

5/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

DA-423/2001 ordersheet pg
Not bound

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O.A.T.A No. 423/2001

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SECTION OFFICER (Judl.)

FORM No. 4
(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:GUWAHATI.

ORDERS SHEET

APPLICATION NO. 422/2001

Applicant(s) Smt. V.L. Sharma

Respondent(s) U.O.I. Govt

Advocate for the Applicant: A.K.Bhattacharya, G.K.Bhattacharya, B.Singh, B.C.Choudhury, K.K.Choudhury, A.K.Choudhury, R.P. Hazarika
Advocate for the Respondent:

Notes of the Registry	Date	Order of the Tribunal
This is application in form C. F. for Rs. 50/- deposited vide IPY/16/7880.91	16.10.01	Heard Mr.A.K.Bhattacharyya, learned Counsel appearing for the applicant and Mr.S.Sarma for the respondents.
Dated .../12/10/2001		Issue notice on the respondents for admission, returnable by two weeks.
Dy. Registrar <i>Par</i>	<i>16/10/2001</i>	Mr.B.C.Pathak, learned Addl. C.G.S.C accepts notice on behalf of the respondent-No.1 and Mr.S.Sarma accepts notice for respondents Nos. 2 to 5.
Pl. Counsel <i>MS</i>	16/10/01	Issue notice on the respondents to show cause as to why interim order staying the operation of order dated 4.10.2001 should not be allowed.
Serv. on claimants <i>19/10/01</i>		In the meanwhile the operation of order dated 4.10.2001, so far as the applicant is concerned is stayed till the next date. List on 12.11.2001 for admission.
Notice served to Sri B.C.Pathak, Addl.C.G.S.C for Respondent No 1 <i>for him</i> <i>19/10/01</i>		<i>11/11/01</i> Member

bb

12.11.01 JAHURATI BIVARASIMHOS JANTALO DHT 61
. ITAHAWALI JNB 1 JYR 20

Notice Served to S.Sarma.
for Respondent No. 2 to 5

12.11.01 Heard Mr. A.K. Bhattacharyya, learned Sr. counsel for the applicant. Mr. S.Sarma, learned counsel for the respondents stated that he will file written statement within 2 or 3 days.

Learned
S.

Order dtd 12/11/01 Communicated
to the parties Comstl.

12/11/01

Upon hearing learned counsel for the parties and considering the facts of the case, we admit the application. Call for the records.

The respondents may file written statement within 2 weeks from today. List the matter for fixing the date of hearing on 27/11/01.

15/11/01

In the meanwhile, interim order dated 15.11.01 shall continue.

U.C. Shaha

Member

Vice-Chairman

26.11.2001

W/S on behalf
of the Respondents has
been submitted.

27.11.01 Written statement has been filed by the respondents. The learned counsel Mr. A.K. Chaudhury, appearing for the applicant has received the copy of the same, and preys for time to examine and file rejoinder.

List on 22.1.2002 for hearing.

U.C. Shaha

Member

Vice-Chairman

Statement has been filed
by the applicant at

254-252.

12/11/02

The case is ready
for hearing.

11.2.02

22.1.02 Prayer has been made on behalf of Sri A.K. Bhattacharyya by Sri B.K. Singh, learned counsel for the applicant for adjournment of the case on the health ground. Sri S.Sarma, learned counsel for the respondents stated that the case need to be heard expeditiously. Considering the facts of the case, the case is adjourned to 12.2.2002 for hearing. List the matter for hearing on 12.2.2002.

U.C. Shaha

Member

Vice-Chairman

mb

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.419 of 2001
Original Application No.420 of 2001
Original Application No.421 of 2001
And
Original Application No.422 of 2001

Date of decision : This the 29th day of April 2002

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

The Hon'ble Mr K.K. Sharma, Administrative Member

1. O.A.No.419/2001

Smt Anjana Goswami,
Wife of Dr Indra Kumar Bhattacharyya,
Resident of Manik Nagar, Guwahati.

2. O.A.No.420/2001

Smt Dipti Sinha,
Wife of Shri T.D. Sinha,
Resident of Subhash Bhavan,
Lachit Nagar, Guwahati.

3. O.A.No.421/2001

Smt Saveeta Talukdar,
Wife of Shri Sailendra Kumar Das,
Resident of Hastinapur,
Japorigog Road, Ganeshguri, Guwahati.

4. O.A.No.422/2001

Smt Vijay Laxmi Sharma.
Wife of Shri Ravinder Kumar,
Resident of Janapath Lane,
Ulubari, Guwahati.

.....Applicants

By Advocates Mr A.K. Bhattacharyya,
Mr G.K. Bhattacharyya, Mr Binod Kumar Singh,
Mr K.K. Bhattacharyya, Mr Ashim Kr Choudhury
and Mr Ritu Purna Hazarika.

- Versus -

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Human Resources Development, New Delhi.
2. Kendriya Vidyalaya Sangathan, Represented by the Commissioner, Kendriya Vidyalaya Sangathan, New Delhi.
3. The Assistant Commissioner, Kendriya Vidyalaya Sangathan, Guwahati Region, Maligaon, Guwahati.

