

301/00
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

✓ (DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 388/01

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SECTION OFFICER (Judl.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:GUWAHATI.

ORDERS SHEET

APPLICATION NO.

388 / 2001

Applicant (s) Mrs. Taghi Des

Respondant(s) K. V. S

Advocate for the Applicant: A.K. Sankaranarayana, S.K. Srinivas

Advocate for the Respondant: K.V.S

Slehr only 5 copies received.
Without envelope. Notice addressed
and sent to D/S for writing the
Responsible, No. 1, 4, 5, 6 & 7 by
Regd A.D. do 31/8/01.

SDINo 3852 h3856

Dtd 8/10/07

1m

① Service report was still awaited.

2.1.02
22/11/01

Heard learned counsel for the parties.

Application is admitted. Issue notice on the respondents. Returnable by four weeks. List on 30.1.02 for filing of written statement and further orders.

② No written statement has been filed.

30.1.02

Notice coming vide
DINo. 3852656
dtd. 8/10/01.

lm

I C Usha
Member

30.1.02

Notice of Respondent
No 1 & 7 returned
as mark by Postman
Not known.

lm

At the request of learned counsel for the respondent four weeks time is allowed for filing of written statement. List on 27.2.02 for filing of written statement.

I C Usha
Member

27.2.2002

Four weeks further time is granted to the respondents to file written statement. List on 3.4.2002 for order.

No WTS has been filed.

29.1.02

bb

I C Usha
Member

3.4.02

Written statement has been filed. The case is ready for hearing. List the matter for hearing on 26.4.2002.

20.3.2002

WTS submitted

by the Respondent Nos.

2, 3, 4, 5 and 6.

mb

I C Usha
Member

26.4.2002

None appears on behalf of the applicant. The matter relates to spouse posting. Mr S. Sarma, learned counsel for the respondents is requested to obtain necessary instructions in the matter.

List for hearing on 15.5.02.

Vice-Chairman

Notes of the Registry Date

Order of the Tribunal

O.A.388/2001

Notes of the Registry Date Order of the Tribunal

15.5.2002

None appears for the applicant.
Heard Mr.S.Sarma, learned counsel for
the respondents. Judgment delivered in
open Court, kept in separate sheets.
The application is disposed in terms
of the order. No order as to costs.

Vice-Chairman

bb

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CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./X.X. NO.388 OF 2001. . OF

DATE OF DECISION 15.5.2002. . . .

APPLICANT(S)

Mrs. Tapasi Das

Mr.A.K.Purkayastha & S.K.Sinha. ADVOCATE FOR THE APPLICANT(S)

VERSUS -

RESPONDENT(S)

Union of India & Others.

Mr.S.Sarma & Ms.Dipika Borgohain. ADVOCATE FOR THE
RESPONDENTS.

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

THE HON'BLE

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



CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.388 of 2001.

Date of Order : This the 15th Day of May, 2002.

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

Mrs. Tapasi Das
Wife of Dr. Utpal Das
Resident of Village Japarigog
H.P.C. (MPM.Complex) Jagiroad
P.O:- Jagiroad
P.S:- Jagiroad
District:-Marigaon, Assam. . . . Applicant.

By Adovocates Mr.A.K.Purkayastha & Mr.S.K.Sinha.

- Versus -

1. The Union of India
Represented by the Secretary
to the Government of India
Ministry of Human Resource Development
New Delhi.
2. The Commissioner
Kendriya Vidyalaya Sangathan
18 Institutional Area
Shaheed Jeet Singh Marg
New Delhi - 16.
3. The Education Officer (Ex.Asstt)
Kendriya Vidyalaya Sangathan (Hqrs)
18 Institutional Area
Shaheed Jeet Singh Marg
New Delhi.
4. The Assistant Commissioner
Kendriya Vidyalaya
Regional Office, Maligaon
Guwahati.
5. The Assistant Commissioner
Kendriya Vidyalaya Sangathan
Regional Office, Silchar
Hospital Road
Silchar-1
District :- Cachar, Assam.

6. The Principal
Kendriya Vidyalaya HPCL Jagiroad
P.O:- Jagiroad
Dist:-Marigaon, Assam.

7. Shri Pradip Paul
Assistant Teacher
Jorhat K.V.No.1. . . . Respondents.

By Advocates Mr.S.Sarma & Ms.Dipika Borgohain.

O R D E R

CHOWDHURY J.(V.C.):

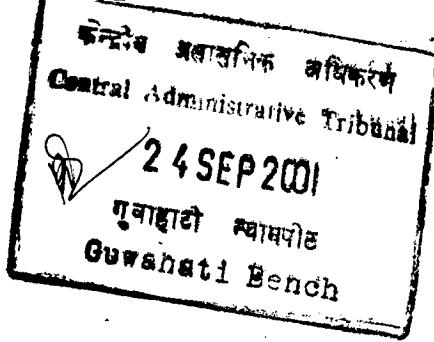
None appears for the applicant to press the Petition. No representation was made on behalf of the applicant. Heard Mr.S.Sarma, learned counsel for the respondents.

The application pertains to posting in the light of the policy guidelines for spouse posting. The policy guidelines are made to render justice to the parties. Since policies are there it is expected that the authority shall take all appropriate measures to allay the grievance of the applicant within the legal norms, if not already alleviated.

With this, the application stands disposed.

No order as to costs.

(D.N.CHOWDHURY)
VICE CHAIRMAN



Filed by the petitioner
through
Gyanam Kanta Gunt
Advocate.

24/9/2001

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI
BENCH::: GUWAHATI

O. A. 388/2001

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

Mrs. Tapasi Das APPLICANT.

- Versus -

Union of India and Ors RESPONDENTS.

I N D E X

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For use in the Tribunal Office
date of filing.....

Registration.....

REGISTRAR.

Tapasi Das

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ::::

GUWAHATI BENCH::

ORIGINAL APPLICATION NO. 388/2001.

B E T W E E N

Mrs. Tapasi Das,
Wife of Dr. Utpal Das,
resident of village Jagiroad,
H.P.C. (MPM. Complex) Gajiroad,
Post office - Jagiroad,
Police Station - Jagiroad,
District - Marigaon, Assam.

.....APPLICANT.

— AND —

1. The Union of India
represented by the Secretary
to the Government of India
Ministry of Human Research Development,
New Delhi.

2. The Commissioner,
Kandriya Vidyalaya Sangathan

*Copy to
Sarpanch*

18 Institutional area,

shaheed Jeet Singh Marg

New Delhi - 16.

3. The Education Officer (Ex.Asstt)
Kendriya Vidyalaya Sangathan (Hqrs)
18 Institutional area
Shaheed Jeet Singh Marg
New Delhi- 16.

4. The Assistant Commissioner,
Kendriya Vidyalaya,
Regional Office, Maligaon,
Guwahati - 12.

5. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office Silchar,
Hospital Road,
Sischar - 1,
District - Cachar, Assam.

6. The Principal,
Kendriya Vidyalaya HPCL Jagiroad,
Post Office - Jagiroad,
District - Marigaon, Assam.

7. Shri Pradip Paul
Assistant Teacher,
Jorhat K.V. No.1.

.....RESPONDENTS.

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DETAILS OF APPLICATION:

1. Particulars of the Order/action against which this Application is made.

(i) Priority list Placing the applicant below for 1999 to 2005 down the Respondent No. 7 and Session. 8 and not showing Kendriya Vidyalaya, Pachgram to be the School of her 1st choice as per the transfer applications dated 17.2.2000 (Annexure-E)

(ii) Date For the year 1999-2000 Sessions.

(iii) Prepared and published by The Applicant applied for transfer in pursuance to the transfer policy by giving her chronological choice against the School under Silchar Region as specified in her transfer application dated 17.2.2000 (vide Annexure- C) but the Respondent No.2 had published the priority list by showing Kendriya Vidyalaya Dholchera to be the sole

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choice of the applicant and transferred an outsider from Lucknow in the said School and consequent upon resignation of the said person now decided to transfer Respondent No. 8 in the said School although the said Respondent did not opt any choice against the said School impugned priority list for the Sessions 1999-2000.

2. Jurisdiction of the Tribunal:

The Applicant declares that the subject matter of the instant application for which she wants the redressal is within the Jurisdiction of this Hon'ble Tribunal.

3. Limitation:

The Applicant further declares that the Application is within the period of limitation as prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4. Facts of the case :

4.1. That the Applicant is a citizen of India

and is at present residing at Jagiroad, Hindustan Paper Corporation Limited complex in the District of Marigaon and as such she is lawfully entitled to all protections, rights and privileges as guaranteed under the Constitution of India. The Applicant on the other hand is residing within the Jurisdiction of this Hon'ble Tribunal and She is therefore, entitled to approach this Hon'ble Tribunal for enforcement of her legal and statutory right related to her service and this Hon'ble Tribunal being the real protector of the Government Servant working in various departments under Government of India, would be pleased to entertain this Application and give complete adequate and substantive Justice to her.

