

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 256/01

R.A/C.P. No.

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FORM No. 4
(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.

ORDERS SHEET

Original APPLICATION NO. 366 / 2001.

Applicant (s) D. N. Prasad.

Respondant(s) U.O.I. & O.Ko. (Kvs)

Advocate for the Applicant: D.K. Mishra, Inti Longjen, S. Jahan

Advocate for the Respondant: Counsel for the K.V.S.

Notes of the Registry	Date	Order of the Tribunal
	13.9.01	Present : Mr. Justice D.M. Chowdhury, Vice-Chairman. Mr. K.K. Sharma, Administrative Member.
This application is in form but not in time Condonation Petition is not filed vide M. P. No. X C. F. for Rs. 50/- deposited vide IPO/BD No. 12P 6435-90. Dated..... 16.7.2001..... <i>Dy. Registrar.</i> <i>MS</i> <i>4/9/01</i> <i>Steps Taken</i>		<p>This is an application under section 19 of the Administrative Tribunals Act, 1985, wherein action of the respondents in refusing to furnish the documents relied upon in support of the charge in the disciplinary proceeding as unlawful. When the matter was posted for admission today, Mr. M. Chanda, learned counsel for the respondents stated that out of Seven documents five are now furnished though it was initially refused and two more documents will also be furnished to the applicant within a short time. In support of his submission Mr. M. Chanda, learned counsel for the respondents, mentioned the communication dated 7.9.2001 conceding/agreeing to provide the documents. The order of 7.9.2001 is kept in record.</p> <p>In view of the stand taken Mr. I. Longjen learned counsel for the applicant agreed not to press this application at this stage. The learned counsel submitted that the applicant shall submit his written statement of defence within two weeks</p>

contd/-

13.9.01

from the date of receipt of all the documents mentioned.

In view of the stand taken, the respondents are directed to make available remaining two documents at the earliest preferably within two weeks from today. On receipt of the said documents, the applicant shall file his written statement within two weeks thereafter. The respondents on receipt of the written statement and on consideration of the same, shall act as per law.

The application thus stands disposed of. The disposal of the application shall not be bar to the applicant to move the tribunal if such occasion arises. Hereafter. There shall however, be no order as to costs.

K. C. Sharma

Member

Vice-Chairman

mb

17.9.2001

Copy of the order has been sent to the Office for study in the case of 1154/ADN for the party.

stb

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GAUHATI BENCH

GAUHATI

O.A.No. 356 /2001.

BETWEEN

DOOTH NATH PRASAD,

..... Applicant.

- Vs -

UNION OF INDIA and Ors. (K.V.S.),

..... Respondents.

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Filed By:-

G. Longjem
Advocate.

Dooth Nath Prasad

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GAUHATI BENCH,

GAUHATI

O.A.No. 356/2001.

BETWEEN

Sri. Doodh Nath Prasad,
S/o. Late Sarjoo Prasad,
Post Graduate Teacher, in Hindi,
at present residing at Kendriya
Vidyalaya Campus, Narangi,
Gauhati - 27, Assam.

..... Applicant.

- Versus -

1. The Union of India,
Represented through the
Secretary, Department of Education
under Ministry of Human Resources and
Development, Govt. of India,
Shastri Bawan , New Delhi - 1.
2. The Kendriya Vidyalaya Sangathan,
Represented through the
Commissioner, Kendriya Vidyalaya
Sangathan,
18, Institutional Area, Shaheed Jeet
Singh Marg, New Delhi - 16.

Doodh Nath Prasad

3. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Gauhati Region, Maligaon,
Gauhati - 12, Assam.
4. The Principal,
Kendriya Vidyalaya , Narangi,
Gauhati - 27.
5. The Principal,
Kendriya Vidyalaya , Kimin,
Arunachal Pradesh.

Doodh Nath Prasad

.... Respondents.

DETAILS OF APPLICATION:-

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION
IS MADE:-

1.1 Memorandum No. 14-3/2001 - KVS(GR)/12760-61 dated 27.5.2001 issued by the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Gauhati Region, whereby the applicant is denied the opportunity to inspect the documents by which the Articles of Charges against him are proposed to be sustained.

1.2 Order No.F.14-2/2001-KVS(GR)/13357-59 dated 28/6/2001 and Order No.F.14-2/2001-KVS(GR)/13360-63 dated 28/6/2001 whereby the Assistant Commissioner, KVS(GR) appointed the Inquiring Authority and Presenting Officer respectively.

2. JURISDICTION OF THE TRIBUNAL:-

The applicant declares that the subject matter

of the order against which he wants redressal is within the Jurisdiction of the Tribunal.

3. LIMITATION:-

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

4. FACTS OF THE CASE:-

4.1) That the applicant is a citizen of India and at present residing at Kendriya Vidyalaya Campus, Narangi, Gauhati and as such he is entitled to all the rights and protection guaranteed under the Constitution of India and other laws of the land.

4.2) That the applicant was appointed by the Kendriya Vidyalaya Sangathan (hereinafter referred to as K.V.S.) as T.G.T.(Hindi) in the year 1969. His first posting was at Ambarnath (Bombay). In 1984 he was transferred and posted as Post Graduate Teacher (Shortly P.G.T.) in Hindi at Kendriya Vidyalaya , Narangi , Gauhati .