4. The Chairman,
Vidyalaya Management Committee (VMC),
Kendriya Vidyalaya,
CRPF, Amerigog, Guwahati.

5. The Principal,
Kendriya Vidyalayam,
CRPF, Amerigog,
Guwahati. Respondents

By Advocates Mr B.C. Pathak, Addl. C.G.S.C. and
Mr S. Sarma, Standing Counsel, KVS.

.....
O R D E R

CHOWDHURY.J. (V.C.)

The issues involved are common and therefore, all the four applications were heard together for disposal.

2. This is the second bout. The four lady teachers also came earlier before the Tribunal assailing the order dated 12.7.1999 reducing the number of sections in the Central School, CRPF, Amerigog, Guwahati from three sections to two sections and the consequent act of the respondents in posting them out from the school by transferring them on the ground of surplus vide order dated 11.8.1999.

3. Consequent to declaration of surplus the applicant in O.A.No.419 of 2001 was transferred and posted from Kendriya Vidyalaya, CRPF, Guwahati to Kendriya Vidyalaya, Laitkor Peak. In O.A.No.420 of 2001 the applicant was transferred from Kendriya Vidyalaya, CRPF, Guwahati to Kendriya Vidyalaya, NEHU, Shillong, in O.A.No.421 of 2001 the applicant was transferred from Kendriya Vidyalaya, CRPF, Guwahati to Kendriya Vidyalaya, Upper Shillong and in O.A.No.422 of 2001 the applicant was transferred from Kendriya Vidyalaya, CRPF, Guwahati to Kendriya Vidyalaya No.1, Tezpur. Being aggrieved by

the impugned action of the respondents these applicants preferred O.A.s before this Bench which were numbered and registered as O.A.Nos.246, 248, 249 and 250 of 1999. This Bench after hearing the respective parties and considering the respective pleas directed the applicants to make individual representations ventilating their grievances to enable the respondents to pass a reasoned order. The applicants submitted their representations before the authority. The competent authority, namely the Commissioner, Kendriya Vidyalaya Sangathan, New Delhi by order dated 4.10.2001 rejected their representations. Hence the present applications assailing the legality and validity of the order dated 4.10.2001.

4. The applicants in these applications challenged the action as well as the decision making process of the respondents in reducing the number of sections in the school and consequently declaring the teachers surplus as arbitrary, discriminatory and unlawful. The applicants also assailed the consequent order of transfer and posting as in contravention of the equality clause enshrined in Article 14 of the Constitution. The applicants lastly assailed the impugned order dated 4.10.2001 rejecting their representations as arbitrary, discriminatory and unlawful.

5. The respondents contested the claim of the applicants and contended that the order declaring the applicants as surplus pursuant to the reduction of the sections cannot again be reagitated in view of the earlier decision rendered by this Bench in O.A.Nos.246, 248, 249 and 250 of 1999. It was pleaded that the Bench on the earlier occasion declined to intervene in the matter regarding declaration of surplus. It was also contended

that.....

that the respondent authority took a decision bonafide and in the public interest reducing the number of sections and in the set of circumstances question of judicial review in the merits of the decision as to the declaration of surplus does not arise. Lastly, it was contended that the Commissioner, as the competent authority considered the matter, applied his mind and justly and fairly reached the decision which cannot be said to be unlawful. It was contended that respondent No.2 as the competent authority examined the matter afresh and thereafter disposed of the representations in terms of the direction issued by the Tribunal.

6. As referred to earlier as per direction of the Tribunal each of the applicants submitted in writing their representation narrating their grievance. Each of the applicants specifically assailed in writing the legality as well as the correctness of the decision making process of the respondents in reducing one section each in classes I to V in the school in question arbitrarily. In addition the applicants narrated their personal problems consequent to the order of transfer and posting out of their present place of posting. The Commissioner, Kendriya Vidyalaya Sangathan, while disposing of the representation on 4.10.2001 addressed himself to the representation in the following fashion while considering the case of the applicant in O.A.No.419 of 2001.

"The submission made by the petitioner has been considered very carefully and sympathetically and she is informed that due to reduction in Primary sections to two sections in KV CRPF Amerigog Guwahati she had been identified excess to requirement over the sanctioned strength at KV Amerigog, Guwahati and was redeployed in KV Laitkor Peak, Shillong.

With regards to the submission made by the petitioner from Para 1 to 5 of her representation it.....

it is stated that the commissioner being the competent authority had taken the decision to make KV CRPF Amerigog as two section school based on number of students available from priority category and physical facilities available in the school. Accordingly 12 Primary teachers posts were/are sanctioned and 7 primary teachers were rendered excess to requirement.

While making such exercise for KV CRPF Amerigog Guwahati due care had been taken to the local needs of the school as well as the difficulties faced by the teachers. Only 76 students belonging to category I and II were accommodated in these two sections. Regarding transfer of CRPF personnel to Guwahati station it is stated that some times the students strength may go up due to incoming of CRPF personnel and at the same time it cannot be denied that the students strength goes down due to transfer out of CRPF personnel from Guwahati station so it is vice-versa. At the time of making two sections schools the recommendation made by the Principal/Chairman and the Assistant Commissioner of the Region concerned has been considered by the Commissioner carefully but it could not be accepted in the year 1999.

