in Writ Petition No. 8 of 1998 (Civil Rule No. 14/98) stayed the operation of the order dated 27.3.1998.

Copy of the order dated 23.4.1998 is annexed hereto and marked as **Annexure-VII**.

4.12 That eventually ~~each~~ ^{case} of the applicant ~~on~~ having been transferred to the Hon'ble Central Administrative Tribunal, the applicants approached this Hon'ble Tribunal for protection of his rights and interests and this Hon'ble Tribunal after examining the case thoroughly, passed its judgment and under dated 5.6.2001 in O.A. No. 238/99 directing the Respondents to consider the case of the applicant for permanent absorption in the post of Principal in conformity with the Navodaya Vidyalaya Samiti Recruitment Rules and the existing norms adhered to by the NVS.

Copy of the judgement and order dated 5.6.2001 is annexed hereto as **Annexure-VIII**.

4.13 That following the judgement and order dated 5.6.2001 of this Hon'ble Tribunal, the applicant submitted his application dated 11.7.01 to the Respondent No.2, enclosing therewith the copies of the order of the Hon'ble High Court dated 23.4.1998 and the order dated 5.6.01 of the Hon'ble CAT and praying for his absorption in terms of the direction of the Hon'ble CAT.

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Copy of the application dated 11.7.01 is annexed hereto and marked as **Annexure-IX**.

- 4.14 That eventually the Respondent No.4 issued the impugned letter No. AD-10/95-NVS(Pers) dated 20.8.2001 informing the applicant that there is no vacancy available for his absorption in the Navodaya Vidyalaya Samiti as the present vacant posts are either under Reserve Quota on promotion quota as per the present recruitment rules of Navodaya Vidyalaya Samiti and rejected his application dated 11.7.2001.

Copy of impugned letter dated 20.8.2001 is annexed hereto and marked as **Annexure-X**.

- 4.15 That your applicant begs to submit that the Respondent No.4 issued the aforesaid letter dated 20.8.2001 without any application of mind and exhibited his most casual and disregarding attitude towards the orders of the Hon'ble Tribunal showing some vague reasons for non-absorption of the applicant which are not sustainable in the eye of law. It is quite apparent from the said impugned letter dated 20.8.2001 that the Respondents simply attempted to avoid the compliance of the orders of the Hon'ble Tribunal and denied to absorb the applicant on some irrational and unacceptable grounds, which tantamount to contempt of court.

It is almost an absurd proposition that in an organization, all the vacant posts are either under Reserved Quota or promotion Quota. It is pertinent to mention here that the consent/willingness for permanent absorption in the post of Principal was obtained from the applicant along with four others in March 1997 only which clearly indicates the availability of posts and since none of those 5 applicants was absorbed, thereafter, as such those posts must have been lying vacant till now. The contention of the Respondents that there is no vacant post is therefore mala fide, ill motivated and a colour exercise of power. The Hon'ble Tribunal may be pleased to direct the Respondents to produce the All India vacancy position with category wise break up as on date in respect of the NVS in order to

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substantiate this contention/statement made in their impugned letter dated 20.8.2001 before the Hon'ble Tribunal.

4.16 That as per the latest Recruitment rules of the NVS, the absorption are regulated as per the principle which reads as follows :

"Persons working on deputation for at least 02 years on a post in the Samiti may be considered for permanent absorption"

The above principle is evident from the Notification No.-1 5/95-NVS (Admn) dated 21.06.2001 issued by the Director, NVS. In the instant case, the applicant has served for more than 6 years by now as Principal on deputation basis and as such he is entitled for being absorbed in the said post on permanent basis.

Copy of Notification dated 21.6.2001 is annexed hereto and marked as **Annexure-XI**.

4.17 That your applicant begs to submit that nonconsideration of his permanent absorption in the post of Principal, NVS by the Respondents, is a gross injustice to his committed and dedicated service for years together which is not only inconsistent with the Recruitment Rules of the NVS but against all principles of natural justice, particularly in view of the fact that all those who came to the Respondent Organisation as Principals on deputation basis prior to 1994 have already been absorbed as Principal. Thus the Respondents violated the provisions under Article 14 and 16 of the Constitution of India and it is a fit case for the Hon'ble Tribunal to interfere with and to protect the valuable rights of the applicant.

4.18 That it is further stated that some Principals have been recruited directly under General category from 1995 onwards and consent/willingness of the applicant also for such absorption was obtained by the Respondent since March, 1997 which eventually was not done on some flimsy and untenable grounds as stated in the impugned letter dated 20.8.2001.

A. H. J.

4.19 That your applicant further begs to state that as understood from reliable sources, the Respondents, after issuing their impugned letter dated 20.8.2001, have been processing for repatriation of the applicant as per their earlier conspired design and it is apprehended that the order of repatriation may be issued at any time and the applicant may be released, thus causing irreparable loss to the applicant.

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

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

- 5.1 For that the Recruitment Rules of the Navodaya Vidyalaya Samiti provides that persons working on deputation for at least 02 years on a post in the Samiti may be considered for permanent absorption.
- 5.2 For that the applicant has already served as Principal on deputation for more than 06 years by now in the Samiti and has therefore acquired a valuable legal right for permanent absorption.
- 5.3 For that the applicant discharged his functions and responsibilities up to the full satisfaction of the Respondents who even trusted him with special assignments on several occasions and in all those occasions the applicant came out successful even by risking his life.
- 5.4 For that the Respondents obtained the willingness/consent of the applicant in March '97 for permanent absorption as Principal in NVS in the existing vacant posts.
- 5.5 For that all those who came to serve as Principal on deputation in the Samiti prior to 1994 have already been absorbed on permanent basis and as such non-consideration of the case of the applicant for such absorption is a violation of Article 14 and 16 of the Constitution of India.

Ag-1

by

5.6 For that the Hon'ble High Court of Gauhati stayed the impugned order of repatriation dated 27.3.1998 by its order dated 23.4.1998 in W.P. No. 8 of 1998 and that this Hon'ble Tribunal also did not find any authentic administrative reason for repatriation of the applicant and directed the respondents by its order dated 05.06.2001 in O.A. No. 238 of 1999 for consideration of the case of the applicant for permanent absorption as per existing rules of the NVS.

6. Details of remedies exhausted.

That the applicant states that he has no other alternative and other efficacious remedy than to file this instant application before the Hon'ble tribunal. The representation of the applicant and even the order dated 05.06.2001 of this Hon'ble Tribunal could not yield any result.

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

The applicant further declares that he had filed an application before the Hon'ble tribunal which was registered as O.A. No. 238 of 1999 and the said O.A. was disposed on 5.6.2001 with direction to the respondents to consider for permanent absorption of the applicant in the post of Principal as per the existing rules of NVS but the respondents have rejected the case of the applicant. The applicant declares that no such application is pending before any other authority or any other Court or Tribunal.

8. Reliefs sought for :-

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

8.1 That the impugned letter dated 20.8.2001 of the respondents rejecting the claim of the applicant for permanent absorption be set aside and quashed.

8.2 That the Respondents be directed to absorb the applicant in the post of Principal in the Navodaya Vidyalaya Samiti on permanent basis, in

A.H.S

terms of the Hon'ble Tribunal's order dated 05.06.2001 in O.A. No. 238 of 1999.