4.2. That the applicant states that this application is filed basically against the arbitrary and illegal action against the arbitrary and illegal action of the Respondents who denied to transfer the Applicant inspite of having secured 1st position during 1999-2000 Sessions in terms of the existing guidelines as introduced by themselves. Those Respondents had not only act according to the prescribed guidelines by way of refusing to transfer the Applicant but had also picked up some persons who also are not eligible under the guidelines by way of fixing their position above the applicant. Since the Applicant's substantive right was taken away by the

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Respondents in a most arbitrary, malafide, unfair and discriminatory manner, the Applicant has got no any other alternative remedy but to approach this Hon'ble Tribunal with the present application and to make limited prayer for restraining the respondent No. 1 to 6 from issuing any transfer order in favour of private Respondents No. 7 and 8 and for issuing further direction to those official respondent No. 1 to 6 for giving transfer benefit to the applicant to the School of her 1st choice as per the guidelines and granting of the said relief would alone meet the ends of justice.

4.3. That the applicant states that she is a Central Government employee working as Drawing Teacher in Kendraya Vidhalaya Hindustan Paper Corporation Limited Jagiroad and she is entitled to approach this Hon'ble Tribunal and to file any Application in connection with and/or in relation to her condition of Service being affected or prejudiced by any illegal and arbitrary action and/or decision of the authorities. Since the petitioner is a Central Government employee, this Application is maintainable and this Hon'ble Tribunal is competent to entertain this Application and grant immediate appropriate relief or reliefs to her in accordance with law.

contd....

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4.4. That the applicant states that she is the most eligible candidate to get the transfer benefits as per the existing guidelines as introduced by the authorities. Her case admittedly, falls within the preview of that guidelines and on consideration of her eligibility under the said guidelines, she was given 1st position amongst all other candidates during 1998-99 Sessions. But due to some unknown reasons, she was not given the said benefits on the plea of non-availability of vacancy. Subsequently on being opposed, she was asked to submit the application a fresh in prescribed form of specifying her choice and preference against the Schools within the proper Silchar. As per said direction, she again applied for transfer for the Sessions 1999-2000 showing her 1st choice against Panchgram Kendriya Vidhyalaya. But the Respondent No. 1 to 6 in a most arbitrary and discriminatory manner placed respondent No. 7 and 8 above the Applicant in the priority list and placed the Applicant in Sl. No. 3 in the said list despite the fact that those two private Respondents are Junior to her and that during 1998-99, the Applicant was placed in Sl. No. 1 in the Select list considering her as her first choice as per the guidelines.

4.5. That the Applicant states that she was appointed as Trained Graduate Teacher in T.G.T. in

Hindistan Paper Corporation Limited Kendriya Vidhyalaya

Jagiroad on 18.7.95 through regular selection conducted by the duly constituted selection Board in compliance with Rules. Since the date of joining, the Applicant has been working in the said school without any break or discontinuation and during the entire tenure of her service, there has been no any blamish or adverse remark being raised against her from any counter and the Applicant has also rendered her service with utmost honesty, sincerity, devotion integrity and satisfaction of the authority.

4.6. That the Applicant states that the Respondent No. 7, Sri Pradip Paul joined service on 31.8.95 as Toit in Dinjain Kendriya Vidhalaya under Silchar Region. On the other hand, the respondent No. 8, Mrs. Sipra Paul entered into service subsequent to the Applicant. The Applicant in fact, joined on 18.7.95 as T.G.T. in Hindustan Paper Corporation Limited Kendriya Vidhalaya. Therefore under no any circumstances and for any reasons, those Respondent No. 7 and 8 can be given any priority over the Applicant in the matter of transfer. Such preference would amount to serious disrementation being hit by Articles 14 and 16 of the Constitution of India.

4.7. That the Applicant states that she merit to one Utpal Das who is a Doctor by profession working in Sri Gauri Civil Hospital , Karimganj and as such the Applicant is lawfully eligible to get transfer benefits as per guidelines, it is true that the husband is an employee of Government of Assam and as per the transfer guidelines , she is lawfully entitled to get the transfer benefits and the authority is legally bound to give her transfer benefits in conformity with the said guideline on the spouse ground.

4.8. That the Applicant states that prior to 1999 , there was no transfer of guidelines ~~transfere~~ ~~the~~ and as per the normal practice, any teacher of any Kendriya Vidyalay may make application for transfer to any other Vidyalaya under any Region provided the applicant has completed at least three years continuous service and that there are some vacancies available in the said Vidyalaya. As per the prevailing practice the application in respect of transfer of teacher from class VI to X stage, were required to be submitted before Head Quarter at New Delhi through respective Principal of the Viudhalaya.

H. S. Dass

4.9. That the Applicant states that under the prevailing practice and procedure prior to 1999-2000 sessions, the prayer for transfer of any teacher was considered by the Head Quarter of Kendriya Vidyalaya Sangathan New Delhi by giving preference or priority on the spouse ground, medical ground mutual transfer. The whole basis for consideration was the duration of Service in a particular school or the seniority as the case may be.

4.10. That the Applicant states that prior in 1999-2000 as per the prevailing practice and procedure while submitting application for transfer, the Applicants were required to mention in the respective column of the prescribed form of application regarding their chronological choice of the School against which they desire to be transferred and the applicants were further required to mention specifically the ground on which the transfer was sought for and also to mention in the respective column of the form various code Nos. as fixed by the authorities.

4.11. That having learnt from reliable source regarding the vacancy likely to be fallen vacant in various schools during 1998-99 Session, in Silchar Region, the Applicant submitted her application on

*Des
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on 6.5.99 in prescribed form for transfer from the present Hindustan Paper Corporation Limited Kendriya Vidhalaya to any of the Schools under Silchar Region as mentioned in the respective column in the said application form.

It is pertinent to mention that the said prescribed form of application was issued by the Head Quarter Kendriya Vidyalaya Sangathan New Delhi and all application for transfer are required to be submitted by the applicants before the Head Quarter through proper channel. The applicants to give detail particulars regarding their service by mentioning the detail particulars as to the date of birth, date of appointment date from which the applicant posted at the Kendriya Vidyalaya in the present post etc.

The said prescribed form further requires the application to mention their chronological choice or preference of the school against which the transfer is sought for and also to mention specifically the ground under which the said transfer is as sought for by the applicants.

4.12. That the applicant states that while submitting her aforesaid application during 1998-99 sessions the Applicant had specifically mentioned her

first choice/preference against Kendriya Vidyalaya Panchgram and Kendriya Vidhalaya Oil and Natural Gas Commission, Shrikona and Kendriya Vidhalaya No. 1 Silchar to be her second and third choice/preferences respectively.

In that application the Applicant is support of her transfer against the aforesaid schools, had specifically mentioned that her husband has been working at Silchar and there is no any female member in their family to look after the ailing in laws and as per the existing guidelines she is entitled to be transferred against any one of those Schools on spouse ground on consideration of her aforesaid choice or preference.

A copy of the application dated 6.5.99 is annexed as Annexure-A

4.13.- That the Applicant states that the aforesaid application was thereafter forwarded to regional office at Maligaon by the Principal of her school as per the prescribed procedure and the regional office accordingly forwarded the said application to the Head Quarter of Kendriya Vidhalaya Sangathan at New Delhi recommending the name of the Applicant for favourable consideration of her prayer

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in accordance with the law.

4.14. That the applicant states that subsequently states that as per the prevailing principles and guidelines no teacher could make any application for transfer in any school of his choice on spouse ground unless the wife and husband of the said applicant is working in any department of State Governments/Autonomous body/PSU.

It may be noted that the husband of the present applicant is an employee of the State Government of Assam working in the Department of Health Service and during the relevant time he was working at Silchar.

4.15. That the applicant states that subsequently the Head Quarter of Kendriya Vidyalaya Sangathan New Delhi duly considered the prayer of the applicant and along with others and the name of the applicant found place in the top of the priority list in Sl. No. 1 which was prepared by the said authority in respect of the teachers who sought for transfer in various schools under Silchar Region.

The said priority list for the session 1998-99 shows that the authorities had accepted all

Yapani Devi

the 3 choice as opted by the applicants while submitting her application for transfer dated 6.5.99 (vide Annexure - A).

The said priority list further shows that the Kendriya Vidhalaya, Panchgram was accepted to be the first choice of the applicant and Kendriya Vidhalaya O.N.G.C. Shrikona and Kendriya Vidhalaya No. 1 Silchar where accepted to be her second and third choice respectively.

The said priority list also shows that the authorities did not consider any other teacher in respect of aforesaid 3 schools viz (1) Kendriya Vidhalaya , Panch gram (2) Kendriya Vidhalaya O.N.G.C. Shrikona and (3) Kendriya Vidhalaya No. 1 Silchar under Silchar region along with the applicant and the applicant was the only candidate was found eligible for transfer for the session 1998-99.

A copy of the priority list for the 1998-99 Session is annexed as ANNEXURE 'B'.

4.16. That the applicant states that immediately thereafter the Applicant was informed by Respondent No. 2 and 3 that her name found place in the priority list for the Session 1998-99 and according

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to her choice as mentioned in the said priority list, and she would be given transfer benefits against any one of those schools in conformity with her choice/preference.

4.17. That the Applicant states that although there was an assurance to transfer her in Kendriya Vidhalaya Panchgram in terms of her choice accepted by the authorities but due to some unknown reasons, no order for transfer was issued to her in any one of those schools. During her inquiry the applicant came to know that all other persons selected by authorities along with the Applicant were given the Transfer benefit against the School of their Choice/preference as reflected in the aforesaid priority list.

4.18. That the Applicant states that immediately thereafter the applicant approached the Assistant Commissioner Kendriya Vidhalaya, Sangathan Regional Office, Guwahati, the Respondent No. 4 and submitted an application dated 14.11.99 praying for consideration of her case for transfer in the post laying vacant in Kendriya Vidhalaya Panchgram in accordance with her aforesaid Selection.