As regards to her sincerity, deligance and personal problems as stated in para 6 of her representation, she is informed that as a sincere teacher she should have joined at the place of her initial deployment viz. KV Laitkor Peak in 1999 in the larger interest interest of the students community, after serving 15 yearrs in the same station namely Guwahati. Instead she had continued in the same Kendriya Vidyalaya against a zero vacancy amounts to pay without work. She is further informed that as per Article 49 k of the Education Code which states that an employee of Kendriya Vidyalaya Sangathan is liable to be transferred to any Kendriya Vidyalaya or office of the Kendriya Vidyalaya Sangathan by short notice. Hence the personal problems expressed by the applicant regarding the ailments and studies of the children and working of her husband at Guwahati station and father of the petitioner of 80 years etc. which are very common to every employee should not come in the way of discharging public service. Personal problems expressed by her has not little importance. Moreover her transfer had been effected within the Guwahati Region. It may not be possible to adjust her at Guwahati station.

With regards to para 7&8 of her representation it is stated that fixation of staff strength of every vidyalaya is an annual feature. During the course of such exercise some posts are withdrawn and some posts an sanctioned additionally due to which some teachers become excess to requirement.

As per policy of Kendriya Vidyalaya Sangathan, the teacher in the cadre having longest period of stay in the Kendriya Vidyalaya has to be identified as surplus/excess to requirement in the event of reduction of sections/withdrawal of the post. Accordingly Mrs Anjana Goswami who had been working in KV CRPF Amerigog for 15 years, being a teacher having longest period of stay in the vidyalaya i.e. KV Amerigog had been identified as surplus and was redeployed in KV Laitkorpeak."

.....

"As regards to para 10 & 11 of her representation she is informed that at the time of fixation of staff strength and subsequently while redeploying the surplus PRTs due care had been taken to adjust the petitioner in the region in the year 1999-2000. But the vacancies came later on is to be filled up by the employees who became excess to requirement in subsequent years and request transfers for which the applications are called for every year. However, the vacancies available at Guwahati station now should be filled up from the teachers who had been transferred out of Guwahati in public interest in terms of 10(1) of transfer guidelines and had requested for retention in Guwahati station citing junior/senior problems and these requests are under active consideration. Hence the petitioner cannot be accommodated in Guwahati station.

As regards to para 12 to 14 of her representation it is stated that in the year 2000-2001 only 97 candidates of priority category had requested for admission in Class-I which is much below for the continuance of third section. In 2000-2001 also only 94 candidates of priority category had registered for fresh admission. Out of these candidates even some candidates did not fulfil the eligible criteria. Thus there is no justification for continuance/retention of any additional section. Moreover Kendriya Vidyalaya Sangathan can't grant admission to all the candidates registered for admission as its main aim is to grant admission to the wards of the transferable Central Govt. employees and defence personnel, who will come in the priority category. The Commissioner being the competent authority could not accord permission due to the above cited facts. The fresh admission during 1999-2000, and 2000-2001 and 2001-2002, are 76, 67 and 75 respectively. So opening of additional sections just because to accomodate the petitioner at the cost of the Public exchequer cannot be considered."

7. The materials produced before us indicated that prior to the impugned decision in the primary level, i.e. classes I to V, of the school in question there were three sections each which were reduced to two sections each. Despite opportunity granted, the respondents failed

to.....

to produce the decision making process as to why the sections were abruptly reduced. In the written statement the respondents stated that the issue involved in the O.A.s was already settled in the Judgment and Order of the Tribunal dated 25.7.2001 and therefore, the respondents did not submit their parawise reply. It was stated that the issue regarding decrease of sections was a purely administrative action and the Tribunal by Judgment and Order dated 25.7.2001 clearly spelt out the issue.

8. Admittedly, the applicants questioned the legitimacy of the decision making process in the reduction of the number of sections in their representations. The Commissioner referred to the contentions of the applicants, but held that the Commissioner being the competent authority had taken the decision to make Kendriya Vidyalaya, CRPF, Amerigog a two sections school based on the number of students available from priority category and physical facilities available in the school. What impelled the Commissioner to reduce the sections despite the objections of the local authority is not discernible. In the earlier written statement the respondents mentioned about the recommendations of the 14th meeting of the Academic Advisory Committee. We have looked to the recommendations of the aforementioned committee, but did not find any specific recommendations for reduction of sections in the school in question. The communication dated 12.7.1999 only speaks of staff sanctioning. The Government direction only pertained to the creation of new posts. The authority no doubt was conferred with the discretion to

take.....