- 8.3 That the respondents be directed to allow the applicant to continue in the post of Principal on deputation till the process of permanent absorption is completed.
- 8.4 Costs of the application.
- 8.5 Any other relief or reliefs to which the applicant is entitled to, as the Hon'ble Tribunal may deem fit and proper.
- 8.6

9. Interim reliefs prayed for.

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

- 9.1 That the Hon'ble Tribunal be pleased to restrain the respondents from repatriating the applicant to his parent department and to allow the applicant to continue in the post of Principal in the Navodaya Vidyalaya in the same capacity on deputation basis till the process of permanent absorption is completed.

10. *****

This application is filed through Advocates.

11. Particulars of the I.P.O.

- | | | | |
|------|---------------|---|-------------------|
| i) | I.P.O. No. | : | 76 53 8946 |
| ii) | Date of issue | : | 30.8.2007. |
| iii) | Issued from | : | G.P.O., Guwahati. |
| iv) | Payable at | : | G.P.O., Guwahati. |

12. List of enclosures.


As stated in the index.

Atul

VERIFICATION

I, Shri Anusuya Prasad Pokhariyal, Son of Late Rudri Dutta, aged about 53 years, presently working as Principal, Jawar Navodyaa Vidyalaya, Thenzawal, Dist. Aizawl, Mizoram, (temporarily attached in NVS, R.O. Shillong) Cantonment area, Shillong, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 3rd day of September, 2001.


Anusuya Prasad Pokhariyal

~~Annexure - 111~~

15

Annexure-IREGD.

NAVODAYA VIDYALAYA SAMITI
MINISTRY OF HUMAN RESOURCE DEVELOPMENT
DEPARTMENT OF EDUCATION
A-39, KAILASH COLONY, NEW DELHI - 110048

28 APR 1995

F.NO. 1-52/95-NVS(Pers.)

Dated: 07.04.1995

To

Dy. Director of Education,
South District, Defence Colony,
Administration Branch,
New Delhi.

Subject: Appointment to the post of Principal in Navodaya
Vidyalyaya Samiti on transfer on deputation basis.

Sir,

I am directed to inform you that on the basis of the recommendations of the Selection Committee, Mr/Mrs. Ansuya Prasad, PGT(Geo) New Delhi., of your organisation has been selected for appointment to the post of Principal in Navodaya Vidyalyaya Samiti, on transfer on deputation basis in scale of pay of Rs. 3000-100-3500-125-4500/-.

The appointment will be on transfer on deputation basis for a period of two years in the first instance. Mr./Mrs. Ansuya Prasad, will also be entitled to draw dearness and other allowances at the rates admissible subject to the conditions laid down in the Rules and Orders governing the grant of such allowances in force as amended from time to time. The general terms and conditions of deputation on foreign service are enclosed.

The other terms and conditions of the appointment will be as follows:-

- i) The appointment (will be on transfer on deputation) initially for a period (of two years), which may be curtailed or extended at the discretion of the Competent Authority without assigning any reason or notice. However, extension may be granted to an incumbent in consultation with his/her parent organisation, after completion of the initial period of deputation of two years.
- ii) The appointment will be subject to the condition that his/her lien will be kept by his/her parent organisation for the period of deputation/contended deputation on the post held by him/her in the organisation where he/she is presently working and he/she will be taken back on or before the expiry of the deputation or extended period of deputation.

Attested
by
Advocate

- iii) Pay while on deputation will be governed in accordance with the instructions contained in the Ministry of Finance O.M. No. 10(24)E:iii/60 dated 4th May, 1961 as amended from time to time.
- iv) He/she will have the option to draw his/her grade pay plus deputation duty allowance in accordance with the prevailing rules or to have the pay fixed in the scale of pay of the post in the Samiti subject to the instructions/restrictions contained in the Department of Personnel and Training O.M. No. 6/30/86-Estt. (pay-ii) dated 9.12.1986 and Department of Personnel and Administrative Reforms O.M. No. 1/4.84-Estt. (pay-ii) dated 26.12.1984. The option will have to be exercised within one month from the date of joining. Option once exercised will be final.
- v) He/She will have to submit the LPC and Relieving Orders in original from his/her parent organisation in the prescribed proforma to this effect. (Proforma is enclosed)
- vi) If any declaration given or information furnished by him/her proves to be false or if he/she is found to have wilfully suppressed any material/information or HIS/HER SERVICES ARE NOT FOUND SATISFACTORY or otherwise during his/her tenure on deputation in the Samiti, his/her services are liable to be repatriated to his/her parent organisation without assigning any reason/ground or notice.
- vii) Other conditions of service will be governed by relevant Rules and orders in force in the Samiti as amended from time to time.
- viii) Though the present posting will be as under, but subject to exigencies of work HE/SHE IS LIABLE TO BE POSTED ANYWHERE IN INDIA, during the period of deputation in the Samiti.

NAME OF THE VIDYALAYA :

Delhi

DISTRICT :

Chandigarh

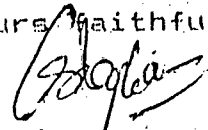
STATE :

Haryana - 745120

It is requested that the concerned official may be informed accordingly and in case he/she is willing to accept this offer, he/she may be relieved from his/her duties immediately SUBJECT TO THE CONDITION THAT NO VIGILANCE CASE IS PENDING/CONTEMPLATED

AGAINST HIM/HER, with the direction to report to the Deputy Director, Navodaya Vidyalaya Samiti, Regional Office, at Navodaya Vidyalaya Samiti, Upper Lachumiere, Shillong, Meghalaya -793001. Tel.No. ~~0364~~ 27836 & 27609 latest by as Principal in the Samiti on transfer on deputation basis, failing which this offer would be treated as cancelled.

Yours faithfully,



(C.A.S. Raghavan)
Deputy Director (Pers.)

29 MAY 1995

Enclosures:

1. Terms & Conditions of deputation.
2. Relieving order proforma.

Copy to:-

1. Mr. ~~Ansuya~~ Ansuya Prasad,
D-613, Netaji Nagar,
New Delhi.
2. The Dy. Director, NVS, Regional Office, Shillong,
The above named officer may please be allowed to join the duties subject to verification of relieving order and other related documents. On his/her joining, the JOINING REPORT, LPC and the RELIEVING ORDER (AS PRESCRIBED BY THE SAMITI), IN ORIGINAL, may be forwarded to the Samiti at an early date.
3. The District Magistrate & Chairman, VMC,
Distt. Churachandpur State Manipur
4. The Principal/Incharge Principal, Navodaya Vidyalaya
Tulna Distt. Churachandpur State
Manipur, with a request to handover the charge to the newly posted Principal as per the directions of Deputy Director, Regional Office, Shillong.

- 15 -
28 -

Annexure - I (Contd)

NAVODAYA VIDYALAYA SAMITI
NEW DELHI

TERMS OF DEPUTATION

1. PERIOD OF DEPUTATION

The deputation will be for a period of two years. The deputation will commence from the date on which the Officer hands over the charge of his post under the parent office and will end on the date on which he resumes charge under the parent office on reversion after availing of joining time, if any, as admissible under the rules.

2. PAY AND ALLOWANCES

During the period of deputation the incumbent will have the option either to elect the grade pay of the deputation post of pay of the parent office and usual deputation allowance as per the Rules of Government of India as modified from time to time and such other general or special orders issued by Ministry of Finance/Department of Personnel, in addition to other usual allowances as admissible under the rules of the borrowing organisation.

3. JOINING TIME PAY AND TRANSFER T.A.

The incumbent will be entitled to TA and joining time pay both on joining the post on deputation and on reversion therefrom to the parent department under the rules of the borrowing authority to which he is deputed. The expenditure on this account will be borne by the borrowing authority.

4. T.A. FOR JOURNEY ON DUTY DURING THE PERIOD OF DEPUTATION

T.A. for journey on duty while on deputation will be regulated under the rules of the borrowing organisation.