In that representation the Applicant further stated that she is the only eligible teacher

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who was selected by the authorities by giving first choice/preference in the said Kendriya Vidyalaya Panchgani and during last five years she has been serving the authority with full satisfaction to the school authority and there has been no any blamish or adverse remark being raised from any counter and after such a long persuasion for so many years the authority had selected her for transfer against that school on spouse ground. The applicant under takes to produce the said application as and when required by this Hon'ble Tribunal.

4.19 That the Applicant states that none of the Respondents consider her case and against such non-consideration no any reason was given by them. The said Respondents also did not issue any order informing the applicant as to the cancellation of her selection and/or the aforesaid priority list. Lateron, the Respondent No. 4 during her inquiry informed her that the Head Quarter had introduced a new transfer guidelines and all application for transfer would henceforth be considered strictly in terms of said guidelines. The said respondent No. 4 in that regard further informed the petitioner that consequent upon the commencement of the new guidelines, the earlier selection and the related priority list stand expired and the case of the

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Applicant cannot be considered as per the said selection and the Applicant would be required to submit fresh application in pursuance to aforesaid transfer guidelines.

4.20. That the Applicant states that the Respondent No. 2 meanwhile issued a General Notification Vide Office Memo No. F.1-1/2000-KVs (Estt.iii) dated 30.12.99 informing all the principals of Kendriya Vidhalayas that all applications for transfer in respect of teaching and non-teaching staffs of all Kendriya Vidhalayas would be considered as per the guidelines introduced by the Head Quarter.

By that notification, fresh applications were invited from teaching and non-teaching staffs of Kendriya Vidhalayas including (Principals and Vice-Principals) for effecting transfer during the year 2000-2001.

4.21. That the Applicant states that the aforesaid notification dated 30.12.99 has made a provision prescribing the procedure for submission of application for transfer. The said provision under Clause 3 provides that all eligible employees desirous of transfer may prefer application in "qua duplicate"

in the enclosed format after carefully going through the accompanying instructions and stations/Kendriya Vidyalayas code.

The Clause 5 of the said notification provides that the application under reproduced, must conform to the given format both in form and content and no enclosures would be allowed with the application. The said Clause further provides that the Medical Certificate in support of request on medical ground and/or declaration regarding employment of spouse ground would be the part of the application. The said clause further provides that (i) the application and declaration wherever necessary must be signed by the applicant himself/hersels and the application endorsed by spouse, parents for and on behalf of the employee is not acceptable and would not be forwarded and medical certificate must bear the signature of Civil Surgeon/Chief Medical Officer and (ii) the forwarding note would be required to be endorsed by the principal after satisfying himself/herself personally of the correctness of the entires but the details furnished by the applicant need not be subjected to proper verification before endorsing the said forwarding note. In that regard the Principal would be required to ensure the correctness of the entires

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So that wrong information does not affect prioritisation. The Applicant undertakes to produce the copy of the said notification before this Hon'ble Tribunal as and when required.

4.22. That the Applicant states that by virtue of the aforesaid guidelines, all existing guidelines/orders on the subject stands superseded and it was deided by the authority that all transfers in the Kendriya Vidhalaya Sangathan would be made as far as practicable in accordance with the newly introduced guidelines.

The said guidelines has defined various terms and expressions relating to matter of transfer. As per clause 2 (ii) the terms performance" means (a) where the Annual Confidential Report (s) is /are available in the concerned Regional Office, the assessment of the teacher as reflected in the A.C.R. for the last three years preceding the year in which transfer is taken up . (b) Where A.C.R. (s) for last three years or any of the last three years is/are not available in the said Regional Office for lany reason, the assessemment by the Assistant Commissioner of the Region from where transfer is sought for and the conduct fo the teachers for the year (s) in respect of which A.C.R. (s) is/are not available.

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Clause 2(iv) defines the terms 'service' to be the period during which a person has been holding the charge of the post in the Sangathan or regular basis.

Clause 2(vi) defines that the terms 'teacher' means all categories of teachers in the employment of Sangathan and includes vice principals and principals but does not include the Education Officer and above.

Clause 2(viii) defines the term 'teacher' to be the continuous stay of three years in North Eastern Region, Sikkim, Annadaman & Nikubor Island and listed hard station. The said definition further provides that while calculating the period of three years the period or periods of continuous absence from duties exceeding thirty days (45 days in case of North Eastern Region, Sikkim, Annadaman & Nikubor Island) at a stretch other than the maternity leave, training or vacation shall be excluded.

Clause 5 provides for the administrative grounds for transfer clause (i) further provides that a teacher is liable to be transfer on the recommendation of the Principal and the Chairman of the Vidyalaya Management Committee of Kendriya Vidyalayas.

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Clause 6 states that as far as possible, the Annual Transfer may be made during summer vacation and not transfer except those on the following grounds shall be made after 31, August (i) organisational reasons, administrative grounds and cases covered by para 5.

(ii) Transfer on account of death of spouse or serious illness when it is not practicable to defer the transfer till next year without causing serious danger to the life of the teacher, his or her spouse and son/daughter.

(iii) Mutual transfer as provided in paragraph 12.

The clause 8 under heading spouse case provides that where is a spouse is a Sangathan employee, the teacher seeking transfer on the spouse ground his or her entitlement point would be 20. On the other hand, the said entitlement point in case of a teacher whose spouse is an employee of State Government or its Autonomus Body or PSU, would be 12 and in all other spouse cases the said entitlement point is fixed as 10.

Clause 10(i) of the guidelines provides that where a transfer is sought by any teacher under Clause/paragraph 8 of the guidelines after continuous stay of three years in North Eastern Region and her

Copy to Dr. D. S. Sankaran, D. M.

stations and five years else-where at places which were not of his choice or where such transfer is sought by a teacher falling under the proviso 2 para 7 of the guidelines or very hard cases involving human compulsion, the authority shall be required to create vacancy to accommodate him by transferring the teachers with longest period of stay at that station provided they had served for not less than 5 years at the station.

Clause/Para 10 (2) provides that while transferring out such teachers the efforts will be required to be made by the authority to accommodate the lady teacher at nearby places/stations to the extent possible and administratively desirable.

Clause 10(3) provides that where no vacancy can be created at a station of choice of a teacher under this clause because of the fact that no teacher has the required length of stay, in the case repeated effective exercise would be required to be made by the authority in the Station/ Place which is the next choice of the teacher seeking transfer. The said clause 10 further provides that all the application for transfer shall be required to be placed before a committee consisting of Additional Secretary Education, Chairman, Commissioner, member and Joint Commissioner (Admn) Kendriya Vidyalayas as the member Secretary.

S.2
J. S. D. S. 10/10/2018

Clause 11 says that in order to effect the transfer in terms of Clause 8 and 10 of the Guideline authority shall be required to prepare two priority list and operate the same in the manner as prescribed under Sub-Clause (A)(B). As per the said Sub-Clause (A) the first priority list will list all the applications received for transfer in terms of Clause 7 and 8 showing the entitlement points against each applicant and this priority list shall be operated against the vacancies available during normal course. The Sub-Clause (B) provides that the Second List shall be required to be maintained in respect of cases of transfer in terms of Clause 10 of the guidelines listing all the applications including the entitlement points of each applicant in terms of priority list given in para 8 of the guidelines and the applicants included in the said priority list alone will be accommodated by transferring the teachers with longest period of stay at the station provided they had served for not less than 5 years from the date of joining at the station. The said Sub-Clause (B) further provides that for this purpose a list of the persons who have served for 5 years or more at the station shall be prepared by the Assistant Commissioner of the respective region and same will thereafter be displayed.

The applicant undertakes to produce the

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aforesaid guidelines before this Hon'ble Tribunal as and when required .

4.23. That the applicant states that in pursuance to the aforesaid guidelines she was asked by the Respondent No. 4 for submitting a fresh application and accordingly the applicant submitted her application on 17.2.2000 before the respondent No. 2 through Respondent No. 6 strictly in compliance with the direction issued under the aforesaid guidelines the said application was subsequently forwarded to respondent No. 4 by the Respondent No. 6 and upon consideration of said application, the Respondent No. 4 thereafter forwarded the said application to Respondent No. 2 recommending the name of the applicant for consideration as per the guidelines. In that application the applicant had specifically mentioned the spouse ground to be the ground for transfer and she had given her choice in the respective column of the prescribed form under heading "Choice Station/ Vidhalaya" in para 9 of the said application form .

It appears from the said application form that Kendriya Vidhalaya Panchgram (HPC) was her first choice like the last year application and to that effect the applicant have given the Kendriya Vidhalaya code as well as the station code in the

Yapari, Dm

respective box under said para 9 of the application form. It may be noted that as per the region wise list of Kendriya Vidhalayas issued by the Head Quarter , the Kendriya Vidhalaya code and station code in respect of the said School is fixed as 773 and 022 respectively.

4.24. That the applicants states that as per the aforesaid guidelines a teacher seeking transfers while submitting his or her application is required to give or mention choice / preference against the 5 no. of Schools in Cronological manner by way mentioning the respective Kendriya Vidhalayas code and station code against each of those schools as per the aforesaid list'. Accordingly the applicant had mentioned in the said application the respective Kendriya Vidhalaya code and station code showing her cronological choice on preference against each of those schools .

A copy of the application dated
7.2.2000 is annexed as Annexure-C.