take decision on the student teacher ratio including the number of sections, but that discretion is not unfettered. Powers entrusted to the authority is thus to act justly, reasonably and lawfully. Discretion means sound discretion according to law. According to Coke discretion is "scire per legem quod sit justum" - "a science or understanding to discern between falsity and truth, between right and wrong, between shadows and substance, between equity and colourable glosses and pretences, and not to do according to their wills and private affections". In Padfield Vs. Minister of Agriculture, Fisheries and Food, (1968) A.C. 997, the House of Lords held that the Minister's discretion was not unfettered and that the reasons that he had given for his refusal to appoint a committee showed that he had acted ultra vires by taking into account factors that were legally irrelevant and by using his power in a way calculated to frustrate the policy of the Act. It was also observed that it would be open to the court to infer that the Minister had acted unlawfully if he had declined to supply any justification at all for his decision. The said principle of law enunciated in the area of judicial review aptly applied in this case also. No discernible reasons are found as to why the number of sections were reduced abruptly in the existing school. The Government memorandum basically speaks of some form of restraint in introduction or increase of additional sections. The factors those were taken into consideration in reducing sections like lack of facilities in the school are not discernible from the materials on record.

9. Mr S. Sarma, learned counsel for the respondents contended that the matter was finally concluded by the decision of the Tribunal dated 25.7.2001 in O.A.Nos.246, 248, 249 and 250 of 1999. A matter if finally adjudicated upon is not to be gone into as per the accepted principles of law.

10. We have perused the earlier decision of the Tribunal, more particularly paragraph five of the judgment. It was observed, *inter alia* that in its decision making process the Sangathan, however, is required to take into confidence the local authority. The materials on record did not indicate any such positive steps..... Though, the ultimate decision was to be taken by the Sangathan, one cannot also ignore the academic schedule and maintenance of continuity of education. The Tribunal, however, refrained to intervene in the decision making process as to the declaration of surplus. It did not delve further in view of the fact that the matter was remanded to the competent authority to consider the representations of the applicants on merit. The judgment did not uphold the decision of the respondents on the reduction of classes/sections. It was intentionally done to avoid embarrassment. In view of the existing vacancies we thought that the matter would be decided amiably and cordially, averting discomfiture and embitterment and that was the reason we refrained from delving into the matter and remanded the case back.

11. The correspondence, those were made available to us, between respondent Nos.2, 3 and 4 and 5 did not contain any whisper as to the lack of "physical facilities" as well as to the deficiency of students in

the.....

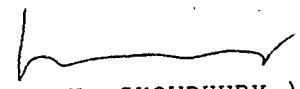
the school. The impugned act of the respondents in reducing to two sections from three sections on the facts situation and thereby holding seven teachers surplus in the Central School, CRPF, Guwahati is not sustainable in law, so also the consequent order of transfer on surplus ground. The impugned decisions including the order dated 11.8.1999 transferring the four applicants are thus set aside and quashed.

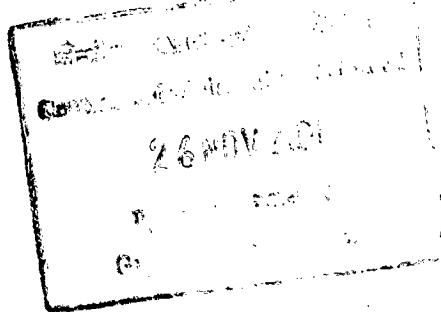
12. We have referred to some of the observations made by the Commissioner while rejecting the representations of the applicants. A decision maker is required to address itself to the issues involved objectively in the light of the fact situation. He is required to take into account relevant facts. He cannot pursue irrelevant and extraneous considerations. He is required to act justly, reasonably and fairly, not extravagantly nor improperly. Fair consideration means cogitation of the relevant facts candidly and impartially in an unbiased way. Such consideration must dispel prejudice and predisposition. The impugned order itself indicated that the Commissioner in upholding the decision of reduction to two sections from three sections refused even to consider the recommendations of the local authorities without assigning any reason. In rejecting the representations of the applicants he only considered as to the intake of admission in the school pursuant to the order of reduction of sections. The school was already running with three sections on the basis of sanctioned strength. No reasons as to why the student intake was reduced abruptly from three sections to two sections are ascribed. Even as per the policy of the authority in

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accommodating surplus persons care was to be taken to accommodate such persons in the neighbourhood as far as practicable. The applicants pointed out the vacancies in which they could have been taken, but their claims were brushed aside on grounds which were not relevant and germane. It seems that the authority while assessing the merit of the applicants failed to fairly and impartially consider the respective cases of the applicants. The concerned authority while considering the prayer for alteration of the place of posting expressed his dissatisfaction over the teachers for not joining their place of posting. In his view the continuance of the applicants on the strength of the order of the Tribunal amounted to loss of the Public exchequer. Obviously, the said authority failed to disabuse his mind and which affected his ultimate decision. The impugned decision dated 4.10.2001 is, therefore, liable to be set aside and accordingly the same is set aside.

13. The applications are accordingly allowed. There shall, however, be no order as to costs.


(K. K. SHARMA)
ADMINISTRATIVE MEMBER


(D. N. CHOWDHURY)
VICE-CHAIRMAN



Filed by
Advocate

15
23/11/2001

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A.No. 422/2001

Vijay Laxmi Sharma

-Versus-

U.O.I. & Ors.