5. LEAVE AND PENSION

During the period of deputation on temporary transfer, he/she will continue to be governed by the leave and pension rules of the parent employer applicable to him/her before such transfer.

6. MEDICAL CONCESSION

He/She will be entitled to these concessions under the rules of the borrowing organisation.

7. RESIDENTIAL ACCOMMODATION

He/She will be provided residential accommodation in the Vidyalaya premises as available on site.

-19-

-:2:-

8. REIMBURSEMENT OF TUITION FEES/CHILDREN EDUCATION ALLOWANCE

The Office will be entitled to get Children Education Allowance @ Rs.150/-(Rupees One Hundred Fifty Only) per month per child for a maximum of two school going children subject to general conditions as laid down by the Samiti.

9. LEAVE TRAVEL CONCESSION

The Officer will be eligible to avail the leave travel concession on the scale and conditions contained in the Minsitry of Home Affairs O.M.No.43/1/55-ESTT.(II) P.T.II dated 11.10.1956 as amended from time to time and cost thereof will be borne by the borrowing authority.

10. The Samiti will be liable to pay leave salary in respect of any disability incurred in and through foreign service even though such disability manifests itself after the termination of foreign service.

11. Thw whole expenditure in respect of any compensatory allowance for the period of leave in or at the end of foreign service shall be borne by the Samiti.

12. GPF/CPF CONTRIBUTIONS

During the period of deputation he/she will continue to subscribe to the Provident Fund of the parent organisation in accordance with the Rules of parent organisationn.

13. In case of deputation of a employee who is governed by the Contributory Provident Fund Rules, in his parent office, his parent organisation to who he/she is deputed for the period of deputation.

14. The Samiti will be liable to pay leave salary and pension contribution to the parent organisation on the rates prescribed by the Government of India from time to time during the period of deputation. The rates will be communicated by the lending department.

15. The Samiti will not forward any application of the Officer seeking employment elsewhere wihout the prior approval by the lending department.

16. The Officer will not be absorbed permanently by the Samiti before the expiry of the period for which his lien has been retained in the parent office and it would be binding on the Samiti to consult the parent office before issuing orders for his final absorption and in no such case orders will be issued till the Officer's resignation has been accepted by the lending department. These orders would take effect from the date of acceptance of his/her resignation.

17. The Officer will not be allowed to revert back to his parent organisation at his/her own request before completion of one year service except on administrative grounds. He/She can be reverted back to his/her parent organisation on administrative grounds at any time during deputation period.

-17-
 Annexure - VII
 Annexure - II
 Regd.

GOVT. OF N.C.T.
 OFFICE OF THE DY. DIRECTOR OF EDUCATION
 DISTT. SOUTH WEST, C-4 VASANT VIHAR, N. DELHI
 (ADMIN. BRANCH)

NO. DP-54/DPD/AM/Adm./96/

Dated:- 17/96

To

The Assistant Director (Personal),
 Madhaya Vidyalaya Samiti,
 A-33, Malviya Colony,
 New Delhi-40.

Subj:- Deputation period of Shri Ananya Prasad, PGT,
 (Copy.) to the Principal Madhaya Vidyalaya,
 Samiti.

Sir,

With reference to your letter No. DP-10/
 95-DPS (Pers.) dated 16-05-96. I am directed to
 convey the sanction of the Director of Education for
 extension of deputation period in s/o Sh. Ananya
 Prasad, presently working as Principal in Madhaya
 Vidyalaya, Samiti w.e.f. 22-05-96 to 31-05-96. He
 will continue to hold lien on his permanent post of
 PGT (Copy.).

*1 yr. Sanction
 Extension
 given
 21-6-97*

(DR. T.P.S. CHANDAN)
 DY. DIRECTOR OF EDUCATION
 DISTT. SOUTH WEST.

Not JPT/8/96 / 857 DT 2/8/96

NO. DP-54/DPD/AM/Adm./96/5326

Dated:- 19/7/96

Copy to:-

1. The Principal, G.D.S.S.S. Katarji Nagar, N. Delhi.
2. Sh. Ananya Prasad, PGT (Copy.) presently
 working as Principal Madhaya Vidyalaya, Samiti
3. A.O. (E-III), Hqs. of S.A. Old Secch. Delhi.
4. Office order file.

Sh. Hand Raj

File

*Attested
 Mr. Advocate*

17/8/96

INVESTIGATIONAL MANIPUR	
54420	17/8/96
PT	

(DR. T.P.S. CHANDAN)
 DIRECTOR OF EDUCATION
 DISTT. SOUTH WEST.

Annexure - IX

MOST URGENT

NAVEDAYA VIDYALAYA SAMITI : REGIONAL OFFICE : SHILLONG

No.F.1-33/95/NVS(SHM)/ 8030

Dt. 21st February 1997

To

- | | | | | |
|-----|-----------------|----------------|-----|-------------|
| (1) | Shri V.K.Tyagi, | Principal, | JNV | Lepajoring |
| (2) | " | Ananya Prasad, | " | " Kakching |
| (3) | " | J.P. Shukla, | " | " Dikhaupur |
| (4) | " | O.S. Khatri, | " | " Baphema |
| (5) | " | K.K. Boruah, | " | " Jorhat |

Subject:- Permanent absorption of Principals working on transfer on deputation basis.

Sir,

The Samiti is considering permanent absorption of Principals working on transfer on deputation basis who have completed their normal/extended period of deputation upto 30-6-97 (as per their suitability).

You are, therefore, requested to furnish your consent whether you are willing or not for permanent absorption in the N.V.S. as in the enclosed specimen proforma latest by 5-3-97 positively so as to enable this office forward your case to NVS Hqs for consideration.

Please treat the matter as MOST URGENT.

Yours faithfully,

Encls: As above

(Dr. U.C. SAJJAN)
DEPUTY DIRECTOR.

attested
Wale
Advocate

Annexure-IV

N.VODAYA VIDYALAYA SAMITI
SHILLONG REGION
SHILLONG

F.No.1-7/KNVKH/96 25-8(-86)

Date.19-11-96.

ORDER

1. Haider Ali, Principal JNV Khumbong is granted one month Earned leave w.e.f. 20-11-96. He is also permitted to a Home town L.T.C. for self and family/ A.I.L.T.C as per r
2. During the period of Principal's leave Dr. Ram Kailash Pandey PGT(Hindi) will function as Incharge Principal of the Vidyalaya.
3. Apart from his normal duties of Principal JNV, Kakching D.C. Thoubal Shri A.P. Pokhariyal will also take over the charge of JNV, Khumbong during the outstation of Mr. Haider Ali and guide Dr. R.K. Pandey in functioning and restoring normalcy in the Vidyalaya.
4. Bank accounts of the Vidyalaya will be operated as before in place of Principal (Haider Ali), Shri A.P. Pokhariyal will sign the Cheque.
5. Before joining in the Vidyalaya on expiry of his leave Haider Ali Principal will report R.O. Shillong.

ms 19/11/96
(D. Hazarika)
A.D. (Admn)
R.O. Shillong.
Camp: Khumbong.

F.No.1-7/JNVKH/96/

Date.19-11-96.

Copy to:-

- 1) The D.C. Imphal for favour of kind information please.
- 2) The D.C. Thoubal for information please.
- 3) The Principal JNV, Khumbong for information please.
- 4) Haider Ali (Personal copy)
- 5) Shri A.P. Pokhariyal, Principal JNV, Kakching for information and compliance.
- 6) Dr. R.K. Pandey for compliance
- 7) Office copy JNVKH. (8) Office copy R.O. Shillong.

ms 19/11/96
(D. Hazarika)
A.D. (Admn)
Camp: JNVKH.