4.3) That the applicant was sent on deputation as I/C Principal to Kendriya Vidyalaya , Kimin, Arunachal Pradesh. He joined Kendriya Vidyalaya, Kimin on 16.1.2000 and he was reverted back to Kendriya Vidyalaya , Narangi on 26.1.2001 .

Doodh Nath Bora

4.4) That vide Memorandum No. F.Conf/2000/KVS(GR) 11124-25 dated 9.4.2001, the applicant was asked to give reason for appointing two teachers on part - time basis, while he was I/C Principal at Kendriya Vidyalaya, Kimin. The applicant replied to the aforesaid Memorandum vide his letter dated 12.4.2001.

Doradh Nath Prasad

A copy of Memorandum dtd. 9.4.2001 is annexed herewith and marked as Annexure - A1.

4.5) That thereafter the Respondent No.3 vide order No. F.14-3/2001-KVS(GR)/11807-09 dated 30.4.2001 placed the applicant under Suspension with immediate effect.

A copy of the Suspension order dtd. 30.4.2001 is annexed herewith and marked as Annexure - A2.

4.6) That on 17.5.2001 the applicant received a copy of the Memorandum No. F.14-3/2001-KVS(GR)/12347-48 dated 16.5.2001 wherein it was stated that an enquiry is proposed to be held against the applicant under the Central Civil Service (Classification, Control and Appeal) Rules 1965 (hereinafter referred to as the Rules). Annexure - I of the aforesaid Memorandum dtd. 16/5/2001 contained the statements of Articles of Charges and Annexure - III contained the list of documents by which the Articles of Charges were proposed to be sustained. The said list of documents

are as follows:-

1. Staff sanction Order No.F.11-41/96-KVS(O&M), dated 25.02.2000 issued by the Kendriya Vidyalaya Sangathan (Hqrs) New Delhi for the year 2000-2001.
2. Staff Modification Order No.F.11-41/96-KVS(O&M) dated 10.4.2000 issued by the KVS(Hqrs) for the year 2000-01.
3. Part-time Teachers Attendance Register of Kendriya Vidyalaya, Kimin w.e.f. 26.06.2000 to 05.05.2001.
4. Time Table of Kendriya Vidyalaya, Kimin for the session 2000-2001 showing distribution of Periods to Shri. A.Rai, PGT(Maths) and Mrs.N.Arora, TGT(Sanskrit).
5. Letter No.F.14/KVK/2000-01, dated 4.4.2001 received from Shri S.K.Sharma , I/C Principal, Kendriya Vidyalaya , Kimin.
6. Vouchers regarding Payment made to Shri A.Rai, PGT(Maths), Mrs.N.Arora , TGT(Skt.) and Mrs. Tulsi Basfore, Casual Sweeper for the year 2000-2001.
7. Attendance Register maintained for Casual Sweeper w.e.f. 01.06.2000 of Kendriya Vidyalaya, Kimin.

It be stated here that the aforesaid documents were neither annexed with the Memorandum dtd. 16.5.2001 nor were supplied to the applicant. The aforesaid Memorandum also stated that the applicant was to submit a Written Statement within a period of 10 days from receipt of the same.

Doddh Nath Prasad

A copy of the Memorandum of Charges dtd.16.5.2001 is annexed herewith and marked as Annexure-A3.

4.7) That the applicant vide his letter dated 19.5.2001 requested the Assistant Commissioner, i.e., the Respondent No.3 to furnish copies of the documents listed in the Annexure- III above or allow him to inspect the said documents by which the Articles of Charges are proposed to be proved, so that he would be able to make an effective Written Statement in his defence. Thereafter, the applicant sent a reminder on 25.5.01.

A copy of the letter dated 19.5.2001 is annexed herewith and marked as Annexure - A4.

4.8) That on 30.5.2001 the applicant received Memorandum No.F.14-3/2001-KVS(GR)/12760-63 dated 27.5.2001 whereby he was informed that the rules does not permit the inspection of documents for submission of Written Statement. And that opportunity to inspect the documents will be provided at the next stage, if required. This applicant was asked to submit his Written Statement within 10 days from receipt of the said Memorandum .

A copy of the Memorandum dtd. 27.5.2001 is annexed herewith and marked as Annexure - A5.

4.9) That as abundant caution the applicant submitted a letter dtd.9.6.01 denying the Charges and further stated that because of the non-supply of listed documents he is unable to file an effective Written Statement in his defence.

A copy of the aforesaid letter dtd. 9.6.01 is annexed herewith and marked as Annexure - A6.

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4.9(a). That vide Order No.F.14-2/2001-KVS(GR)/13357-59 dtd. 28/6/2001, the respondent No.3, the Assistant Commissioner, K.V.S., Gauhati Region appointed Sri.R.K.Gautam, the Principal, K.V.,E.A.C.,Shillong as Inquiring Authority (Inquiry Officer) to enquire into the Charges which have been framed against the applicant. And by another Order No. F.14-2/2001-KVS(GR)/13360-63 dated 28.6.2001, the respondent No.3 also appointed Sri.P.V.S.Rangarao, the Principal, K.V.,No.1.Tezpur as the Presenting Officer(P.O.). However till date the proceeding have not begun. *By:*

The copy of the Orders dtd.

28/6/01 are annexed herewith and marked as Annexure- A-6(a) and A-6(b) respectively.