Written Statement on behalf of the Respondents above
named :-

1. The answering respondents have received the copy of the OA and have gone through the same. Save and except the statements which are not specifically admitted herein below, rests may be treated as total denial by the respondents.
2. That the answering respondents have gone through the copy of the OA and understood the contentious made therein. It is noteworthy to mention here that the issue involve in this OA has already been settled by the Hon'ble Tribunal in it's judgement and order dated 25.7.2001. It is therefore the answering respondents instead of placing parawise reply before this Hon'ble Tribunal beg to place the relevant reply controverting the issue involved in the OA. To that context the answering respondents pray before this

Hon'ble Tribunal to rely and refer upon the written statement filed in OA No.246/99. The answering respondents however crave leave of this Hon'ble Tribunal to prefer additional written statement if necessary and as may be directed by this Hon'ble Tribunal.

3. That the applicant above named in this OA has raised the issued regarding decrease of one section from class-I to V and it's consequential effects. The applicant challenging the aforesaid action has prayed for a relief for setting aside of the order dated 12.7.99.

The answering respondents beg to state that the issued regarding decrease of section is a purely administrative action and the Hon'ble Tribunal in it's earlier judgement dated 25.7.2001 has clearly spelt out the issue. In the said judgement the Hon'ble Tribunal while dealing with various law the Hon'ble Tribunal observed that the applicant is basically concerned with order of transfer and posting not the consequence under which he was transferred. Admittedly, the order of transfer was issued to the applicant as a consequence of decrease in sections in the said school. It is therefore, the applicant can not raised the issue once again in the present OA. The Hon'ble Tribunal keeping the aforesaid in mind has rightly remanded back the matter to the concerned authority for a sympathetic consideration of the matter without setting aside the order of transfer.

The other issues namely method of declaring the applicants as surplus, violation of Article 14 and 16 of the

Constitution of India and validity of the circular declaring surplus were the issues of earlier proceeding and in the judgement and order dated 25.7.2001 passed in OA Nos.246/99 and other connected matters. In the aforementioned judgement passed by this Hon'ble Tribunal has settled the matter finally and hence the applicant can not raised the same issue again in the present application, same being barred under the provision of judicata.

The applicant in the instant case also raised the issue regarding one Smt.Chapa Das Kar, but same is not correct. Said Smt.Chapa Das Kar joined the said School (KVS,CRPF,Amerigog) on 27.10.87 by placing her joining report. In fact, the applicant joined the said school much earlier than Smti Kar and as such the applicant is station senior in the said school. As per the policy for declaration of surplus it is categorically mentioned that the seniormost teacher (station senior) will be rendered surplus.

The contention relating to allotment of work to the applicant is a purely administrative matter and hence same can not be brought before this Hon'ble Tribunal as a ground for setting aside the order of transfer.

4. That the answering respondents beg to state that the applicant has measurably failed to appreciate any factual aspect showing malafide in issuing the order of transfer as well as the order dated 4.10.2001. It is noteworthy to mention here that in the order dated 4.10.2001 the authority concerned taking into consideration the vacancy position available modified the order of transfer

and in place of KV, KV No.1 Tezpur she has been posted to KV, Lokhra.

5. That the answering respondents while dealing with the contention regarding the OM dated 23.7.96 beg to state that in the earlier proceeding this Hon'ble Tribunal has dealt with the matter elaborately leaving no scope to the present applicant to reagitate the issue again.

In the Premises aforesaid, it is most respectfully prayed that Your Lordships would graciously be pleased to vacate/modify the interim order dated 16.10.2001 and to dismiss the OA in limini with cost and/or pass any such order/ orders as may be deemed fit and proper considering the facts and circumstances of the case.

And for this act of kindness the applicant as in duty bound shall ever pray.

VERIFICATION

I, Deokishan Saini, s/o C. Saini, aged about 53 years, resident of Maligaon Guwahati, at present working as Asstt Commissioner Kendriya Vidyalaya Sangathan, Maligaon Regional Office, Guwahati, do hereby solemnly affirm and verify that the statements made in the paragraphs 1, 4, 5..... are true to my knowledge and those made in paragraphs 2, 3.... are matters of records which I believe to be true and the rests are my humble submissions before the Hon'ble Tribunal and I have not suppressed any material facts of the case.

And I sign this verification on this the 22nd day of November, 2001.

Deokishan Saini
(D.K. SAINI)

केन्द्रीय न्यायालय अधिकार
Central Court of Justice, India
18 JAN 2002
गुवाहाटी बैच
Guwahati Bench

DISTRICT : KAMRUP

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Filed by:
Vijaylaxmi Sharma
Applicant
through
Abin Karman Choudhury
Advocate
Dt. 18.01.2002

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, AT GUWAHATI

Original Application No. 422 of 2001

SMTI. VIJAY LAXMI SHARMA

.....APPLICANT

- VERSUS -

UNION OF INDIA AND OTHERS

.....RESPONDENTS

AND .