*attested
by
Advocate*

नवोदय विद्यालय समिति

(मानव संसाधन विकास मंत्रालय,
शिक्षा विभाग का एक स्वायत्त संस्थान)



Regional Office
NAVODAYA VIDYALAYA SAMITI
Ministry of Human Resource Development
(Deptt. of Education)

No. F.1-7/AP/95/NVS(SHR)/... 7620

Dated. 26.12.98.

OFFICE ORDER

Shri Ansuya Prasad Pokhariyal, Principal JNV, Kakching is hereby attached temporarily till further orders to JNV, Thenzawl, Mizoram in the same capacity. He is provided with a copy of the inspection note of Shri Mohan Das Moses, Education Consultant in the Ministry of HRD, Govt of India who has visited the Vidyalaya earlier. Shri Pokhariyal is directed to go through the report and try to improve the things in the Vidyalaya with special concentration on the academic and discipline. He will draw his salary as Principal from his parent Vidyalaya till further orders. Shri Pokhariyal also will take of the charge of the Vidyalaya from i/c Principal and also will perform the duties of D.D.O..

For his temporary attachment he will be entitled to the actual fare duty.

(D. C. MISHRA)
DEPUTY DIRECTOR.

To,
Shri Ansuya Prasad Pokhariyal,
Principal,
Jawahar Navodaya Vidyalaya,
Kakching (at Shillong).

Copy for information to :-

1. The Joint Director(Admn), Navodaya Vidyalaya Samiti, New Delhi.
2. Shri V.K. Sharma, Deputy Director(Pers), Navodaya Vidyalaya Samiti, Hqr. This is with reference to Shri A.N. Ramachandra, Asstt. Director(SA) letter no.F.27-145/88-NVS(SA) dtd 3-2-98 marked urgent. As a follow-up Shri Pokhariyal is being posted to JNV, Aizawl to improve the things.

Attested
Wakil
Advocate

.....2/-

28 -

3. The Deputy Commissioner, Aizawl-cum- Chairman VMC for favour of his information please.
4. 1/c Principal Mr. Hair, JNV, Thenzawl. He will immediately handover the charge of the Vidyalaya to Mr. Pokhariyal on his assumption of charge as Principal on attachment duty.

DEPUTY DIRECTOR.

....

//.....//

दूरभाष
Telephone 6468001 (7 Lines)

नवोदय विद्यालय समिति

(मानव संसाधन विकास मंत्रालय, शिक्षा विभाग
का एक स्वायत्त संस्थान)
ए-39, कैलाश कॉलोनी, नई दिल्ली-110048

संख्या AD-10/95-IWS (Pers.)
No.



NAVODAYA VIDYALAYA SAMITI
(An Autonomous Organisation of Ministry
Human Resource Development
Department of Education)
A-39, KAILASH COLONY, NEW DELHI-110 048

दिनांक 27.3.98
Dated

OFFICE ORDER

The services of Shri Ansuya Prasad, Principal, JNV Kakching, Manipur are hereby repatriated to his parent department i.e. Director of Education, South Delhi, Defence Colony, New Delhi with effect from 30.4.98 on administrative grounds.

He is entitled for transfer TA and other transfer benefits as per the Samiti rules.

This issues with the approval of Director, IWS.

Shri Ansuya Prasad,
Principal,
JNV Thenzawl,
Mizoram.

Copy to:

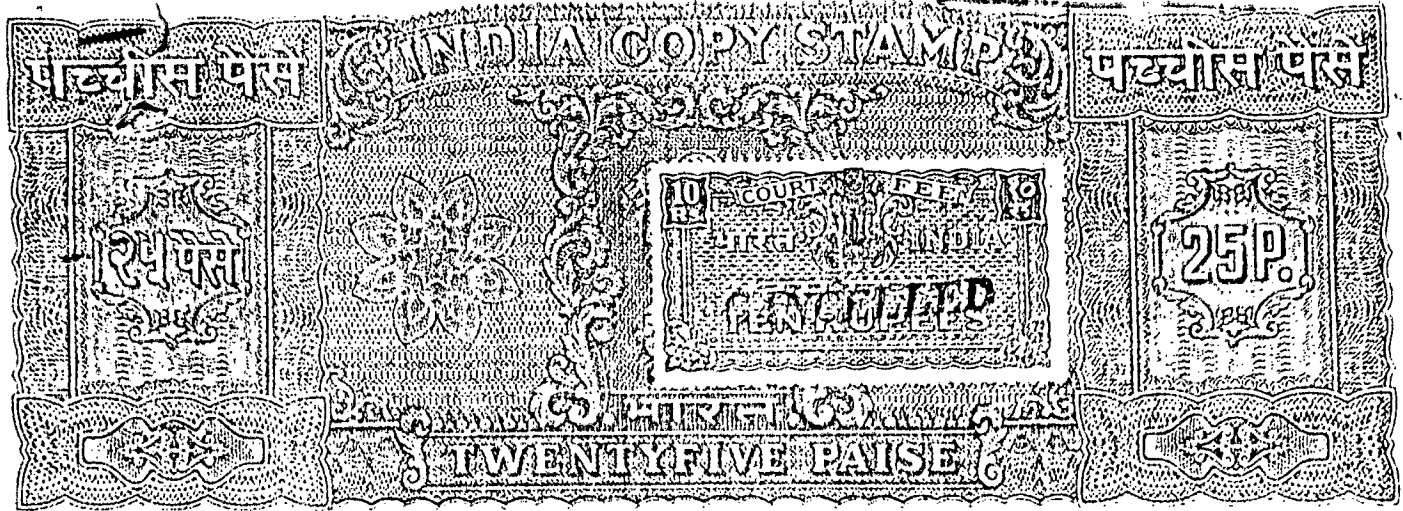
1. The Dy. Director of Education, Distt. South Defence Colony, New Delhi.
2. The Dy. Director, Regional Office Shillong - with a request to conduct the mandatory audit of JNV Kakching (Manipur) and to ensure that there remains nothing outstanding against him at the time of relief.
3. The Distt. Magistrate, Kakching, Manipur.
4. The Principal, JNV Kakching, Manipur.
5. Acad. Wing/V.O./ Fin. Wing/Office) Order file.

(V.K. SHARMA)
DY. DIRECTOR (PERS.)

RECEIPT
Dated... 16-4-98
JNV, THENZAWL.

Attended
H. P. B. T.
Advocate

Sh. H. B. T.
Please make
entries and
this letter to the undersigned
H. P. B. T.
16/4/98



प्रतिनिधि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिनिधि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिनिधि देने की तारीख Date of making over the copy to the applicant.
24.4.98	24.4.98	24.4.98	24.4.98	24.4.98

IN THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM: NAGALAND: MEGHALAYA: MANIPUR:
TRIPURA: MIZORAM & ARUNACHAL PRADESH)

AIZAWL BENCH

CIVIL RULE NO.14/98

Sh.Ansuya Prasad Rokhariyal :- Petitioner
-Vs-

1. Union of India (Represented by- Respondents
the Secretary to the Govt. of
India, Ministry of Human Resour-
ces Development, Department of
Education, New Delhi).
2. The Director, Navodaya Vidya-
laya Samiti A-39, Kailash Colony,
New Delhi-110048
3. The Deputy Director, Navodaya
Vidyalaya Samiti, North Eastern
Regional Office, Upper Lachumiere,
Shillong - 1.
4. The Director of Education, Govt.
of the National Capital Territory
of Delhi, Old Secretariat, Delhi.