4.10) That the applicant respectfully states that the applicant has a right to get a copy of the documents referred to above or if the documents are voluminous he has a right to inspect the same based on which the Charges against him are sought to be proved. Denial of this will cause severe constraint and prejudice to the applicant in making an effective representation in his defence.

4.11) That the applicant most respectfully submits that as per Government of India instructions contained in M.H.A.,O.M.,No. F.30/5/61-AVD dtd. 25.8.1961 a Government Servant involved in a department enquiry should normally be served with copies of the documents by which the alleged Charges against him are sought to be proved. Further, denial of the right to inspect the documents will amount to violation of Article 311(2) of the Constitution of India. And as such it is a fit case wherein the Hon'ble Tribunal may set aside the impugned Memorandum dtd. 27.5.2001 and further be pleased to direct the Respondent No.3 to supply the applicant copies of the documents mentioned in Annexure-III to the Memorandum

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of Charges dtd. 16.5.2001.

4.12) That the applicant further submits that by not furnishing the documents referred to above, the Respondents have denied the applicant an opportunity to have his Written Statement considered by the Disciplinary Authority before deciding as to whether there is a case where Departmental Proceeding is required to be proceeded with or not as provided under Rule 14(5)(a) of the CCS(CCA) Rule, 1965.

4.13) That, it is respectfully submitted that under Subrule 5(a) of Rule 14 of the CCS(CCA), Rule 1965, the Disciplinary Authority is vested the power to review, modify or drop some or all Charges after receipt or examination of Written Statement submitted by delinquent servant. However, in the instant Case, the applicant has been denied of the said consideration in as much as he was not provided with reasonable opportunity of filing an effective Written Statement due to non-supply of the documents on the basis of which the Charges levelled against the applicant are proposed to be proved and as such the entire action of the respondent No.3 is arbitrary, discriminatory and against the settled law.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS:-

5.1) For that the impugned Memorandum dtd. 27.5.2001 has caused prejudice to the applicant in making an effective Written Statement in his defence.

5.2) For that the Memorandum dated 27.5.2001 is in utter violation of Principle of Natural Justice and also

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it is in violation of Articles 311(2) of the Constitution of India.

5.3) For that the Government of India Instruction contained M.H.A., O.M.No. F.30/5/61-AVD dtd. 25.8.1961 states that opportunity should be given to the Government Servant to inspect the documents based on which Charges labelled against are sought to be proved and as such the impugned Memorandum dtd. 27.5.2001 not being in accordance with the said instruction is liable to be set aside and quashed.

5.4) For that the Rules enjoins upon the Disciplinary Authority to examine the Charges in the light of the Written Statement and then decide whether to proceed with the enquiry. If the Disciplinary Authority is satisfied that there are no grounds to proceed with enquiry, the enquiry may be dropped at this stage. However, in the absence of the documents the applicant is prevented from filing his effective Written Statement and thereby is being denied of his right as aforesaid. The impugned order is accordingly illegal and against the settled principles of law on the point .

5.5) For that the Disciplinary Authority (Respondent No.3) appointed the Inquiring Authority and Presenting Officer without supplying the copy of the documents to the applicant and therefore there is serious illegality and infirmity in passing the impugned orders dated 28/6/2001 (Annexures 6(a) & 6(b) respectively) and as such the same is liable to be set aside and quashed.

Sanjay Nath Prasad

6. DETAILS OF REMEDIES EXHAUSTED:-

That the applicant states that he has written letter dated 19.5.2001 and letter dated 25.5.01 requesting Respondent No.3 to supply him the copies of documents mentioned in Memorandum of Charges but Respondent No.3 has rejected his request and as such there is no other efficacious and alternative remedy but to approach this Hon'ble Tribunal by filing this O.A. for immediate and urgent remedy.

✓
Doodh Nath Prasad

7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT :-

The applicant states that he has not filed any application, Writ Petition or suit regarding the matter in respect of which this application has been made before any Court or any other authority or any other Bench of Tribunal not any such application, Writ Petition or suit is pending before any of them.

8. RELIEFS SOUGHT FOR:-

Under the facts and circumstances stated above the applicant most respectfully prays that the Hon'ble Tribunal may be pleased to admit

this O.A., call for the records of the case and upon hearing the parties and on perusal of the records be pleased to grant the following relief(s):-

1. to set aside and quash the Memorandum No.F.14-3/2001-KVS(GR)/12760-63 dated 27.5.2001.(Annexure-A5) and Orders dtd.28/6/2001 (Ann- 6(a) & 6(b) respectively).
2. to direct the Respondents to furnish the applicant the copies of documents listed in Annexure - III to Memorandum No.F.14-3/2001-KVS(GR)/12347-48 dtd. 16.5.2001 (Annexure - A3).
3. to direct the Respondent No.3 to pass necessary Orders under the provision of Rule 14(4) of the CCS(CCA) Rules, 1965 after taking into account the detail Written Statement which will be submitted by the applicant after receipt of the documents.
4. Cost of the application.
5. Any other relief(s) to which the applicant is entitled to and as may deem fit and proper to your Lordships.

9. INTERIM RELIEFS PRAYED FOR:-

Pending disposal of the O.A. the applicant prays for an interim relief by way of Suspension/Stay of the Inquiry Proceeding contemplated against the applicant by the Respondents.