IN THE MATTER OF :

Rejoinder filed by the Applicant against the Written Statement filed on behalf of the Respondents.

REJOINDER

1. That the Applicant filed the instant Application praying for quashing and setting aside the order dated 12.07.99 (ANNEXURE : 5) and transfer order dated 11.08.99 (ANNEXURE : 9) and to set aside the Memorandum dated 04.10.2001 (ANNEXURE : 21) and to declare, adjudge and hold Memo dated 23.07.96 (ANNEXURE : 11) to be ultra vires to the Constitution of India. A copy of the Written Statement filed on behalf of the Respondents has been served upon my Counsel. I have gone through the said Written Statement and understood the contents thereof. All the statements made in the Written Statements are deemed to have been denied except those which are specifically

admitted hereinunder. The Applicant also reaffirms and reiterates all the statements made in Original Application No. 422/2001.

2. That the statements made in paragraph 2 of the Written Statement are not correct and true and the same are denied to the extent of their incorrectness. In this connection, I say that the Hon'ble Tribunal in its Judgment and Order dated 25.07.2001, opined that the matter be remitted to the Respondent Authority for a fresh look and after consideration of the whole matter viewed that "ends of justice will be met if a direction is issued to the Applicants to make individual representation ventilating their grievances against the impugned order of transfer and posting in addition to the representation already made within three weeks from the date of the receipt of the Order. On receipt of the such representation, the Respondents shall take note of their grievances and thereafter pass such appropriate order for allaying their grievances justly and fairly as expediently as possible.". Therefore it is absolutely unfair and misleading to say that issues involved in this Original Application has been settled by the Hon'ble Tribunal in its Judgment and Order dated 25.07.2001 as contended by the Respondents. I further say in this connection that the Written Statement submitted by the Respondents in earlier Original Application No. 250/99 cannot legally be taken into account as the said Application was disposed of finally by the aforesaid Judgment. However, if the Hon'ble Tribunal is inclined to rely on the same, I submit that my Rejoinder filed on 15.10.99 against the said Written Statement filed on behalf of the Respondents in the said Original Application, may also be taken into consideration in the interest of justice and fairplay.

3. That with regard to the statement mentioned in paragraph 3 of the Written Statement I state that averments made therein neither factually correct nor are they legally sustainable. I state in this connection that the Applicant is equally concerned with both the points involved in this case, namely, (i) reduction of sections from section three to two in classes I to V and (ii) transfer of applicant from Kendriya Vidyalaya, CRPF, Amerigog to Kendriya Vidyalaya, Lokra. Accordingly, the Applicant challenged the legal validity of the said Orders. It may be stated herein that the Chapter X of the Education Code of the Kendriya Vidyalaya (hereinafter referred as 'Code') contains the various provisions of admission of students into the Kendriya Vidyalays. Rule 88 of the Code is relevant for the purpose of this case. Rule 88 provides four categories of students to be given priority in admission to the Kendriya Vidyalaya. But the KV, CRPF, Amerigog has followed this Rule more in breach than in observance. As admitted by Respondent No. 2 in his impugned order dated 04.10.2001 that "its main aim is to grant admission towards the transferable Central Govt. employees and defecse personnel who will come in the priority category", it appears that the Respondents have completely lost sight of the provisions mentioned in category (ii), (iii) and (iv) of the Rule 88 of the Code. I further state if students belonging to aforesaid "categories are given admissions to KV, CRPF, Amerigog then it cannot accommodate all the students in one section of classes I to V. Inspite of the stay order dated 17.08.99 to the reduction of the sections vide Memo No. dated 12.07.99, the Respondents continued to violate the aforesaid stay order by reducing the three sections to two sections from classes I to V and thereby refusing to register and admit the students belonging to aforesaid four categories, only to justify their arbitrary and unreasonable action to reduce the sections. Therefore, the Respondents deserve to be

proceeded on contempt proceedings under the Contempt of Courts Act, 1971.

4. I further states that children upto the age of 14 years have got a fundamental right to receive free education as ingrained in Article 21 of the Constitution of India and as declared by the Hon'ble Supreme Court in the case, namely, Unni Krishnan, J.P. – vs. – State of A.P. (Reported in AIR 1993 SC 2178). Therefore, Respondents cannot constitutionally refuse to admit the primary School students on the ground of decreasing section in Classes I to V in violation of the fundamental rights of these children who want to take admission in the KV, CRPF, Amerigog. I state that the KV, CRPF, has got all the infrastructure and strength of teachers to impart primary education to the children belonging to aforesaid four categories. Further, the fundamental right of obtaining free education by the students upto the age of 14 years is to be determined in the light of Articles 41, 45 and 46 of the Constitution of India. Recently, the Parliament of India has amended the Constitution of India by introducing the right of getting free education upto the age of 14 years in the fundamental right chapter, namely, Part III of the Constitution of India through the 93rd amendment of the Constitution of India and after this amendment the right of getting free education upto the age of 14 years has become a fundamental right provided by the Constitution of India. Therefore, the Respondents could not have restricted the admission of students belonging to aforesaid four categories on the ground of reduction of sections from three to two in Classes I to V of the KV, CRPF, Amcrigog in violation of fundamental rights of those students. Therefore, I submit that the memorandum dated 12.07.99 issued by Respondents No. 2, decreasing one section in Class I to Class V is liable to be set aside and quashed on the ground of violating the

fundamental rights of the students belonging to aforesaid four categories seeking admission into the KV, CRPF, Amerigog.