4.25. That the applicant states that her first choice was Kendriya Vidhalaya Panchgram while Kendriya Vidhalaya Sonai Road (ONGC) was her second choice. On the other hand Kendriya Vidhalaya Silchar was her third choice and Kendriya Vidhalaya Mashimpur

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Hafoni Dev

and Kendriya Vidhalaya, Karimganj were her forth and fifth choice respectively.

In support of aforesaid contentions the applicant begs to mention herein below a detail chart showing the respective reason code , station code and Kendriya Vidhalaya code.

<u>Choice Station/Vidhalaya</u>	<u>Region Code</u>	<u>Station code</u>	<u>KV.Code</u>
1. K.V. Panchgram(HPC)	18	022	773
2. K.V. Sonai Road (ONGC)	18	439	803
3. K.V. Silchar	18	439	802
4. K.V. Mashimpur	18	439	795
5. K.V. Karimganj	18	045	789

A copy of the station wise list of Kendriya Vidhalaya Silchar is annexed as Annexure - D.

4.26. That the applicant states that as per the aforesaid guidelines the application of the applicant was thereafter placed before the committee duly constituted in pursuance to the aforesaid guidelines but even after the lapse of considerable period the respondent No. 2 did not prepare publish any priority list as per the requirement of said guidelines . In that regard no any communication was made to the applicant by any of the official respondents . Having failed to evoke any responce, the applicant of her

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own collected a priority list by availing of the internet facility. It appears from the said priority list that her name was placed in Sl.No. 3 showing Kendriya Vidhalaya Dholchora School to be of her 1st choice. It may be noted that the Applicant had never made any choice against the said Dholchora Kendriya Vidhalaya. But the official Respondent in a most arbitrary and illegal manner showed the said school as her only choice. Admittedly, the Applicant in her application dated 17.2.2000 (vide Annexure - D) mentioned that out of 5 schools Kendriya Vidhalaya Panchgram (HPC) is her 1st Choice. Therefore, the fixation of said Kendriya Vidhalaya Dholchora to be the School of her 1st Choice is contrary to guidelines as well as in dis regard to her application.

It further appears from the said internet priority list that one Sipra Paul an existing teacher of Kendriya Vidhalaya Tuli Nagaland was placed above the Applicant showing the aforesaid Kendriya Vidhalaya Dholchora to be her 1st choice. Similarly, one Prodip Paul the Respondent No. 8 was placed above the Applicant in Sl. No. 2 who was an existing teacher of Dinjan No. 1 Kendriya Vidhalaya and against his name there was no any mention regarding the School of his choice in the respective column. It also appears that out of the applicant and private

Respondent Nos. 7 and 8, the respondent No. 7 was given top priority while respondent No. 8 was given 2nd priority and the Applicant was given 3rd priority despite the fact that those two Respondents did not get any priority/ preference during last sessions 1998-99 and that both the Respondents are junior to the Applicants and that the Applicant stayed in the present posting for longer period than those two private Respondents.

A copy of the Priority List of Sessions 1999-2000 is annexed as Annexure - E.

4.27. That the Applicant states that meanwhile as per the priority list as referred to above (vide Annexure - E), the Respondent NO. 2 transferred Respondent No. Mrs. sipra Paul to the School of her 1st Choice namely Kendriya Vidhalaya Dholchora. It may by noted that the said Respondent No. 7 was working in Kendriya Vidhalaya Tuli at Nagaland and her 1st choice was Dholchara Kendriya Vidhalaya and she applied for transfer on spouse ground. It is also necessary to mention that the Respondent No. 7 is Junior to Applicant and her name did not find place in the priority list of 1998-99 sessions. Despite the said fact, she was given 1st preference in the matter of transfer by placing her in sl.No. 1 in the priority list.

Similarly the Respondent No. 5 was given the transfer benefit by way of placing him above the applicant in Sl. No. 2 in the aforesaid priority list. It may be noted that the said respondent No. 8 is Junior to the Applicant when he joined on 31.8.95 and the said Respondent No. 8 was not also considered by the authority during 1998-99 sessions. It is most pertinent to mention that no choice was shown in the aforesaid priority list against the name of said Respondent No. 8. But due to some oblique motive and purposeful interest the said Respondent No. 8 is now sought to be accommodated in the vacant post of Kendriya Vidhalaya Panchgram against which the Applicant had opted her 1st choice in the transfer application dated 17.2.2000 (vide Annexure - C).

4.28. That the Applicant states that the Respondent No. 2 mean while issued an order of transfer whereby one S.K. Shrivastava was directed to be transferred against the vacant post of T.G.T. (Drawing Teacher) consequent upon the transfer of its incumbent Sri Madhu Dubey in place of said S.K. Shrivastava in Kendriya Vidhalaya, RDSO, Lucknow. Having learnt about that illegal and arbitrary order of transfer, the Applicant made an inquiry in the office of Respondent No. 4 and during inquiry, she learnt that one Madhu Dubey, and Art teacher of Kendriya

Kendriya Vidhalaya, Panchgram was transferred to Kendriya Vidhalaya, RDSO, Lucknow and in his place one S.K. Shrivastava was transferred to the said vacant post. It is most pertinent to mention that aforesaid Madhu Dubey is a local resident of Lucknow city and in order to accommodate him in the school of his choice, the Respondent No. 2 had in a most illegal and arbitrary manner and also without following the prescribed procedure and norms, brought the above named Sri S.K. Shrivastava on transfer from the school where said Madhu Dubey was transferred. It is also to be noted that the said S.K. Shrivastava and Madhu Dubey were not the applicants for transfer for the Sessions 1998-99 and the said Transfer was made by the Respondent No. 2 by using his power and position.

It is further pertinent to mention that the priority list 1998-99 sessions, shows that the applicant was the only candidate who was selected by the authorities for transfer in the said Kendriya Vidhalaya Panchgram by accepting the said school to be her first choice and that the name of said S.K. Shrivastava also did not find place in the said priority list.

4.29. That the applicant states that in course of inquiry she further learnt that the above-named S.K. Shrivastava who had just one year more to go on

Yaponi Dev

retirement on attaining his age of superannuation; did not join in the said Kendriya Vidhalaya, Panchgram in pursuance to aforesaid order of transfer issued by Respondent No. 2 and as a matter of protest against such illegal transfer, the said person ultimately resigend from service.

4.30. That the applicant states that immediately thereafter on 11.12.2000 the Applicant made a representation before the Respondent No. 4 through contending that she was the only eligible candidates selected by the authority during 1998-99 sessions by way of accepting her 1st choice in Kendriya Vidhalaya Panchgram but due to some unknown reason she was not transferred during that period and instead, she was asked to submit fresh application in the next session in terms of the newly implemented transfer policy.

It was also contended that during her stay in the present school for last 5 years, she has rendered her service to the fullest satisfaction of the authority and during last several years she has made repeated application for transfer at Silchar on spouse ground and accordingly she may be transferred at any of the school of her choice made in her transfer application preferably in Kendriya Vidhalaya

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Panchgram which was her first choice against the post laying vacant on account of transfer of its imcumbent Madhu Dubey.

A copy of the Application dated 11.12.2000 is annexed as Annexure- F.

4.31. That the Applicant states that upon consideration of the aforesaid application dated 11.12.2000 (vide Annexure - G) the Respondent No. 4 wrote a letter to Respondent No. 2 vide office Memo No. 10-1/2000-KVs(GR)/7421-22 dated 12.12.2000 forwarding the aforesaid application of the applicant for consideration of her case for transfer. While forwarding the said application, the Respondent No. 4 recommended that the Applicant is one of the teacher was selected for transfer against any of the school of her choice as mentioned in her transfer application within the Silchar Region on spouse ground and her case may be considered for regular transfer against any one of those schools of her choice.

A copy of the said letter was also communicated to the Respondent No. 5 for necessary information.

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A copy of the said Application dated 12.12.2000 is annexed as Annexure - G.

4.32. That the Applicant states that the respondent No. 4 thereafter wrote another letter vide office Memo No. 2-19/99-2000/KVs(SR)/12802 dated 18.12.2000 to Respondent No. 3 informing him that the matter relating to transfer of the Applicant was already discussed with him over telephone a couple of days back for taking necessary action into the matter.

By the letter the Respondent No. 3 was further informed that the Applicant had applied for transfer to Kendriya Vidhalaya Panchgram but without considering her case one S.K. Shrivastava was transferred and due to his resignation from service in view of that illegal transfer, the said post of drawing teacher in said Kendriya Vidhalaya Panchgram is still lying vacant and considering the bonafide and genuine claim, the Applicant may be transferred against the said vacant post on spouse ground.

A copy of the letter dated 18.12.2000 is annexed as Annexure- H.

*copy
S. Japari, Esq.*

4.33. That this Application has been filed bona fide and for ends of Justice.

4.34. That the Applicant demanded Justice but the same was denied to her.

5. GROUND FOR RELIEF WITH LEGAL PROVISION.

5.1. That it is stated that the Applicant having selected for regular transfer twice through due process of law, she should have been given the transfer benefit and the official Respondents ought not to have denied the said benefit the Applicant. On the other hand, the manner in which the applicant was denied of her legitimate right as accrued under the aforesaid selection is not only arbitrary and illegal but is also contrary to the fairness of administrative action apart from being violative of the right to equality as guaranteed under the Constitution of India. Hence, the entire action of the Official Respondents is liable to be struck down.