10. That this application is filed through Advocate.

11. Particulars of I.P.O. $\left. \begin{array}{l} 1) 12F - 643590 \\ 2) 12F - 643591 \\ 11) 22E - 428029 \end{array} \right\} \begin{array}{l} \text{Rs. 50/-} \\ \text{Dtd. 16/1/01} \end{array}$

12. List of Enclosures:-

As stated above.

Doodh Nath Prasad

VERIFICATION

I, Doodh Nath Prasad, S/o. Late Sarjoo Prasad, aged about 55 years and at present residing at K.V, Narngi Campus do hereby verify that the contents of paragraphs 4.1 - 4.7 are true to my personal knowledge and there in paragraphs 4.8 - 4.13 are believed to be true on legal advice and that I have not suppressed any material fact.

Date:- 13.6.01

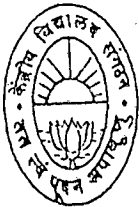
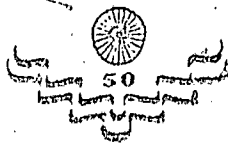
Place:- Gauhati

Doodh Nath Prasad

Signature of the Applicant.

(DEPONENT)

Doodh Nath Prasad



केन्द्रीय विद्यालय संगठन

KENDRIYA VIDYALAYA SANGATHAN

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

पत्रांक : 00nt/2000/KVS(GR)/11124-25
No. F. : 00nt/2000/KVS(GR)/11124-25

दिनांक :
Dated : 9th April, 01

MEMORANDUM

It has been informed to this office that while Mr. D. N. Prasad, PGT(Hindi), KV, Narangi was working as I/C Principal at Kendriya Vidyalaya, Kimin had appointed the following two teachers on Part-time basis and paid honorarium to them without having post-sanctioned by KVS(Hqrs.) or any requirement to these posts in the year 2000-01.

S.No.	Name	Working against the post of	Working since
01.	Shri A. Rai	PGT(Maths)	01st Oct'2000
02.	Smt. N. Arora	TGT(Sanskrit)	26th June'2000

Thus, the appointment of the above two teachers and payment was illegal and un-authorized. Mr. D. N. Prasad, PGT(Hindi), KV, Narangi is hereby asked to explain the reasons of appointing the above two teachers on Part-time basis ^{when} he was fully aware that there was no sanctioned posts of PGT(Maths) and TGT(Sans.) at KV, Kimin during 2000-01. His explanation should reach this office as early as possible but before 16th April, 2001, failing which it will be presumed that he has nothing to say in this regard and necessary action of the recovery of illegal amount paid, and disciplinary action will be initiated against him as per rules.

To

Mr. D.N. Prasad,
PGT(Hindi),
KV, Narangi.

Bhuvan Jain
ASSISTANT COMMISSIONER
9/4/2001

Copy to:-

To The Principal, KV, Narangi with the request to hand over this original memorandum to Mr. D.N. Prasad and receive the acknowledgement from him.

Assistant Commissioner

Certified to be true copy
Smt. Longam
Advocate.

(14)

Annexure - A2

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KENDRIYA VIDYALAYA SANGATHAN
REGIONAL OFFICE
CHAYARAM BHAWAN : MALIGAON CHARIALI
GUWAHATI : 12.

No.F.14-3/2001-KVS(GR)/11807-09

Dated : 30.04.2001

ORDER

WHEREAS a disciplinary Proceeding against Shri D.N. Prasad, PGT(Hindi) is contemplated.

NOW THEREFORE, the undersigned in exercise of the Powers conferred by Sub-rule(i) of Rule 10 of the Central Civil Services (Classification Control and Appeal) Rules, 1965 hereby places the said Shri D.N. Prasad, PGT(Hindi) under suspension with immediate effect.

It is further ordered that during the period that this order shall remain in force the Headquarter of Shri D.N. Prasad should be Kendriya Vidyalaya, Narangi and the said Shri D.N. Prasad shall not leave the headquarter without obtaining the Previous permission of the undersigned.

✓ To,
Shri D.N. Prasad,
PGT(Hindi)
Kendriya Vidyalaya,
Narangi.

D. K. Saini
(D. K. SAINI) 30/4.
ASSISTANT COMMISSIONER
KENDRIYA VIDYALAYA SANGATHAN
GUWAHATI REGION

- (i) Copy to Principal, Kendriya Vidyalaya, Narangi.
(ii) Copy to the Deputy Commissioner(Admn.) KVS(Hqrs) New Delhi : 16.

*

*Certified to be true copy
Intd Kongpan
Advocate*

KENDRIYA VIDYALAYA SANGATHAN
REGIONAL OFFICE
CHAYARAM BHAWAN : MALIGAON CHARIALI
GUWAHATI : 12.

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No.F.14-3/2001-KVS(GR)/12347-48

Dated : 16th May '2001

CONFIDENTIAL
BY REGISTERED POST

M E M O R A N D U M

The undersigned proposes to hold an Inquiry against Shri D.N. Prasad, PGT(Hindi) Kendriya Vidyalaya, Narangi under Rule-14 of the Central Civil Services(Classification, Control and Appeal) Rules, 1965. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure.I) A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure.II). A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure.III) and (IV.)