5. That the statements made in paragraphs 4 and 5 of the Written Statement are categorically denied by me as they are absolutely irrelevant to issues, having no bearing in this case.

6. That I state that the discriminatory treatment has been meted out to the Applicant in violation of the Article 14 of the Constitution of India while issuing the transfer order to the Applicant on the ground of being surplus in the KV, CRPF, Amerigog. The records would show that all the lady teachers who were rendered surplus in other KV Schools of Guwahati Station have been accommodated in the Guwahati station itself. This is borne out by the fact that one Smt. Usha Chhabhra was rendered surplus / excess in KV, Borjhar had been transferred to KV, Maligaon and similarly one Smti. Puspa Lata Gupta who was rendered surplus / excess in KV, IOC, Guwahati had been accommodated in KV, Maligaon as indicated by Memorandum No. 10-2/2000-KVS(GR)/5188-221 dated 08.08.2000. On the date of passing the impugned order dated 04.10.2001 disposing of the representation dated 13.08.2001, of the Applicant, there were 3(three) vacancies available in Guwahati Station, one each at KV, CRPF, Amerigog, KV, IOC, Noonmati and KV, Maligaon at Guwahati. Moreover, 2 (two) more vacancies had fallen vacant in between 13.08.2001 and 04.10.2001 at KV, Digaru and KV, Jagiroad as Mrs. Arati Das resigned from service who posted at KV, Digaru again Mrs. Rita Kalita who was working in KV, Jagiroad had taken voluntary retirement and her resignation was accepted vide KVS/(GR)/16658 dated 05.10.2001. Therefore, I could have easily been accommodated to fill up the vacancies either at Digaru or at Jagiroad during the period between

13.08.2001 (date of my representation) to 04.10.2001 (impugned order rejecting the representation of the Applicant - Annexure : 21) and thereafter also in conformity with the transfer guideline dated 23.07.96 (Annexure – 11)

A photocopy of the aforesaid Memorandum dated 08/08.2000 is annexed herewith and marked as ANNEXURE -24

7. That I state that on perusal of the Memorandum No. P.2-1-1/2000-KVS(E.IV) dated 26.09.2000 would clearly show that even transfer made on request by the incumbents at Guwahati have been accommodated at Guwahati itself. Smti. Tripti Borgohain was transferred from KV, IOC, Guwahati to KV, Khanapara, Guwahati, Smti. Jharna Choudhury was transferred from KV, Maligaon to KV, IOC, Guwahati, Dalimi Das Seal was transfer from KV, IOC, Guwahati to KV, Maligaon, Guwahati. Similarly Neelima Baruah was transferred from KV, Borjhar to KV, IOC, Guwahati.

A photocopy of the aforesaid memorandum dated 26.09.2000 is annexed herewith and marked as ANNEXURE - 25

8. That the Respondents have created serious chaos and anomalies while transferring the various teachers from Guwahati Station under the transfer guidelines. It may be pointed out that 6 teachers namely Smti. P. Sharma, Smti. K. Goswami, Smti Namita Goswami, Smti. J. D. Roy, Smti. M. Das and Smti. Nilima Goswami were transferred to outside Guwahati Station vide order dated 21.06.2001, though they were not senior teachers having longest stay in the Guwahati Station.

According to the transfer guidelines the teachers having a longest stay and senior in the Station should be transferred first without disturbing the junior teachers in the Stations. On the date of transfer, namely, 21.06.2001 of the aforesaid 6 teachers, there were many teachers senior to them in KV Schools of Guwahati Station but those senior teachers were not transferred out of Guwahati station in conformity with aforesaid transfer guidelines. However, when the aforesaid 6 teachers pointed out the said favouritism, discriminatory treatment given to them and the arbitrary action of the Respondents they were again transferred back to the various Schools of Guwahati station at Guwahati by canceling the aforesaid transfer order dated 21.06.2001 through the transfer cancellation order dated 22.11.2001. I further say in this respect that the forwarding list of employees who have served for 5 years or more at the present station (Guwahati) in the present post (as on 31.03.2001) in the primary section issued under Memo No. F.10-8/2001-KVS(GR)/18557 dated 19.11.2001, has a bearing in deciding the issues involved in this case. This list clearly shows that the Applicant cannot also be transferred out of Guwahati on the ground of longest stay in the Guwahati station as her position stands at serial No. 26 in the said seniority list. It shows there are about 25 teachers above her having longest stay in the Guwahati station.

Photocopies of the transfer cancellation order dated 22.11.2001 and transfer guidelines and the seniority list at Guwahati station dated 19.11.2001 are annexed hereto and marked as ANNEXURES 26, 27 and 28 respectively.