Typed by
Read by
Compared by

P R E S E N T

THE HON'BLE JP. JUSTICE H.K.K.SINGH

For the petitioner :- Mr.G.Raju

For the respondent :-

D A T E
23.4.98

O R D E R

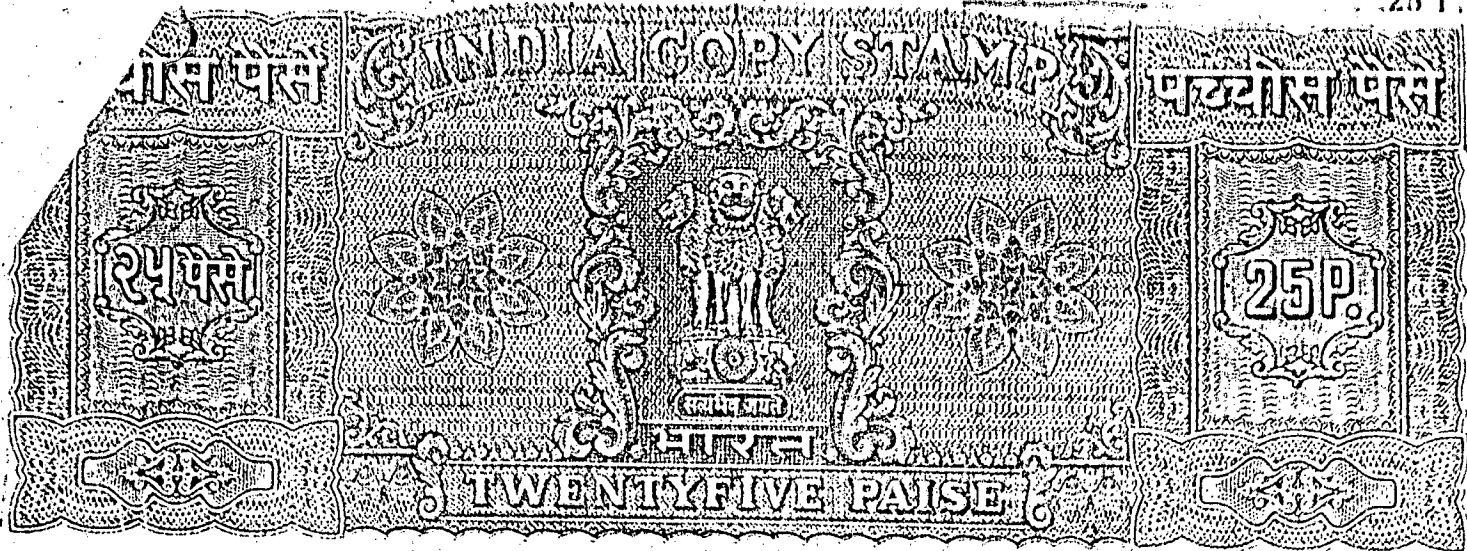
Heard Mr.G.Raju, the learned counsel for the
petitioner.

contd...2/-

CERTIFIED TO BE TRUE COPY

Deputy Registrar,
GAUHATI HIGH COURT
Aizawl Bench, Aizawl

Authorised under or XLI R 37 CPC



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

- 2 -

Let the records be called for.

Let a rule issue calling upon the respondents to show cause as to why a writ should not be issued as prayed for; or why such further or other orders should not be passed as to this court may deem fit and proper.

This rule is made returnable within a period of 6(six) weeks. Petitioner to take steps for service of notice upon the respondents within in a period of 2(two) days.

In the interim and until further order the operation of the impugned order dated 27.3.98 passed by the respondent No.2 shall remain suspended.

Sd/-

H.K.K.SINGH
JUDGE

CLERKED TO BE TRUE COPY

Public Registrar,
GARHWAL HIGH COURT
Allahabad Bench, Faizabad

Authorised under or XLI R 37 CPO,

20/4/98

- 25 -

52/160/1995

Annexure - VIII

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.238 of 99

Date of Order: This the 5th Day of June 2001.

HON'BLE MR.JUSTICE D.N.CHOUDHURY, VICE-CHAIRMAN
HON'BLE MR.K.K.SHARMA, ADMINISTRATIVE MEMBER.

Shri Ansuya Prasad Pokjariyal
S/O Late Rudri Dutta,
Principal, Jawahar Navodaya Vidyalaya,
Thenzawl, District, Aizawl,
Mizoram Petitioner

By Advocate Mr.J.L.Sarkar, Mr.M.Chanda, Mr.G.Raju,
Mrs.U.Dutta.

-Vs-

1. The Union of India (Represented by the Secretary to the Govt. of India, Ministry of Human Resources Development, Department of Education, New Delhi).
2. The Director, Navodaya Vidyalaya Samiti
A-39, Kailash Colony,
New Delhi-110048.
3. The Deputy Director Navodaya Vidyalaya Samiti,
North Eastern Regional Office,
Upper Lachumiere,
Shillong-1 Respondents.
4. The Director of Education
Govt. of the National Capital
Territory of Delhi, Old Secretariat
Delhi. Proforma Respondents.

By Advocate Mr.K.N.Choudhury, Mr.S.Sarma, Mr.B.C.Das.

D.N.CHOUDHURY, VICE-CHAIRMAN:

By order dated 28th April 1995 the applicant was appointed to the post of Principal in Novodaya Vidyalaya Samiti on transfer on deputation basis. The said appointment was made for a period of 2 years in the first instance. By order dated 16.5.96 the term of the deputation as Principal was extended up to 22.6.97. The third year extension of the applicant was to end only on 21.6.98. By letter dated 21st February 1997 the applicant alongwith 4 others were advised to furnish his consent as to whether he is willing

contd/-

was

*Attested
Wills
Advocate*

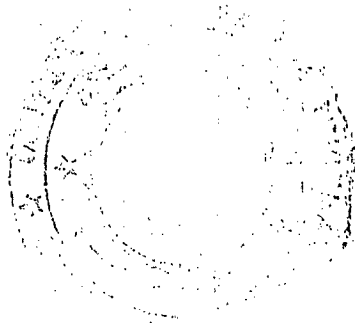
or not for permanent absorption in NVS and accordingly he was asked to submit his consent within the period specified. While things rested at that stage the impugned order dated 27.3.98 was passed by which the applicant was repatriated to his parent department with effect from 30.4.98 on administrative grounds. The aforementioned order of repatriation is under challenge in this O.A. The respondents seriously contested the case and submitted its written statement.

In course of proceedings the records were submitted. We have heard Mr.M.Chanda learned counsel appearing on behalf of the applicant and also heard Mr.K.N.Chowdhury assisted by Mr. S.Sarma and Mr.B.C.Das learned counsel representing the respondents. The materials on record do not indicate any administrative reason for repatriating the applicant before expiry of the period of deputation. Be that as it may, on the strength of the order dated 23.4.98 passed by the Hon'ble Gauhati High Court in Writ Petition (C) No.8 of 98 the applicant is continuing to hold the post of Principal under the respondents. On an overall consideration of all aspects we are of the view that ends of justice would be met if a direction is issued to the respondents to consider the case of the applicant for permanent absorption in the post of Principal in conformity with the Navodaya Vidyalaya Samiti Recruitment Rules and the existing norms adhered to by the NVS. The applicant has already given his opinion. The authority may take formal steps for considering his case as per rule for absorption at the earliest opportunity. Till completion

of the aforesaid exercise the order passed in Writ
Petition No.8 of 98 by the High Court on 23.4.98
shall remain operative.