(2) Shri D.N. Prasad, PGT(Hindi) is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

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

(4) Shri D.N. Prasad, PGT(Hindi) is further informed that if he does not submit his written statement of defence on or before the date specified in Para-2 above or does not appear in person before the Inquiring Authority or otherwise fails or refuses to comply with the provisions of Rule-14 of the CCS(CCA) Rules, 1965 or the orders/directions issued in pursuance of the said rule, the Inquiring Authority may hold the inquiry against him exparte.

(5) Attention of Shri D.N. Prasad, PGT(Hindi) is invited to Rule-20 of the Central Civil Services(Conduct) Rules 1964 under which no Government Servant shall bring or attempt to bring any political or outside influence to bear up on any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Sh.D.N. Prasad, PGT(Hindi) is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule-20 of CCS(Conduct) Rules 1964.

(6) The receipt of the Memorandum may be acknowledged.

✓ To,
Shri D.N. Prasad,
PGT(Hindi)(Under suspension)
Kendriya Vidyalaya,
Narangi, Guwahati.

D. K. Saini
(D. K. SAINI) 16/5
ASSISTANT COMMISSIONER

Copy to :-

1. The Principal, Kendriya Vidyalaya, Narangi with a request to handover in Original copy to Sh. D.N. Prasad under intimation to this office.
2. The Assistant Commissioner(Admn.) KVS(Hqrs) New Delhi : 16.
3. Guard file.

*Certified to be true copy
Smti Longjam
Advocate*

STATEMENT OF ARTICLES OF CHARGES FRAMED AGAINST
SHRI D N PRASAD, THE THEN INCHARGE
PRINCIPAL KENDRIYA VIDYALAYA
KIMIN (NOW PGT(HINDI)
KENDRIYA VIDYALAY
NARANGI).

ARTICLE I

That the said Shri D.N. Prasad, PGT(Hindi) Kendriya Vidyalaya, Narangi, while functioning as incharge Principal in Kendriya Vidyalaya, Kimin, during the academic year 2000-2001 appointed Shri A. Rai, PGT (Math.) and Smt. N. Arora, TGT(Sanskrit) as Part time Teacher without having Post sanctioned by the competent authority i.e. KVS(Hqrs).

The aforesaid acts on the Part of Shri D. N. Prasad constitutes misconduct which is in violation of instructions laid down by the Sangathan for the purposes and Rule 3(1) (i) (ii) and (iii) of Central Civil Services (Conduct) Rules 1964 as extended to the employee of KVS.

ARTICLE : II

The said Shri D.N. Prasad, while functioning as incharge Principal at Kendriya Vidyalaya, Kimin during the academic year 2000-2001 made part time appointment of PGT(Maths) and TGT(Sanskrit) without having post sanctioned by the competent authority. As per Distribution of time Periods of KVS, there was no requirement of that posts in the year 2000-2001 in Kendriya Vidyalaya, Kimin. Shri D.N. Prasad has made payment of salary to both the Teacher from Vidyalaya Vikash Nindhi Fund illegally and unauthorisedly.

Thus Shri D.N. Prasad incharge Principal has misused his powers, violated instructions of KVS and Rule 3(1) (i) (ii) and (iii) of CCS (Conduct) Rules, 1964 as extended to the employees of Sangathan.

ARTICLE : III

That the said Shri D.N. Prasad, while functioning as incharge Principal at Kendriya Vidyalaya, Kimin, during the academic session 2000-2001 made part-time appointment of TGT(Sanskrit), but the teacher was given some periods in Primary classes also. Thus while the teacher was paid for the Post of TGT rate where as the concerned teacher had worked in Primary classes, where the payment(rate) is less.

Thus the aforesaid acts on the Part of Shri D.N. Prasad constitutes a misconduct which is in violation of instructions laid down by the sangathan for the purpose and Rule 3(1) (i) (ii) and (iii) of Central Civil Services (Conduct) Rules, 1964, as extended to the employees of KVS.

ARTICLE : IV

That the said Shri D.N. Prasad, while functioning as I/C Principal in Kendriya Vidyalaya, Kinin, during the academic year 1999-2000 and 2000-2001 has engaged Mrs. Tulsi Basfor as casual sweeper for cleaning the Bathroom, Class rooms and school campus w.e.f. 01.06.2000 to till his relieving for all working days. There are four Gr. 'D' employees including one Sweeper was already working in Kendriya Vidyalaya, Kinin. There was no requirement and no any extra post of Sweeper was sanctioned by the competent authority for which he engaged Mrs. Basfore as Casual Sweeper. It was only to do favour to the candidates.

Thus Shri D.N. Prasad has misused his power and violated Rule 3(1) (i) (ii) and (iii) of CCS (Conduct) Rules 1964 as extended to the employees of KVS.

violation of instructions of Kendriya Vidyalaya Sangathan and Rule 3(1) (i) (ii) and (iii) of Central Civil Services (Conduct) Rules, 1964, as extended to the employees of KVS.

ARTICLE : IV

STATEMENT OF IMPUTATION OF MISCONDUCT OR MISBEHAVIOUR IN
SUPPORT OF THE ARTICLE OF CHARGES FRAMED AGAINST
SHRI D.N. PRASAD THE THEN INCHARGE PRINCIPAL
KENDRIYA VIDYALAYA KIMIN(NOW PGT,
HINDI KENDRIYA VIDYALAYA
NARANGI.).