Handwritten Signature

5.2. That it is stated that the office of Respondent No. 2 is statutorily established to carry out the lawful duties and responsibility cast on him under the statute. The said Respondent can not of his own volition act in a manner not warranted under law. The said Respondent No. 2 is lawfully obliged to act fair and just manner in conformity with established procedure. The Respondent No. 2 is further obliged to implement the transfer policy and make transfer to the candidates who were found eligible under the said transfer policy. Therefore, there is no justification or in reason either to withhold the transfer of the applicant or to take any other plea against non-consideration of the case of the Applicant more particularly when a regular post is laying vacant in the school of her 1st choice.

5.3. That it is stated that once the transfer policy was introduced and the applicant is found eligible under the said policy the Respondent No. 1 to 6 have got no authority to refuse to transfer the applicant in terms of her selection. On the other

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hand, the aforesaid policy can not be applied in any discriminatory manner by giving favour to one set of employees while disfavouring others. Therefore, the denial of transfer to the Applicant has amounted to denial of her legitimate and bonafide right being accrued under her selection in pursuance to said transfer policy causing a serious discrimination to her and the action of those Respondents is not by Article 14 and 16 of the Constitution of India.

5.4. That it is stated that during 1998-99 sessions the Applicant was the only candidate who was found suitable and eligible and her name found place in the priority list prepared for the purpose showing Kendriya Vidhalaya Panchgram to be her 1st choice, But due to some unknown reason she was not given the said transfer benefit. On the other hand it was only in order to accommodate the Respondent Nos. 7 and 8 the Respondent No. 2 had illegally and arbitrarily omitted to show the said Kendriya Vidhalaya Panchgram as her 1st choice in the priority list of 1999-2000

Yapa, Dr.

sessions. The said action of the Respondent has therefore caused a serious discrimination to the Applicant frustrating her legal and legitimate right to employment and livelihood as guaranteed under Article 21 of the Constitution of India.

5.5. That it is stated that the action of the Respondent No. 2 in showing Kendraya Vidhalaya Dhalchora to be the 1st choice of the applicant in the priority list of 1999-2000 sessions is mostly arbitrary, illegal and discriminatory in view of the fact that in the Application Form. The Applicant did not give any choice against said Dholchora Kendriya Vidhalaya . The said omission and commission was done by the Respondent No. 2 in order to accommodate the private Respondent 7 and 8 and in order to achieve that object , those respondent No. 7 and 8 were illegally and arbitrarily placed above the applicant in the priority list by giving them frist and second priority despite the fact that they were much junior to applicant and they did not get any selection during 1998-99

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Session. Therefore, the entire action of the Respondent No. 2 is without jurisdiction and against the Rule of equality.

5.6. That it is stated that in view of the selection, the applicant is lawfully entitled to be transferred in the school of her first choice more particularly when the post is lying vacant and there is no any other eligible claimant. Non-consideration of the said right of the applicant has not only frustrated the transfer policy but it has also resulted in serious mis-carriage of justice and same is on that point of view liable to be struck down.

5.7. That it is stated that although no one can claim transfer as a matter of right but since there is a policy introduced by the authorities regarding the said transfer, the person who is found eligible within the perview of that policy decision is lawfully entitled to claim transfer as a matter of right accrued under the said policy the action of respondent No. 2 in not accepting the first choice of the

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applicant in aforesaid Kendriya Vidhalaya Panchgram in terms of her transfer application dated 17.2.2000 is wholly arbitrary, illegal discriminatory unjustified and without jurisdiction.

5.8. That it is stated that the Respondent No. 2 having failed to act in accordance with the aforesaid transfer policy by not giving transfer benefit to the applicant as per the priority list prepared for the purpose and instead making an attempt to accommodate Respondent No. 8 in her place is wholly arbitrary, Illegal discriminatory and without jurisdiction and same is accordingly liable to be struck down.

5.9. That it is stated that the action of the Respondent in refusing to give any reason and/or any opportunity of being heard while taking the decision to fill up the post of Kendriya Vidhalaya Panchgram by transferring one S.K. Shrivastava and on his resignation from service seeking to transfer Respondent No. 8 in disfavour of the Applicant is wholly unfair, malafide and discriminatory and it amounted to serious violation of

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Principles of natural justice and administrative fair play.

5.10. That it is stated that the action of the Respondent No. 2 is wholly against the doctrine of legitimate expectation and can not be sustained in the eye of law. It is a known principles of law that in appropriate case the doctrine of legitimate expectation is considered as substantial right not merely confined to procedural expect only. In the instant case when the selection and the priority list prepared for the purpose in terms of aforesaid transfer policy ignored and disregarded by the Respondent No. 2 by way of making an irregular transfer of one S.K. Shrivastava in the vacant post of Kendriya Vidhalaya Panchgram against which the applicant made her 1st choice in the transfer application. It may be noted that the said S.K. Shrivastava was not a selected person nor does his name appeared in the priority list who ultimately consequent upon such irregular transfer resigned from service. The decision of the said Respondent No. 2 either to keep the post ending till the expiry of the priority

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list or to accommodate the Respondent No. 8 against the said post who is in fact did not make any choice against the said school as it appears from the said priority list. Hence, the whole action of the respondent No. 2 is unjust, unreasonable, unfair and it has frustrated the right of the applicant as accrued under her reasonable and legitimate expectation.

5.11. That it is stated that the action of the Respondent No. 2 is illegal and unjustified. The said respondent on the other hand having promised to transfer the applicant by way of including her name in the priority list and the applicant having acted upon such promise and waited for such a long period, the said respondent cannot now resile from his promise and any action to the contrary will only be in negation to the well settled principles of promissory estoppel.

5.12. That it is stated that the action on the part of the Respondent No. 2 is a direct infringement of the fundamental and all other legal rights of the applicant as guaranteed under Article 14, 16, 19, 21, and 41 of the

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Constitution of India and all other law
being in force.

6. DETAILS OF REMEDIES EXHAUSTED:

That the Applicant states that there is no
any other alternative efficacious remedies available
to her under any relevant provisions of law and the
remedy sought for would be just, proper, adequate and
complete.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING
BEFORE ANY OTHER COURT OR TRIBUNAL:

The applicant declares that she has not
filed any application, writ petition or suit
regarding the mater in respect of which the present
application has been made before any Court or any
other authority or any other Bench of the Tribunal
nor is any application, writ petition or suit pending
before any or those Court Authority or Tribunal.

8. RELIEFS SOUGHT FOR :

On the facts, circumstances and premises
aforesaid, the Applicant prays for following reliefs.

- 8.1. For striking down the impugned action of the Respondent No. 2 in not transferring the Applicant in any one of the schools of her choice preferably in Kendriya Vidhalaya Panchgram strictly in terms of the transfer application dated 17.2.2000 (vide Annexure-C).
- 8.2. For quashing and/or for setting aside the impugned priority list of 1999-2000 so far as the applicant is concerned and for preparing that part of the priority list strictly in terms of the transfer application dated 17.2.2000 (Vide Annexure- C).
- 8.3. For directing the Respondent No. 2 and all other official Respondents to transfer the Applicant to Kendriya Vidhalaya Panchgram as per her 1st choice or any other school of her next choice as specifically mentioned under heading choice station/ vidyalaya in paragraph 9 in the transfer application dated 17.2.2000 (vide Annexure - E).
- 8.4. For directing the Respondent No. 2 to recall or withdraw or cancel the priority list for the sessions 1999-2000 and prepare a fresh list strictly in terms of the transfer application dated 17.2.2000 (vide Annexure - C) and the choice made therein by the Applicant and to transfer her in accordance with said choice.

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8.5. For directing the Respondent No. 2 and all other official Respondents not to fill up the vacant post of Kendriyala Vidhalaya Panchgram and/or the vacant post of all other school of her choice as per the transfer application dated 17.2.2000 (vide Annexure - C) by transferring any other person including Respondent nos. 7 and 8.

8.6. For directing the Respondent No.2 and all other official Respondents not to transfer the Respondent nos. 7 and 8 or any other person to Kendriya Vidhalaya Panchgram or any other transfer application dated 17.2.2000 (vide Annexure- C).

8.7. Pass any other or further order or orders as may be deem fit and proper in the facts and circumstances of the present application.

8.8. The costa of the Application.

8.9. INTERIM ORDER PRAYED FOR:

9.1. To stay/suspend the operation of impugned priority list for the sessions 1999-2000 so far as the Applicant is concerned.

9.2. To direct the Respondent No. 2 not to transfer Respondent Nos 7 and 8 or any other person to the vacant post of Kendriya Vidhalaya Panchgram or to any of the schools of her choice as made in transfer application dated 17.2.2000 (vide Annexure-C).

9.3. To direct the Respondent No. 2 to reserve the vacant post of T.G.T. (Drawing) of Kendriya Vidhalaya Panchgram or any other vacant post any of the schools of her choice .

9.4. To direct the Respondent No. 2 not to invite any fresh application and made any selection for transfer in respect of the existing and future vacant post of the Kendriya Vidhalaya Panchgram and all other school of her choice as made in transfer application dated 17.2.2000 (vide Annexure - C).

9.5. This Hon'ble Tribunal may be pleased to pass any other or further order as to give adequate interim relief to the applicant.

10. PARTICULARS OF I.P.O.:

(i) I.P.O. No.:

(ii) Date of Issue :

5
Japar, Dm

(iii) Issued from : G.P.O. Guwahati.