With the above observations the application is
disposed of. There shall, however, be no order as to
costs.

Sd/VICE CHAIRMAN
Sd/MEMBER (Adm)



Certified to be true Copy
সত্যতা নিশ্চিত

Section Officer (J)
সকল বিষয়: জনস্বাস্থ্য
Control Administrative Tribunal
সকল বিষয়: স্বাস্থ্য
Guwahati Bench, Guwahati-8
সকল বিষয়: স্বাস্থ্য

29/6/2007

29/6/2007

July 11, 2001

To
The Director,
Navodaya Vidyalaya Samiti,
A-39, Kailash Colony,
New Delhi.

Sub: Absorption and transfer in Navodaya Vidyalaya Samiti as Principal

**Ref: Hon'ble High Court, Guwahati Order dated 24.4.98 and
Hon'ble Central Administrative Tribunal, Guwahati Order dated 5.6.01**

Respected Sir,

With due respect and humble submission, I beg to state that the undersigned was appointed as Principal by Navodaya Vidyalaya Samiti on transfer or deputation basis for a period of two years w.e.f. 22.6.95 and was posted in JNV Thoubal, Manipur which was further extended for another one year upto 22.6.98 without formal consent of undersigned. In the mean time, by letter dated 21st February, 1997, NVS Regional Office, Shillong, the undersigned along with four others from NER was requested to furnish the consent for permanent absorption in NVS which was willingly submitted to the NVS within specified period.

Sir, all of a sudden, an order dated 27.3.98 was issued by NVS Headquarter to repatriate the undersigned in my Parent Organisation, Department of Education, Govt. of NCT of Delhi before 30th April, 1998 on administrative ground, vide which the undersigned was temporarily attached in JNV Thenzawl, Aizawl w.e.f. 28.2.1998 to improve the condition of the Vidyalaya with special concentration on disciplinary and academic field on the basis of an adverse report of the Vidyalaya submitted by Shri Mohan Das Moses, IAS, Educational Consultant, Govt. of India. Two other institutions of Mizoram i.e. JNV, Lunglei and Chintupui were closed. The undersigned accepted the challenge and tried his level best to bring the Vidyalaya in the right track in spite of several problems.

Sir, the undersigned tried a lot to contact the Headquarter but the Hon'ble Director was out of station and there was no other solution except to file the Writ Petition before Hon'ble High Court of Guwahati. The Hon'ble High Court of Guwahati passed a Stay Order on 23.4.98. Eversince, the undersigned has been working in the same capacity at JNV Thenzawl, Aizawl since 28th February, 1998 under temporary attachment and so far, no transfer order from JNV HQ in this regard has been issued.

attested
witness
Advocate

Sir, further the petition was transferred to Hon'ble Central Administrative Tribunal (CAT), Guwahati in 1999. After long proceedings and number of hearings, the Hon'ble CAT in its verdict on 5.6.2001 did not find any administrative reason for repatriation before expiry of the extended period of deputation and indicated your esteemed authority to issue a direction to the undersigned for permanent absorption in the post of Principal in conformity with the Navodaya Vidyalaya Samiti Recruitment Rules and the existing norms adhered to by the NVS.

Sir, the undersigned has been working sincerely and honestly in the extreme remotest area of the North East since 26.6.95 and has been faithful to the Navodaya Vidyalaya Samiti and has been working in the Vidyalayas like Thenzawl, a remotest pocket of the country, where the first generation of learning has been studying. The undersigned tried to urbanise and to develop the ^{skills} of reading ~~habits~~ of students by different means. If a an opportunity is given to the undersigned to serve continuously under NVS, the undersigned assures that I shall leave no stone unturned to fulfill the objective of NVS to uplift the System and bring laurel to this esteemed Organisation.

I, therefore, request your esteemed authority to kindly consider my case of permanent absorption in NVS sympathetically and transfer me from NER to any suitable place of Uttaranchal or Western Uttar Pradesh and oblige. Your initiative and cooperation in this regard will be highly solicited.

With profound regards and thanking you in anticipation.

Yours sincerely,


(ANSUYA PRASAD)

PRINCIPAL,

JAWAHAR NOVADAYA VIDYALAYA,
THENZAWAL, DISTT. AIZAWL,
MIZORAM

Temporarily attached in NVS,
RO, Shillong.

Encl: copies of the decision of Hon'ble HC/CAT, Guwahati,

Fax : 64684091

दूरभाष
Telephone 6468001 (7 Lines)

नवोदय विद्यालय समिति

(मानव संसाधन विकास मंत्रालय, शिक्षा विभाग)

का एक स्वायत्त संस्थान)

ए-39, कैलाश कालोनी, नई दिल्ली-110048

संख्या

No. F.No. AD-10/95-NVS (P er s.)

✓ Shri Ansuya Prasad,
Principal,
JNV Aizwal,
Mizoram
(Temporarily attached in FO Shillong)

Sub.: Absorption and transfer in NVS as Principal - reg.

Ref.: Hon'ble High Court, Guwahati Order dated 24.4.98 and
Hon'ble Central Administrative Tribunal, Guwahati order
dated 5.6.01.

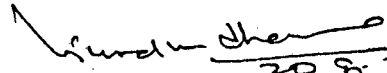
Sir,

This is in compliance to Hon'ble Central Administrative Tribunal, Guwahati Bench Order dated 5th June 2001 in O.A. 1b.238 filed by Shri Ansuya Prasad Pokriyal S/o Late Rudridutta, Principal, JNV Thenzawl, Distt. Aizwal, Mizoram, to consider his case as per rules for absorption and appeal dated July 11, 2001, submitted by Shri Ansuya Prasad to the Director, NVS for permanent absorption as Principal.

In this connection, I am directed to inform that the representation of Shri Ansuya Prasad dated 11.7.2001 has been carefully examined by the Director, NVS in the light of Hon'ble CAT orders and came to the conclusion that as per the available position on date and rules, there is no vacancy available to absorb Shri Anusya Prasad in the Navodaya Vidyalaya Samiti as the present vacant posts are either under Reserve Quota or Promotion quota as per the present Recruitment Rules of Navodaya Vidyalaya Samiti.

This disposes off the representation dated July 11, 2001 finally.

Yours faithfully,


(V.K. SHARMA)
DY. DIRECTOR (PERS.)

attached
with
Advocate

30.
Speed. form

Annexure X

तार : नवसा
Gram : 'NAVSAM'

NAVODAYA VIDYALAYA SAMITI

(An Autonomous Organisation of Ministry of
Human Resource Development
Department of Education)

AVSXXKXASHKXOKONYXNEWDELHIX10048X

Email : navodaya@ren02.nic.in

navodaya@nda.vsnl.net.in

Website : navodaya.nic.in

I.G.Stadium (Near I.T.O.), N.D. -02

दिनांक 20-8-2001

Dated

Fax : 6484001

सुरक्षा
Telephone : 6488001 (7 Lines)

नवोदय विद्यालय समिति

(मानव संसाधन विकास मंत्रालय, शिक्षा विभाग)

का एक स्वायत्त संस्थान)

A-39, कैलाश कालोनी, नई दिल्ली-110048



संख्या

F.No.1-5/95-NVS (Admn.)

No.