ARTICLE : I

That Shri D.N. Prasad while functioning as incharge Principal in Kendriya Vidyalaya Kimin(AP) during the academic year 2000-2001 appointed Shri Anirudh Rai, PGT(Maths) and Smt. Neelam Arora, TGT(Sanskrit) as Part time teacher without having Post sanctioned by the Competent authority i.e. Kendriya Vidyalaya Sangathan(HQ). The KVS(Hqrs) vide staff sanction order dated 5.2.2000 and 10.4.2000 has conveyed the staff sanctioned for the year 2000-2001 for Kendriya Vidyalaya Kimin.

Thus Shri D.N. Prasad, incharge Principal has committed a serious misconduct in violation of instructions laid down by the Sangathan for the purposes and Rule 3(1) (i), (ii) and (iii) of Central Civil Services(Conduct) Rules, 1964 as extended to the employees of the Kendriya Vidyalaya Sangathan.

ARTICLE : II

That the said Shri D.N. Prasad, while working as incharge Principal at Kendriya Vidyalaya, Kimin(AP) during the academic year 2000-2001 made Part time appointment of Teachers for the post of PGT(Maths) and TGT(Sanskrit) without having posts sanctioned by the competent authority. As per Distribution of time Periods be calculated for each subject and classes, there was no requirement of PGT(Maths) and TGT(Sanskrit) in the year 2000-2001 in Kendriya Vidyalaya Kimin. Shri D.N. Prasad has wrongly put up the matter to the Chairman VMC and paid salary to both the Teacher from VVN Fund illegally and unauthorisedly.

Thus Shri D.N. Prasad incharge Principal has misused his powers violated instructions of Kendriya Vidyalaya Sangathan and Rule 3(1) (i) (ii) and (iii) of CCS(Conduct) Rules, 1964 as extended to the employees of the Kendriya Vidyalaya Sangathan.

ARTICLE : III

That the said Shri D.N. Prasad, while working

as incharge Principal at Kendriya Vidyalaya, Kimin, during the academic year 2000-2001 made part time appointment of PGT(Maths) and TGT(Sanskrit) where there was no requirement. He appointed teacher for the Post of TGT(Sanskrit) and paid for TGT rate but works/periods allotted for PRT where the payment is less than TGT.

The aforesaid acts on the Part of Shri D.N. Prasad constitutes a misconduct which is in violation of instructions laid down by the Kendriya Vidyalaya Sangathan for the purpose and Rule 3(1) (i) (ii) and (iii) of Central Civil Services(Conduct) Rules, 1964 as extended to the employees of Kendriya Vidyalaya Sangathan.

ARTICLE : IV

That Shri D.N. Prasad, while functioning as incharge Principal in Kendriya Vidyalaya, Kimin(A.P) during the academic year 1999-2000 and 2000-2001 has engaged Mrs. Tulsi Basfor as casual Sweeper for cleaning the Bathroom, Class rooms and school Campus w.e.f 01.06.2000 to till his relieving for all working days except holidays. In Kendriya Vidyalaya, Kimin there are four Group 'D' employees including one Sweeper was already working as per post sanctioned by the Kendriya Vidyalaya Sangathan(Hqrs). There was no requirement and no any extra post of Sweeper was sanctioned by the competent authority for which he engaged Mrs. Tulsi Basfore as casual sweeper continuously. It was only to do favour to the candidates.

The aforesaid acts on the Part of Shri D.N. Prasad has misused his power and violated Rule 3(1) (i) (ii) and (iii) of CCS (Conduct) Rules 1964 as extended to the employees of Kendriya Vidyalaya Sangathan.

LIST OF DOCUMENTS BY WHICH THE ARTICLES OF CHANGES ARE PROPOSED
TO BE SUSTAINED AGAINST SHRI D.N. PRASAD THE THEN
INCHARGE PRINCIPAL KENDRIYA VIDYALAYA
KIMIN (NOW PGT(HINID) KENDRIYA
VIDYALAYA NARANGI.)

1. Staff sanction order No.F.11-41/96-KVS(O&M), dated 25.02.2000 issued by the Kendriya Vidyalaya Sangathan(Hqrs) New Delhi for the year 2000-2001.
2. Staff Modification order No.F.11-41/96-KVS(O&M) dated 10.4.2000 issued by the KVS(Hqrs) for the year 2000-01.
3. Part-time Teachers Attendance Register of Kendriya Vidyalaya, Kimin w.e.f. 26.06.2000 to 05.05.2001.
4. Time Table of Kendriya Vidyalaya, Kimin for the session 2000-2001 showing distribution of Periods to Shri A. Rai, PGT(Maths) and Mrs. N. Arora, TGT (Sanskrit.)
5. Letter No.F.14/KVK/2000-01, dated 4.4.2001 received from Shri S.K. Sharma, I/C Principal, Kendriya Vidyalaya, Kimin.
6. Vouchers regarding Payment made to Shri A. Rai, PGT(Maths), Mrs. N. Arora, TGT(Skt.) and Mrs. Tulsi Basore, Casual Sweeper for the year 2000-2001.
7. Attendance Register maintained for Casual Sweeper w.e.f. 01.06.2000 of Kendriya vidyalaya, Kimin.