(iv) Payable at : G.P.O. Guwahati.

11. LIST OF ENCLOSURE:

a)	Application	1 copy
b)	Verification	1 copy
c)	Transfer application dated 6.5.99 for the Session 98-99	1 copy
d)	Priority list of 1998-99 Session	1 copy
e)	Transfer application dated 17.2.2000 for 1999-2000 Sessions	1 copy
f)	Region wise list of K.V's, Silchar	1 copy
g)	Priority list of 1999-2000 Sessions	1 copy
h)	Representation dated 11.12.2000 to Respondent No. 4	1 copy
i)	Letter dated 12.12.2000 written by Respondent No.4 to Respondent No.2	1 copy
j)	Letter dated 18.12.2000 written by respondent No. 4 to Respondent No. 3.	1 copy
k)	Vakalatnama	1 copy.

Total: 11 copies. 11

For use in the Tribunal office

Date of filing :

Registration:

Registrar.

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VERIFICATION

I, Mrs. Tapasi Das, Wife of Dr. Utpal Das, aged about 38 years, resident of Village-Jagiroad, P.O.Jagiroad, P.S.Jagiroad, in the district of Morigaon, Assam, do hereby solemnly verify that the statements made in paragraphs 4.1 to 4.8, 4.9 to 4.11, 4.13 to 4.14, 4.16 to 4.31, 4.33, 6, 7, 8, 9 and 10 are true to my knowledge and those made in paragraphs 4.12, 4.15 and 4.32 are true to my legal advice and I have not suppressed any material facts.

And I sign this Verification on this 24th day
of March, 2001.



(SIGNATURE)

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Jan '99

ANNEXURE - A
KENDRIYA VIDYALAYA SANGATHAN

Application for 1998-99

Transfer Type 02 01 70 Crps

REGION CODE 10

KENDRIYA VIDYALAYA

H.P.C.L JAGIROAD

- -
Hard Station Code

APPLICATION FOR TRANSFER ON REQUEST 1999-2(XX)

(Read instructions carefully before filling up)

1. Name

MRS TAPASI DAS

2. Date of birth

20 02 62

3. Date of appointment

18 07 95

4. Date from which posted at the
Vidyalaya/ Station in Present Post

18 07 95

5. Whether Male/Female F

6. Post held

M S C

CATEGORY

7. Sub-Code

18

DIVISION

8. Grounds for Transfer

J S P

0 6 5

Station

Region Code

1 9

1 9

1 9

9. (a) Choice Vidyalaya/Station

K.V. PANCHGRAM

K.V. D.N.G.C SHRIKONA

K.V.NO1 SIECHAR

Region	Code
1	9
1	9
1	9

9. (b) In case you are interested in transfer to any K.V. in a particular Region indicate the preferences in terms of Region

10. Station where spouse is working

19

Please fill up
correct Code

11. Have you obtained a medical certificate overleaf?

12. Have you given the declaration regarding the
employment and place of posting of spouse?

19

13. Narrate the Compelling problem(s) for seeking
transfer (in 50 words(s))

No. 9 of T-1 has to remain out of station because from where transferred Reason Code all alone at Jagiroad

- -

- -

- -

14. Details of last transfer

- -

- -

- -

15. Type of disease certified in MC overleaf

- -

- -

- -

16. Relationship of the patient with the applicant

- -

- -

- -

I, Shri/Smt./Kum. MRS TAPASI DAS do hereby affirm that the information given in columns 01 to 16 of this application are correct and that the medical certificate/declaration given overleaf is/are bona fide. I understand that wrong/suppressed information shall render me liable for disciplinary action.

Place: K.V. H.P.C.L JAGIROAD

Date: 6. 5. 99

Signature

Mrs TAPASI DAS

Name

MRS TAPASI DAS

Designation

DRAWING TEACHER

* Vidyalaya is Applicable only for Transfer within the station.
* Write 01 or Intra (within region) or 02 for Inter.

Copy left to take free copy
With Cinthu
Advocate

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ANNEXURE 'B'

Priority List of 1998-99 Session

Copy
Copy

CRP No	MP No.	Name	Kendriya Vidyalaya	DOP Vidyalaya / Stataions	Reg	Wider Choice Regions
--------	--------	------	--------------------	---------------------------	-----	----------------------

Choice Regionwise Priority List Silchar
MSC (Drawing)

Spouse in State Govt/Autonomous Body/PSU

1	Mr. TAPASI DAS	HPC JAGIROAD	iy, July 18, 1995 PANCHGRAM ONGC SHIRKONA NO 1 SILCHAR	19 19 19	19 19 19
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General Cases

2	to Mr. TAPAN KUMAR GHOSH	SEVOKE ROAD	March 24, 1987 PANISAGAR BAGAFIA KARIMGANJ	19 19 19	0 0 0
3	24 Mr. D DAS	AFS CHABUA	iy, July 14, 1995 DULIAJAN	19 0 0	0 0 0

MSC (Physical Education)

General Cases

1	29 Mr. KHUNDRAKHAM SUBHAS	AFS DIGARU	iy, June 29, 1995 NO 2 IMPHAL LANGJING NO 2 IMPHAL LANGJING NO 1 IMPHAL LAMPHEL	19 19 19	17 5 9
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Certified to be true
By
Advocate

52
61
S
Gopal Rao
c) Posting history during the last 5 years commencing from the present station. Also indicate whether the station(s) was of his/her choice.

DATE OF JOINING

18 07 2000
[] [] [] [] []
[] [] [] [] []
[] [] [] [] []
[] [] [] [] []
[] [] [] [] []
[] [] [] [] []

STATION CODE

2011
[] []
[] []
[] []
[] []
[] []

WHETHER IT WAS HIS/HER CHOICE (Y/N)

[]
[]
[]
[]
[]
[]

D) Length of stay at the present station in completed years excluding the period of absence as on 15.2.2000. (See instructions). [04]

g) For Office Use only (Confidential) To be filled in by Regional Office.

Entitlement Points of performance during the last 3 years - B:

[] []
[] [] []

Grant Total of entitlement points (A+B)

Signature with seal of Assistant Commissioner

9. Choice Station/Vidyalaya*

Region Code

Station Code

K.V. Code
(Please see instructions
below)

18	022	773
18	439	803
18	139	802
18	439	715
12	045	789

11. Station where spouse is working 0 1

12. Have you obtained a MC on the form (Y/N) N

13. Have you given the declaration regarding the employment and place of posting of Spouse (Y/N)? Y

14. Details of last transfer

Reason	Year	Region/Cycle	Station Code	K.V. Code
<input type="checkbox"/>				

15. Type of disease certified in MC overleaf

Please fill up

16. Relationship of the patient with the applicant

In Code

I, Shri/Smt./Kum. MR S. TAPASI DAS do hereby affirm that the information given in columns 01 to 15 of this application are correct and that the medical certificate/declaration given is/are bona fide. I understand that wrong/suppressed information shall render me liable for disciplinary action.

Place : K R D A S H A R I R A M

Date : 10/02/2000

Signature : S. Tapasi Das

Name : MR S. TAPASI DAS

17. Vidyalaya is Applicable only for Transfer at the same station. In cases involving intra and inter-regional transfer choice must be indicated for Stations & NOT for Vidyalays.

18. Write 01 for Intra (within region) or 02 for inter-regional transfer.

54
Tapasi Das
C

MEDICAL CERTIFICATE

Signature of patient _____

Address _____

Dr. _____
(Name & Designation)

(Hospital & place)

After careful personal examination of the case, hereby certify that _____ whose Signature is given above is suffering from _____

(Full medical nomenclature of the ailment in CAPITAL LETTERS)

and that _____

Treatment of this disease is not at all available at this station or its vicinity. It is further certified that aforesaid disease

is within the parameters prescribed by the KVS / Para 1.

Place: _____

Signature of the competent authority _____

Date: _____

Designation _____

Seal of the Competent authority _____

DECLARATION

(Kindly fill the information in bold letters. Strike out wherever not applicable)

Mrs. TAPASI DAS, solemnly declare that my spouse **DR. U. C. DAS** is presently employed at under codes of transfer to **CACHAR (SILCHAR)** (place) in **MEDICAL OFFICER** (Designation) (Dept/Unit/Branch) _____
Date: **17/2/81** (Date) along with the address with Name & ID No. of immediate superior/Details
of self-employment (where) as follows:

Name and Office/Registered Business or
Professional Address of spouse

DR. U. C. DAS
KATHIGRAH HOSPITAL
PO. KATHIGRAH (NATIONAL PANCHAYAT)
CACHAR (ASSAM)

Name and Address of Immediate
Superior Officer or Registration No. of
Business/Profession

DR. H. C. DAS

JOINT DIRECTOR OF HEALTH SERVICE

SILCHAR ASSAM

Signature of the Employee: **Tapasi Das**
Name: **Mrs. TAPASI DAS**
Designation: **PRIMARY TEACHER**

For Office use only in Kendriya Vidyalaya
*(Strike out whichever is not applicable)

Disciplinary case is pending/contemplated not pending/not contemplated against
Name/Name/Name: **Mrs. TAPASI DAS**

The medical certificate/declaration given in the application itself is from the competent authority.

Certified that the details including entitlement points furnished by the applicant have been verified from the service records and found correct.
He/She was on leave/absent/absent without pay during _____ and is still away/not away from duty.