Annexure - XI

CR 110
Gum: 10/11

NAVODAYA VIDYALAYA SAMITI

(An Autonomous Organisation of Ministry of
Human Resource Development
Department of Education)

A-39, KAILASH COLONY, NEW DELHI-110048

Email : navodaya@ron02.nic.in

navodaya@nda.vsnl.net

Website : navodaya.nic.in

31/06/2001

दिनांक

Dated

NOTIFICATION

In exercise of the powers conferred under Rule-24 of the Rules of the Navodaya Vidyalaya Samiti, the chairman, NVS, hereby makes the following Rules for regulating and method of absorption in Navodaya Vidyalaya Samiti by modifying the clause-2(iii) of the Rules notified through Notification No.F.2-29/94-NVS (Admn.) dated 22nd June 1995:

1. The notification No.F.2-29/94-NVS (Admn.), dated 22nd June, 1995 alongwith the Revised Recruitment Rules, 1995, the Clause-2(iii) may now be read as under :

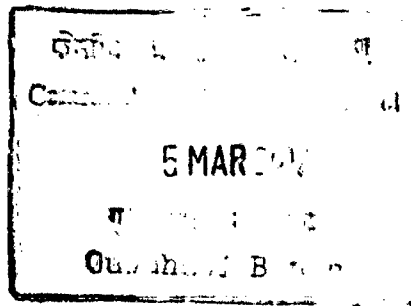
"Persons working on deputation for atleast 02 years on a post in the Samiti may be considered for permanent absorption."

(S.P. Gaur)
Director, NVS

To

1. All Regional Officers of the Samiti.
2. All Jawahar Navodaya Vidyalaya.
3. All Officers at NVS HQrs.

Attested
W. S. E.
Advocate



Filed by:
Binial Chandra Das
Advocate.
4.3.02.
87

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

ORIGINAL APPLICATION NO. 354/2001.

Shri Ansuya Prasad Pokriyal.

.... Applicant.

- Versus -

Union of India & Others.

.... Respondents.

The Respondent Nos. 2, 3 and 4 beg to file their
Written Statement as follows :-

1) That all the averments and submissions made in the Original Application are denied by the answering respondents save what has been specifically admitted herein and what appears from the records of the case.

Dee
2) That with regard to the statement made in paragraphs 4.1 and 4.8 of the Original Application (hereinafter referred to as the O.A.) the answering respondents have no comments to offer.

3) That with regard to the statement made in paragraphs 4.2, 4.3, 4.4, 4.5, 4.6, 4.7 and 4.9 of the

contd... p 2.

O.A. being matters of records of the case the answering respondents have no comment upon it.

4) That with regard to the statements made in paragraph 4.10 of the O.A. the answering respondents beg to state that the applicant was repatriated to his parent Department as per the terms and conditions of his appointment of deputation.

5) That with regard to the statement made in paragraphs 4.11, 4.12, 4.13 and 4.14 of the O.A. the answering respondents have no comments to offer.

6) That with regard to the statement made in paragraph 4.15 of the O.A. the answering respondents beg to state that the order dated 20.8.2001 passed by the Samiti is in accordance with the procedure and rules and by keeping in view the vacancy position of Principal in the Samiti. The Samiti has passed the orders in due consideration of the order passed by this Hon'ble Tribunal in O.A. No. 238/99 dated 5.6.2001. It is a fact that the vacancies are not available in General quota in the Samiti. As per rules the absorption is to be made against the Direct Recruitment quota and by following the prescribed procedure. As a matter of fact the allegation of the applicant is baseless and not based on the factual position.

29
3.

7) That the answering respondents ~~may~~ deny the correctness of the statement made in paragraphs 4.16 and 4.17 of the O.A. as the latest Recruitment Rules are not yet finalised.

8) That with regard to the statement made in paragraph 4.18 of the ~~XX~~ O.A. the answering respondents beg to state that the case of the applicant has been duly considered as per the procedures and rules.

9) That with regard to the statement made in paragraph 4.19 of the O.A. the answering respondents beg to state that the order passed by the Samiti on 20.8.2001 is as per rules and, as such, there is no ambiguity. Pursuant to the order dated 20.8.2001 the applicant was relieved in the A.N. of 8.9.2001 vide order No. 1517 dated 3.9.2001.

10) That under the facts and circumstances stated above, it is respectfully prayed before this Hon'ble Tribunal that the instant application is dismissed with cost as the applicant cannot be absorbed permanently as he is already relieved vide order dated 3.9.2001 in accordance with the procedure and rules.

VERIFICATION

4.

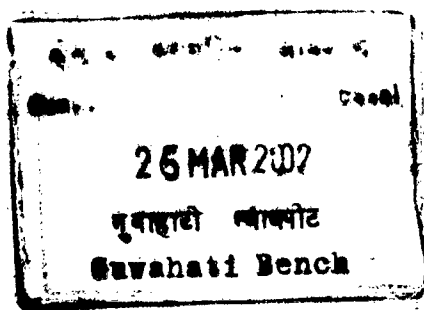
VERIFICATION

I, Miss Wimon Tariang, Daughter of Late Larsing Khyiem, aged about 53 years, presently working as Deputy Director, In-Charge, Navodaya Vidyalaya Samiti, Regional Office - Shillong, do hereby verify that the statements made in paragraphs 1 to 9 are true to my knowledge and those made in paragraph 10 are true to my legal advice and I have not suppressed any material fact.

And I sign this Verification on this the 4th day of March, 2002.

MISS. WIMON TARIANG

SIGNATURE



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

O.A. No. 354/2001

Sri Anusuya Pokhariyal

Vs.

Union of India & Ors.

-And-

In the matter of :

Rejoinder submitted by the applicant in
reply to the written statement submitted
by the respondents.

The applicant above named -

Most humbly and respectfully begs to state as under :

1. That your applicant categorically denies the statements made in paragraph 4,6,7 and 8 of the written statements and further begs to state that the respondents have acted in total violation of the orders and directions contained in the judgment dated 5th June, 2001 in O.A. No. 238/99 wherein a specific direction was given to the respondents to consider the case of the applicant for permanent absorption as per rules, but without considering and suppressing the material fact the impugned order dated 29.8.2001 and 3.9.2001 have been passed. It is relevant to mention here that as per Notification dated 21.6.2001 the applicant is well within the zone of consideration for regular absorption, as such the repatriation order without considering the case of the applicant for absorption is contrary to the judgment and order dated 5.6.2001. It is relevant to mention here that so far the vacancy position is concerned the respondents have published advertisement in the Employment News dated 13-19 October 2001 for about 40 posts inviting applications for filling up the same on deputation basis wherein it is stated that there is a possibility that as per rules for absorption provided the performance is outstanding. There it appears that the contentions of the respondents made in the written statement are totally

*Filed by the applicant
through advocate Sri
G. N. Chakravarty on
26-3-2002.*

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false and misleading for the vacancy position are concerned, as the impugned orders are liable to be set aside and quashed.

A copy of the advertisement notification is enclosed ~~Annexure-~~

A.

2. That your applicant also categorically denies the statements made in paragraph 9 and 10 of the written statement and further begs to state that even after passing of the interim order dated 4.9.2001 by this Hon'ble Tribunal staying the operation of the order dated 29.8.2001 and 3.9.2001, the applicant has not yet been allowed to discharge his duties althrough he is regularly attending the office but he is meted out harassments by the respondents more particularly by the Deputy Director, N.V.S., Shillong as if a stranger is attending the office. The salary of the applicant is not been paid since August, 2001 in spite of repeated approach. In this connection the representation of the applicant dated 3rd December 2001 is enclosed for perusal of the Hon'ble Tribunal.

A copy of the representation dated 3.12.2001 is annexed hereto and marked as **Annexure-B.**

In the facts and circumstances stated above, the Hon'ble Tribunal be pleased to direct the respondents to absorb the applicant on regular basis and also be pleased to direct the respondents to release the salaries of the applicant with effect from August, 2001 till the date of actual reinstatement.