Annexure : IV

STATEMENT OF WITNESSES BY WHICH THE ARTICLES OF CHARGES ARE
PROPOSED TO BE SUSTAINED AGAINST SHRI D.N. PRASAD
THE THEN PRINCIPAL KENDRIYA VIDYALAYA KIMIN
(NOW PGT HINNA KENDRIYA VIDYALAYA
NARNGI.).

- NIL -

22

Annexure - A4

Date:- 19/5/2001

To,
The Hon'ble Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Chaya Ram Bhawan,
Maligaon Chariali,
Gauhati - 12.
(Assam).

Subject:- Prayer for supply of the copies of listed documents.

Reference:- Vide Memorandum No.F.14-3/2001 - KVS(GR)/12347-48
dated 16th May, 2001 received on 17th May, 2001(A/N).

R/Sir,

With due regards and honour and pursuant to the Memorandum dated 16th May, 2001 referred above, the humble applicant most respectfully and humbly states the following facts before your goodself for your kind information and necessary action please.

1. That the humble applicant most respectfully states that vide an order No.F.14-3/2001-KVS(GR)/11807-09 dated 30.04.2001 passed by Assistant Commissioner, Kendriya Vidyalaya Sangathan, Gauhati - 12, a Disciplinary Proceeding against the applicant is contemplated and he is placed under suspension with immediate effect.

2. That the humble applicant most respectfully states that he has been served the Memorandum of Charges vide a Memorandum No. 14-3/2001-KVS(GR)/12347-48 dated 16.5.2001 through the Principal, K.V, Narangi, in the afternoon of 17.5.2001 and the same was issued under the signature of the Assistant Commissioner,

Certified to be true copy
Juli Longem
Advocate.

Kendriya Vidyalaya Sangathan, Gauhati - 12, wherein para - 2, he was asked to submit a written statement of his defence within 10 days from the date of receipt of said Memorandum. But, curiously enough the copies of the listed documents mentioned in annexure - III of the said Memorandum dated 16.5.2001 were not annexed alongwith the instant Memorandum of Charges by which the Articles of Charges are proposed to be proved by the department against the applicant and therefore in absence of the copies of the listed documents proposed to be relied upon by the department, it is not possible by your humble applicant to make an effective and proper written statement in his defence.

The list of listed documents required is annexed herewith as Annexure - 1.

3. That, the humble applicant further most respectfully submits that he would also be given 10 days time from the date of receipt of the copies of the listed documents to make him enable to submit his written statement in his defence to the concerned authority.

In view of the above circumstances and facts it is therefore prayed that your goodself would be pleased to supply the copies of the listed documents (Annexure-10) and/or allow the inspection of the said documents to make the applicant enable to submit the effective and proper written statement in his defence.

- AND -

Further, it is also prayed that your goodself would also be pleased to extend/ grant 10 days time from the date of receipt

of the copies of the listed documents to submit the written statements in defence for the interests of justice.

And for this act of kindness the applicant is duty bound and shall ever pray.

Date:- 19.5.2001.

Prasad
Applicant 19/5/2001

(D.N.Prasad,)

P.G.T. Hindi,

Kendriya Vidyalaya ,


Narangi.

Gauhati- 27.

Assam.

LIST OF LISTED DOCUMENTS

1. Staff sanction Order No. F.11-41/96-KVS(O&M), dated 25.02.2000 issued by the Kendriya Vidyalaya Sangathan (Hqrs) New Delhi for the year 2000-2001.
2. Staff Modification Order No. F.11-41/96-KVS(O&M) dated 10.4.2000 issued by the KVS(Hqrs) for the year 2000-01.
3. Part-time Teachers Attendance Register of Kendriya Vidyalaya, Kimin w.e.f. 26.06.2000 to 05.05.2001.
4. Time Table of Kendriya Vidyalaya, Kimin for the session 2000-2001 showing distribution of Periods to Shri A.Rai, PGT(Maths) and Mrs.N.Arora, TGT(Sanskrit).
5. Letter No.F.14/KVK/2000-01, dated 4.4.2001 received from Shri S.K.Sharma, I/C Principal, Kendriya Vidyalaya, Kimin.
6. Vouchers regarding Payment made to Shri A.Rai, PGT (Maths), Mrs.N.Arora, TGT(Skt.) and Mrs.Tulsi Basfore, Casual Sweeper for the year 2000-2001.
7. Attendance Register maintained for Casual Sweeper w.e.f. 01.06.2000 of Kendriya Vidyalaya, Kimin.

	
No. 374741	DATE 19/5/2001
To: Dr. K. Saini K.V. Vidyalaya Madigan	Sender: Dr. N. Prasad K.V. Narangan CM-22
Speed Post Charges	
Rs. 30/-	OFFICER INCHARGE
DATE	STAMP

Dr. Prasad
19/5/2001



(26)

Annexure - A5

दूरभाष / Phone : 571797, 571 798
Fax : 571799

केन्द्रीय विद्यालय संगठन
KENDRIYA VIDYALAYA SANGATHAN

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

पत्रांक :
No. F : 14-3/2001-KVS(GR)/12760-61

दिनांक :
Dated : 27.05.2001
29

MEMORANDUM

With reference to his application dated 19/5/2001 Shri D.N. Prasad, PGT(U/S) Kendriya Vidyalaya, Narangi is hereby informed that the rules do not permit inspection of documents by the accused official for the submission of his written statement at this stage. As per CCS(CCA) Rules 1965, opportunity will be provided for inspection of listed documents in the next stage, if require.