Signature: **U. C. DAS**

Name of the Principal _____

Office Seal: **PRINCIPAL**
KENDRIYA VIDYALAYA (P. O. 100)
CACHAR (ASSAM) H. P. C.
NATIONAL PANCHAYAT

Region-wise list of KV's

ANNEXURE 'D'

REGION	STATE/UTT	KVNAME	KVCODE	REGION	STNCODE
		AGARTALA NO.I(KUNJBAN)	768	18	433
		AGARTALA NO.II(ONGC)	769	18	434
		AI/AWI	770	18	436
		BAGAFA (BSF)	771	18	437
		BOKAJAN(CD)	772	18	438
		CACHAR PANCHIGRAM(HFC)	773	18	432
		CHURCHANDPUR(BSF)	774	18	440
		DIHLCHERAP(BSF)	775	18	439
		DIMAPUR(CRPF)	776	18	441
		DINJAN NO.I	777	18	442
		DINJAN NO.II(AFS)	778	18	443
		DIPHU	779	18	444
		DOOM DOOMA(ARC)	780	18	444
		DOYANG(HEP)	781	18	413
		DULIJAN(ODI)	782	18	446
		HAFLONG(33B)	783	18	447
		IMPHAL NO.I(LAMPHEPAT)	784	18	448
		IMPHAL NO.II(CRPF)	785	18	448
		IMPHAL NO.III(LEIMAKUONG)	786	18	448
		KAILASHAHAR	787	18	449
		KARIMGANG	788	18	445
		KHATKHATHI(CRPF)	790	18	450
		KOHIMA,LARIE HILL(CRPF)	840	18	451
		KUMBHIGRAM(AFS)	791	18	449
		LAKWA	788	18	432
		LEKHAPANI	792	18	431
		LOKTHAK(HEP)	793	18	434
		LUMDING	794	18	435
		MARIMPUR	795	18	439
		NAMRUP(HFC)	796	18	436
		PANISACAR(BSF)	797	18	437
		RANGAPAHAR CANTE	798	18	438
		SATAKHA(BSF)	799	18	439
		SIBSACAR NO.I(ONGC)	800	18	460
		SIBSACAR NO.II NAZIRA(ONGC)	801	18	460
		SILCHAR	802	18	439
		SONAIROAD (ONGC)	803	18	439
		TINSUKIA	804	18	462
		TULI	805	18	461
		ZAKUMA	807	18	461

Copy
To be true
Certified by
G. V. Chitra
Advocate

Check Your city code

ANNEXURE-E

Priority list of
1999-2000.

Page 1 of 2

Back To Form

Tapasi Das's priorities :Opps !!! Your application may not have been received yet or check your Station code and post again.

Name	Current KV Posting	Current Station	Transfer Station1	Priority No.	Transfer Stat
SONA RAM NATH	SIBSAGAR NO.I(ONGC)	SIB SAGAR	GUWAHATI	1	
SONA RAM NATH	SIBSAGAR NO.I(ONGC)	SIB SAGAR	GUWAHATI	1	
BRIJ MOHAN PUJARI	WADSAR(AFS)	AHMEDABAD	UDAIPUR	1	UDAIPUR
A H JAMI	JAMNAGAR NO.I(AFS)	JAMNAGAR	RAJKOT	1	
PRANTOSH SEN	AGARTALA NO.I (KUNJBAN)	AGARTALA	CALCUTTA	2	
HIRA LAL	HAZARIBAGH (BSF)	HAZARIBAGH	RANCHI	1	RANCHI
MALA MUKHERJEE	BOKARO NO.I	BOKARO No1	PATNA	1	PATNA
SIPRA PAUL	TULI	TULI	DHOLCHERA	1	DHOLCHERA
SUBHENDU GHOSH	GANGTOK	GANGTOK	CALCUTTA	3	KANCHAPA
MOHINI SHAWRIKAR	HOSANGABAD	HOSANGABAD	GWALIOR	1	
DILIP KUMAR PATRA	PORT BLAIR NO.I	PORT BILAIR	DELHI	1	
BENUDHAR SETH	BALASORE	BALASORE		0	BHUBANESH
RATILAL N CHAUHAN	ANKLESHWAR (ONGC)	ANKLESHWAR	BARODA	1	
PRADIP PAUL	DINJAN NO.I	DINJAIN	---	2	
JAGANNATH CHAKRABARTI	DURGAPUR (CMERI)	DURGAPUR	KANCHAPARA	2	KANCHAPA
SUBRATA PAL	HASIMARA	HASIMARA	CALCUTTA	5	
MRS SHASHI GOVIL	JODHPUR NO.II(AFS)	JODHPUR	UDAIPUR	2	
J P MALLICK	KANKINARA	CALCUTTA	KANCHAPARA	4	

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Tapasi Das
Certified to be true copy
G. D. Singh
Advocate

1	KAPASIDAS BHAYA GUMAR NISHRA PANKAJR PATEL	2	JAGROAD (BPC) KHURDA ROAD NALIYA (AES)	3	JAGROAD KHURDA ROAD BHUBANESWAR HIMMATNAGAR	4	DEOLCHERI BHUBANESH MEHSAN
Back To Form							

Panchayat
 Sonam RD
 Garia
 Haporia

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ANNEXURE-F

Tapasi Das

To

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

Dated: 11/12/2K

(Through the Principal, KV, HPCL, Jagiroad)

Respected Sir,

With due respect and humble submission I beg to draw the following few lines in your kind consideration and sympathetic order please.

1. That Sir, I am serving at K.V. HPCL, Jagiroad since 5 years with full satisfaction to the superior.
2. That Sir, from last five years I am applying to the concerned authority for my transfer at Silchar, as because my husband work at Silchar, and I could not communicate with him and his family.
3. That Sir, my name was in 32d position in the transfer priority list.

Now, kindly please see that considering all the above mentioned grounds. I may be posted at any of the schools that I mentioned in the priority list in the transfer form filled up by me in the Silchar Region. Wherever a post is lying vacant.

Kindly consider my case and oblige.

Thanking You, Sir.

Yours faithfully,

Tapasi Das

(MRS. TAPASI DAS,
Drawing teacher,
KV, HPCL, Jagiroad.)

Dated: 11/12/2000

Enccl:

1. Transfer Application.
2. Priority list.

Qualified to be
Principal
Kendriya Vidyalaya
Silchar
Advocate
B.C. Chakraborty



ANNEXURE - G

ত্বরণ / Phone : 571797, 571798
Fax : 571799

केन्द्रीय विद्यालय संगठन KENDRIYA VIDYALAYA SANGATHAN

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

dated: 12/12/2000

प्रांक :
No. F. : 10-1/2000-KVS(GR)/Y421-22

दिनांक :
Dated : 12/12/2000

✓/to
The Commissioner,
Kendriya Vidyalaya Sangathan,
(Hqrs),
New Delhi - 16.

Subject:- Forwarding of application of Smt. Tapasi Das
Drawing teacher, KV, HPCL, Jagiroad in
connection with her transfer.

Sir,

I am to forward herewith an application dated 11/12/2000 by Smt. Tapasi Das, Drawing teacher KV, Jagiroad, requesting for her transfer to any of the Vidyalaya mentioned in the transfer application. (Copy enclosed) within Silchar Region as her husband is working in Silchar which is self-explanatory for necessary action at your end.

Yours faithfully,

(D.K. SAINI)

Asstt. Commissioner

Enclo:- As above,

Copy to Principal, KV Jagiroad for information w.r.t.
her endorsement dated 11/12/2000.

Asstt. Commissioner

Original to be forwarded
to
Cultural
Patrocole.

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ANNEXURE-H'

KENDRIYA VIDYALAYA SANGATHAN

REGIONAL OFFICE: SILCHAR

HOSPITAL ROAD

SILCHAR - 788001 (ASSAM)

Tel. :- 34009 (0), 34339 (R)

Dated: 18/12/2000



S. P. Bauri
सहायक अधिकारी
Assistant Commissioner

Ref. No. 2-19/199-2000/KVS(SR)/12802

Date: 18-12-2K

Dear Shri Vijoy Kumar,

I may kindly recall my telephonic conversation with you two days back regarding transfer of Smt. Tapashi Das, Drawing Teacher, KV, Jagtiani. Smt. Das had applied for transfer to KV Panchgram where one Sh. Srivastava has been transferred from KV RDSO Lucknow but Sh. Srivastava has resigned the post and as such the post of Drawing Tr. at KV Panchgram is lying vacant. The request for transfer has been made in terms of spouse case by Smt. Tapashi Das.

May I request you to look into the matter and post this lady at KV Panchgram ~ this case is very genuine in all respect.

With warm regards.

Yours Sincerely,

[Signature]

To

Sh. S. Vijoy Kumar,
Education Officer
(Executive Asstt.)
Kendriya Vidyalaya Sangathan, Hqrs.
New Delhi.

to be done by
C. M. Chanda
Advocate



DIST

CENTRAL ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH : GAUHATI.

VAKALATNAMA

IN THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR,
TRIPURA, MIZORAM AND ARUNACHAL PRADESH)

OA NO. 388 OF 199 2001

Mrs. Tapasi Das

Applicant
Appellant
Petitioner

Versus
The Union of India and others

Respondent
Opposite Party

Know all men by these presents that the above named Applicant/Petitioner
do hereby nominate, constitute and appoint Shri A.K. Pukayashtha, S.K. Dinha.....
Advocate and such of the undermentioned
Advocates as shall accept this Vakalatnama to be my/our true and lawful Advocates to appear
and act for me/us in the matter noted above and in connection therewith and for that purpose to
do all acts whatsoever in that connection including depositing or drawing money, filling in or taking
out papers, deeds of composition, etc. for me/us and on my/our behalf and I/we agree to ratify
and confirm all acts so done by the said advocates as mine/ours to all intents and purposes. In
case of non-payment of the stipulated fee in full, no Advocate will be bound to appear and act on
my/our behalf.