In the facts and circumstances the application deserves to be allowed with costs.

VERIFICATION

I, Shri Anusuya Prasad Pokhriyal, S/o Late Rudri Dutta, aged about 53 years, presently working as Principal, Jawar Navodaya Vidyalaya, Thenzawl, District Aizawl, Mizoram, (temporarily attached in NVS, R.O. Shillong) Cantonment area, Shillong, do hereby verify that the statements made in Paragraph 1 to 3 in this rejoinder are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 26th day of March, 2002.

Anusuya Prasad Pokhriyal



NAVODAYA VIDYALAYA SAMITI

(AN AUTONOMOUS ORGANISATION UNDER MINISTRY OF HRD)
INDIRA GANDHI STADIUM, I.P. ESTATE, NEW DELHI-110002

Applications are invited for the post of **Principals to be filled on Deputation Basis** in the Jawahar Navodaya Vidyalayas, which are co-educational residential schools spread all over the country.

Number of posts : 40
Scale of Pay : Rs.10,000-325-15,200/-
Age Limit : Between 35 to 45 years

QUALIFICATIONS

I. Essential :

- 1) A master's degree from a recognized university with at least 50% marks.
- 2) B.Ed. or equivalent teaching degree.
- 3) Persons working in any of the Govt./Semi-Govt./Govt. recognized CBSE affiliated Sr. Secondary (10+2) Schools/Inter College.
 - a) Holding analogous post or
 - b) Vice-Principal in the scale of pay of Rs. 7,500-250-12,000/- or Rs. 8,000-275-13,500/- with 10 years experience/service as PGT/Lecturer in the scale of Rs.6,500-10,500/- or Rs. 7,500-12,000/- or
 - c) A minimum of 12 years experience/service as PGT/Master/Lecturer in the scale of Rs.6,500-10,500/- (revised) or equivalent in the Sr. Secondary School.

II. Desirable :

- 1) At least three years experience as a House Master of fully residential school.
- 2) Experience of working in a fully residential/CBSE affiliated/Govt. recognized school.
- 3) Proficiency in English and Hindi/concerned/regional language.
- 4) Showed some innovation/indination to 'innovate'.

TERMS & CONDITIONS

- i) The employees of Central/State Government/U.T. Administration/Autonomous Bodies/Institutions recognized by the Government which have facility to release its employees on deputation basis on retaining lien are eligible to apply for recruitment on **DEPUTATION BASIS**.
- ii) The candidates selected for appointment on **DEPUTATION BASIS** will be initially appointed for a period of two years extendable to five years. The Samiti reserves the right to repatriate the service of a deputationist at any time even before the completion of approved deputation period, depending upon their performance, without assigning any reasons.
- iii) Selected candidates will be entitled to various allowances as admissible under the Central Government Rules. Besides, the Samiti offers the following incentives to the selected Principals :
 - Rent free, furnished housing facility as available on site.
 - Facility as per Samiti's rules for admission to their sons/daughters in the Navodaya Vidyalaya where they are posted.
 - Free boarding with students, as per rules.
 - Special (Teaching) allowance @ 150/- p.m., as per rules.
- iv) There is a possibility as per rules, of the deputationists being absorbed permanently in NVS, provided they perform outstandingly.

HOW TO APPLY

Candidates fulfilling the eligibility criteria may send their applications through proper channel to the Dy. Director (P&E), Navodaya Vidyalaya Samiti, Indira Gandhi Stadium, I.P. Estate, New Delhi-110002 so as to reach him by **15th November, 2001** along with a brief Bio-Data including the name, father's name, name of the present organization working, present post held along with scale of pay, details of total experience/service with pay scales in chronological order with the present and permanent address. Such of those candidates possessing the required experience of handling Senior Secondary Classes only should apply. Applications should accompany with a Demand Draft for Rs.200/- in the name of 'Navodaya Vidyalaya Samiti, New Delhi' and copies of certificates of educational qualifications, percentage of marks, experience. Applications should be duly forwarded by the heads of Departments concerned along with certificate of experience, the posts of pay scales held by the applicant.

Last date of receipt of applications is **15th November, 2001**. However, the last date of receipt of applications for the candidates applying from Andaman & Nicobar Islands, North-East, Lakshadweep, Leh & Ladak, is **30th November, 2001**.

*Notified
for
Recruitment*

See Annex X1 P32

3-
Annexure - B

Dec 3
November 28, 2001

To
The Commissioner,
Navodaya Vidyalaya Samiti,
Indira Gandhi Indoor Stadium,
Adm. Building, ITO,
New Delhi - 110 002.

Sub : Releasing Salary, assigning duties and Inter-Regional
Transfer from Navodaya Vidyalaya Samiti Regional Office,
Shillong

Respected Sir,

With due respect and humble submission, I would like to draw your kind attention towards the points mentioned below.

I have been working as Principal on transfer on deputation basis since 22nd June, 1995 under Navodaya Vidyalaya Samiti from NCT of Delhi in Shillong Region. In February, 1997, the NVS issued an order to ask my consent for permanent absorption, which was voluntarily submitted within stipulated time. Navodaya Vidyalaya Samiti extended my third year deputation period but in between April 1998, I was repatriated without any reason. This order was challenged in the Honourable High Court which suspended the repatriation order dated 23.4.95. Further, my writ petition was transferred to the Honourable Central Administrative Tribunal, Guwahati and the Honourable Court in its final decision on 5.6.2001 directed NVS authority to consider this case for permanent absorption. But unfortunately, the verdict of the Court was not considered stating that "Vacancies of Principals are only for reserved and promotion quota and no vacancy is there under general quota". Thus I was once again repatriated and relieved on 3rd September, 2001.

The undersigned once again filed a writ petition in Honourable CAT, Guwahati for natural justice and Honourable Court suspended the above mentioned orders and operated my stay in Samiti.

Attested
for
Advocate

- 6 -

ap

I have already requested your goodself for redressal of my grievances through my letter in the month of October, 2001 elaborating therein the condition of my mental, physical and financial problems.

Sir, I had been attached to NVS Regional Office, Shillong on 4th April, 2001 without any work and till date no duties have been assigned to me. My monthly salary has been stopped since August, 2001 and I have been dejected, harassed, exploited and embarrassed since last six months by the NVS. Neither the Vidyalaya nor any duty or seat is allotted to me till date in Regional Office Shillong. As I have completed more than six years of service in North Eastern Region, my transfer is already over due.

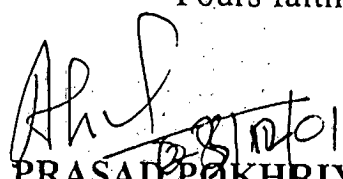
Sir, as I have been overage to apply for my future betterment, I request your esteemed authority to be kind enough to re-consider my permanent absorption in Navodaya Vidyalaya Samiti and continue my services under your kind control.

I have been suffering from extreme hypertension and mental agony because of financial crisis. My family specially my sons studying Engg, MBA and Electronic Commerce are also facing acute financial crisis.

I request your esteemed authority once again to consider my case for releasing my salary, assigning duties and transfer me from NER to Lucknow or Chandigarh regions to safe my physical and mental health and oblige.

Thanking you in anticipation.

Yours faithfully,


(ANSUYA PRASAD POKHRIYAL)
PRINCIPAL, Attached to Navodaya
Vidyalaya Samati, Regional Office,
Nongrim Hills, SHILLONG.

*Attested
by
Advocate*