Shri Prasad is allowed 10 days time from receipt of this Memorandum to submit a written statement of his defence and also to state whether he desires to be heard in Person.

To
Shri D.N. Prasad
PGT(Hindi)
Under Suspension
Kendriya Vidyalaya
Narangi.

(Signature)
(D. K. SAINI) 27/5
ASSISTANT COMMISSIONER

Copy to :-

The Principal Kendriya Vidyalaya, Narangi.

Certified to be true copy
Inti Longjam
Advocate.

(27)
Speed Post

Annexure - A6

To,

The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Maligaon, Gauhati - 12,
(Assam).

From:-

D.N. Prasad,
P.G.T. (Hindi),
K.V. Narangi.

Date:- 09.06.2001

Reference:- Memo No. F.14-3/2001-KVS(GR)/12760 - 61 dated 27/29.05.2001.

R/Sir,

Most respectfully and humbly I am to state the following facts before your goodself.

1. That I deny the charges of the misconduct.
2. That I am not in a position to submit an effective written statement because your goodself has denied me to supply the copies of the listed documents and notification and also denied me the reasonable opportunity for the inspection of the said documents on the basis of which your goodself has proposed to prove the Charges of Misconduct and thereby denied me, the right to defend myself in the aforesaid departmental proceeding.

Enclosure:-

Memorandum dtd. 27/29.5.2001.

Yours faithfully,

(D.N. Prasad) 9/6/01

P.G.T. (Hindi),
K.V. Narangi,
Gauhati - 27.
Assam.

RECEIPT	
No.	DATE
151837	9/6/01
To Dr. D.K. Saini Maligaon Ghy-12	Sender D.N. Prasad Ghy-27
Speed Post Charges Rs. 15/-	

DATE

STAMP

OFFICER INCHARGE

Certified to be true copy
Inti Longren
Advocate

(28)

Annexure A6(a)

KENDRIYA VIDYALAYA SANGATHAN
REGIONAL OFFICE
CHAYARAM BHAWAN : MALIGAON CHARIALI
GUWAHATI : 12.

CONFIDENTIAL

No.F.14-2/2001-KVS(GR)/13357-59

Dated : 28.06.2001
29

ORDER

रजिस्ट्र-पत्र/REGISTERED POST

WHEREAS an inquiry under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules 1965 is being held against Shri D. N. Prasad, PGT(Hindi) Kendriya Vidyalaya, Narangi vide this office Memorandum dated 16/5/2001.

AND WHEREAS the undersigned considers that an Inquiring Authority should be appointed to inquire in-to the charges framed against Shri D.N. Prasad.

NOW, THEREFORE, the undersigned, in exercise of the Powers conferred by sub-rule(2) of the said rule, hereby appoints Shri R.K. Gutam, Principal, Kendriya Vidyalaya, EAC Upper Shillong as the Inquiring Authority to inquire into the charges framed against the said Shri D.N. Prasad.

To, Shri R. K. Gutam,
Principal,
Kendriya Vidyalaya,
EAC Upper Shillong.

D. K. Saini
(D. K. SAINI) 28/6
ASSISTANT COMMISSIONER

Copy to :-

1. Shri D. N. Prasad, PGT(Hindi) (Under Suspension) Kendriya Vidyalaya, Narangi.
2. Shri P.V.S. Rangarao, Presenting Officer & Principal, Kendriya Vidyalaya No.1. Tazpur.
3. The Principal, Kendriya Vidyalaya, Narangi.

*Certified to be true copy
Inti Longjam
Advocate.*

(29)

Annexure A6(b)

KENDRIYA VIDYALAYA SANGATHAN
REGIONAL OFFICE
CHAYARAM BHAWAN : MALIGAON CHARIALI
GUWAHATI : 12.

CONFIDENTIAL

No.F.14-2/2001-KVS(GR)/13360-63

Dated : 28.06.2001
29.

ORDER *द्विचिह्न-पत्र*/REGISTERED POST

WHEREAS, an inquiry under Rule 14 of Central Civil Service (Classification, control and Appeal) Rules, 1965 is being held against Shri D. N. Prasad, PGT(Hindi) Kendriya Vidyalaya, Narangi vide this office Memorandum dated 16/5/2001.

AND WHEREAS, the undersigned considers that a presenting Officer should be appointed to present the case on behalf of the Assistant Commissioner, KVS, Guwahati Region in support of the Articles of Charge.

NOW, THEREFORE, the undersigned in exercise of the Powers conferred by sub-rule(5) (c) of Rule 14 of the said rules hereby appoints Shri P.V.S. Rangarao, Principal, Kendriya Vidyalaya, No.1 Tezpur as the presenting Officer.

To,
Shri P.V.S. Rangarao,
Principal,
Kendriya Vidyalaya,
No.1 Tezpur.

D.K. Saini
(D.K. SAINI), 28/6
ASSISTANT COMMISSIONER.

Copy to :-

1. Shri R. K. Gutam, Principal, Kendriya Vidyalaya, EAC, Upper Shillong & I.O.
2. Shri D.N. Prasad, PGT(Hindi)(Under suspension) Kendriya Vidyalaya, Narangi.
3. The Principal, Kendriya Vidyalaya, Narangi.

Certified to be true copy
Inti Longjam
Advocate.