In witness whereof I/we hereunto set my/our hand this the day of 21st September 2001.

ADVOCATES

Shri B.K. Bhattacharjee

Shri S.K. Singh

Shri V.K. Chopra

Shri N. Jha

Shri S.B. Das

Shri R. Choudhury

Shri N. Ullah

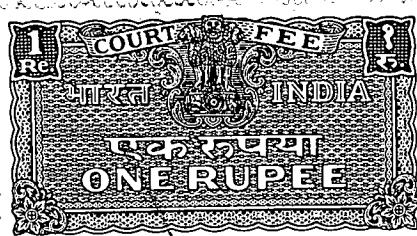
Shri M. M. Das

Shri D. Choudhury

Ms. B. Saikia

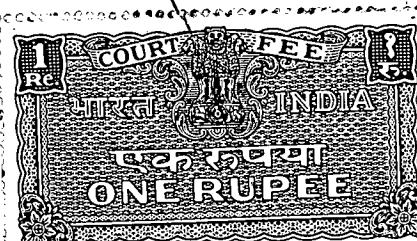
✓ Mr. S.K. Singh

A.K. Pukayashtha



Received from the executant
Satisfied and accepted

Accepted by
A. Pukayashtha, Advocate
ADVOCATE



And accepted

ADVOCATE

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Notice

From: S.K. Sinha
Advocate

To Dr. B.P. Todi
St. Counsel,
Central School.

O A NO. 388/2001

Mrs. Tapasi Das Applicant
VS

The Union of India and others

Respondents

Sr/s,

Please take notice that the above-named Applicant
has filed an Application before this Hon'ble Tribunal.
A copy of the said Application is hereby served on you
for your necessary action into the matter.

Please acknowledge the receipt of the same

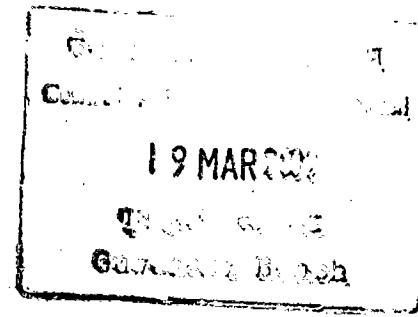
Thanking you.

Received by

Alsha Das
Advocate 24/9/2001

Yours sincerely

S.K. Sinha
Advocate



filed by laminine
Tapasi Das
Vidya Sagar
Kendriya
through
Supreme
High Court

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

AT GUWAHATI

Original Application No. 388/2001.

Smt. Tapasi Das

..... Applicant

-Versus-

Union of India & ors

..... Respondents

The Respondent Nos 2, 3, 4, 5 and 6 begs to file their Written Statement as follows:-

1. That all the averments made in the Original Application (hereinafter referred to in short as the application) are denied by the answering respondents save and except what has been specifically admitted herein and what appears from the records of the case.
2. That with regard to the statements made in paragraph 1 of the application the answering respondents begs to submit that as per the transfer priority list prepared for

19/3/2002

the year 1999-2000, the petitioner was placed at third position for Silchar Station whereas the respondent No.7 Smt Sipra Paul and respondent No.8 Sri Pradip Paul were placed at priority No.1 and 2 respectively in priority list No.1 as well as in list II.

3. That with regard to the statements made in paragraph 2, 3 and 4.1 of the application the answering respondents has no comments.

4. That with regard to the statements made in paragraph 4.2 of the application the answering respondents begs to repeat what has already been stated in paragraph 2 of this Written Statement that as per the transfer priority list prepared for the year 1999-2000, the petitioner was placed at third position for Silchar Station whereas the respondent No.7 Smt. Sipra Paul and respondent No.8 Sri Pradip Paul were placed at priority No.1 and 2 respectively in priority list No.I as well as in list II.

5. That with regard to the statements made in paragraph 4.3 of the application the answering respondents has no comments.

6. That with regard to the statements made in paragraph 4.4 of the application the answering respondents begs to submit that her transfer may not have materialised in 1998-99 inspite of her eligibility as per the transfer guidelines in force at that time. The transfer guidelines of KVS have been revised in 1999-2000, effective from 2000-2001, and accordingly to these guidelines the petitioner was placed at 3rd position whereas the respondent No.7 Smt. Sipra Paul and respondent No.8 Sri Pradip Paul were placed at priority No.1 and 2 respectively in priority^{list} No.1 as well as in list-II.

It is further submitted that applications were invited from all willing applicants for annual request transfer for the year 2001-2002 but later on due to change in transfer application format, the decision has been taken not to consider the application called for during 2001-2002, as such, her application has not been considered.

7. That with regard to the statements made in paragraph 4.5 of the application the answering respondents has no comments.

8. That with regard to the statements made in paragraph 4.6 of the application the answering respondents begs

to submit that as per provisions of existing transfer guidelines, a junior may supersede his senior by securing higher entitlement points in ACRs of last three years as well grounds of transfer.

9. That with regard to the statements made in paragraph 4.7 of the application the answering respondents begs to submit that the government of India's instructions to post husband and wife together are followed by Kendriya Vidyalaya Sangathan also to the extent it is possible subject to administrative constraints.

10. That with regard to the statements made in paragraph 4.8 to 4.19 the application the answering respondents begs to submit as follows. There was an approved transfer guidelines prior to 1999 according to which transfer for the year 1998-99 were considered. The petitioner applied for transfer in 1998-99 in respect of 3 choice Kendriya Vidyalaya(KV), viz., (i) KV, Panchgram, (ii) No.1, Silchar and (iii) KV ONGC Srikona on joining of spouse (JSP) ground and based on her application she had been placed in priority list at 1st place for her choice station. Her priority may have been considered for transfer to her choice place in the light of prevailing transfer guidelines but the same might not have materialised under that transfer guidelines for want of clear vacancy at the places of her choice. Further,

it is submitted that in general no communication is issued to those staff members whose transfer request could not be materialised.

11. That with regard to the statements made in paragraph 4.20 to 4.25 of the application the answering respondents has no comments.

12. That with regard to the statements made in paragraph 4.26 of the application the answering respondents begs to submit that the priority list prepared on the basis of transfer applications forms received for the year 1999-2000 was published in the KVS web site with wide publicity to all for perusal and as per the provisions of the existing transfer guidelines, All the Kendriya Vidyalayas of the Sangathan had been distributed in about 450 stations and in each station various nearby schools have been categorised

~~(1)~~ In accordance with such categorisation KV Dholchera, KV Sonari Road, KV Masimpur and KV Kambhigram were classified under Dholchera Station. Since the petitioner applied for Silchar/Sonari Road so her name was shown under the Dholchera Station.

It is further submitted that the priority list of 1998-99 and 1999-2000 were based on different transfer guidelines so priority position of one may not be compared with the other one.

13. That with regard to the statements made in paragraph 4.27 of the application the answering respondents begs to repeat what has already been stated in paragraph 2 of the Written Statement that as per the transfer priority list prepared for the year 1999-2000, the petitioner was placed at third position for Silchar Station whereas the respondent No.7 Smt. Sipra Paul was placed at priority No.1 in priority list No.1 as well as in list II.

14. That with regard to the statements made in paragraph 4.28 of the application the answering respondents begs to submit as follows. The request transfer of Smt. Madhu Dubey, Drawing teacher from KV Cacherpanchgram to RDSO Lucknow has been effected as per the provisions of para 10(1) and 10(3) of the existing transfer guidelines on the basis of her priority position in priority list-II of 1999-2000 for Lucknow Station by displacing Sri S.K. Srivastava, drawing teacher from RDSO Lucknow, who had served for more than 5 years at his present station, Lucknow. The method adopted by the present respondents in preparing the priority list is very much transparent and there is no scope for giving weightage to a particular teacher hence the allegation of malafide is totally baseless and incorrect.

16. That with regard to the statements made in paragraph 5.1 to 5.12 of the application the answering respondents begs to repeat and reiterate what has been stated in the aforesaid paragraphs and state that the grounds are baseless and contrary to law.

17. That with regard to the statements made in paragraph 6 and 7 of the application the applicant is put to the strictest proof of the correctness of the statements made therein.

18. That with regard to the statements made in paragraphs 8 and 9 of the application the answering respondents beg to state that taking into consideration the statements and submissions made by the applicant as well as various transfer guidelines and also taking into consideration the statement made by the respondents in the preceding paragraphs the present Original Application deserve to be dismissed with costs.

Verification

VERIFICATION

I, Shri Deo Kishan Saini, son of Sri C.L. Saini, aged about 53 years, presently working as the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Guwahati Region, Maligaon Chariali, Guwahati-12, do hereby verify that the statements made in paragraph 8, 9 are true to my knowledge and those made in paragraphs 2, 4, 6, 10, 12, 13, 14 are based on records.

And I sign this verification on this the 11th day of March, 2002 at Guwahati.

Place : Guwahati

Deo Kishan Saini

DEPONENT

Date 11-3-2002