9. That I state that even today there are quite a number of vacancies available at Guwahati and/or in the Guwahati station. Moreover, there are four vacancies available without posting anybody



against those vacancies in KV, Digaru School under Digaru Station, which is about 20-25 kms. away from Guwahati. Even now there are two vacancies available at KV, Jagiroad in Jagiroad Station, which is about 59 kms. (37 miles) away from Guwahati. Both the places are well connected with Guwahati by Bus services going through National Highway. Therefore, I submit if the Applicant is transferred to one of the places namely, Digaru & Jagiroad against the vacancies available there, she has no objection to join there in order to tie over her present difficulties as stated in her representation dated 13.08.2001 and the present Application. Therefore, the Hon'ble Tribunal may kindly direct the Respondents that if the Applicant cannot be accommodated at Guwahati station then she may be accommodated either at KV, Digaru or at KV, Jagiroad against the vacancies available there as stated above.

Vijay Laxmi Sharma
.....VERIFICATION

SD

VERIFICATION

I, Smti. Vijay Laxmi Sharma, wife of Shri Ravinder Kumar, aged about 42 years working as Primary Teacher in Kendriya Vidyalaya, Group Centre, Amerigog, Guwahati – 781 023 in the district of Kamrup, Assam do hereby solemnly affirm and declare, that the statement made in this rejoinder in paragraphs 1 to 9 are true to my knowledge, belief and information and I have not suppressed any material facts.

And I sign this rejoinder on this the 18th day of January, 2002 at Guwahati.


Vijay Laxmi SharmaAPPLICANT

KENDRIYA VIDYALAYA SANGATHAN
REGIONAL OFFICE
CHAYARAM NIWAN & MALIGAON CHARIALI
GUWAHATI : 12

No.10-2/2000-KVS(GR)/5188-221

Dated : 08.08.2000

-26-

TRANSFER ORDER

Due to the fixation of staff strength in Kendriya Vidyalaya for the year 2000-2001, the staff, in excess of the sanctioned strength in certain Vidyalayas is required to be redeployed against the existing vacancies in other Kendriya Vidyalayas. Accordingly, the following teachers are redeployed in the Kendriya Vidyalayas shown against their names in public interest with immediate effect.

S.No.	Name of the teacher	Designation	Transferred from	Transferred to
01.	Dr.R.K.Bharti	PGT(Hindi)	No.1 Jorhat	BRPL Bongaigaon
02.	Sh.P.N. Singh	TGT(Maths)	BRPL Bongaigaon	No.1 Tezpur
03.	Smt.Putul Dey	"	Maligaon	CRPF Amerigog
04.	Smt.A.Bhagwati	"	Maligaon	Borjhar
05.	Miss N.Goswamy	TGT(Bio.)	Maligaon	Khanapara
06.	Smt.Aradhana Singh	TGT(Hindi)	Maligaon	Borjhar
07.	Sh. P.C.Vishwakarma	"	Pasighat	CRPF Amerigog
08.	Sh.R.V. Singh	"	No.1 Tezpur	Missnmaria
09.	Smt.S.K.Choudhary	TGT(S.St)	Maligaon	No.1 Jorhat
10.	Smt.R.Kyndiah	"	H.V. Shillong	Laitkorpeak
11.	Smt.Anu Dutta	"	Narangi	Misa Cantt.
12.	Smt.Usha Chhabnra	PRT	Borjhar	Maligaon
13.	Sh.K.K. Kalita	"	Borjhar	Tezpur No.2
14.	Sh.S.Zomei	"	BRPL Bongaigaon	Lokra
15.	Smt.A.Nandi	"	BRPL Bongaigaon	Kokrajhar
16.	Smt.Pushp Lata Gupta	"	IOC Guwahati	Maligaon.

Copy to :-

JHR
EO SP/1000

For Assistant Commissioner

- Individual concerned with the direction to get himself/herself relieved immediately.
- The Principal, KV, where teacher is presently working with the direction to relieve the concerned teacher immediately under intimation to this office. The incumbent is eligible to draw TA/DA as per KVS rules. Incase teachers on leave/absent he/she should be relieved in absentia with immediate effect. On no account his/her relieving should be delayed. No pay and allowances should be drawn in respect of the transferred teacher with effect from the date he is relieved/deemed to have been relieved.
- The principal, KV where teacher has been posted on transfer with the direction to intimation to the date of joining in respect of the teacher concerned to the undersigned immediately.
- Dr. E. Prabhakar, Edn. Officer, KVS(Hqrs) for information w.r.t. his letter No.1-3/2000-KVS(E.III), dated 4/8/00 and letter No.18-20(Sur) 2000/KVS/E.IV, dated 4/8/00.

JHR
EO SP/1000

For Assistant Commissioner

Certified to be true Copy

Chandu
Advocate

BN Singh/S. Baishya

— 11 —

KENDRIYA VIDYALAYA SANGATHAN
 (ESTT. IV SECTION)
 48, Institutional Area,
 Shaheed Jeet Singh Marg,
 NEW DELHI - 110 016.

ANNEXURE - 25

267

NO. F.2-1-1/2000-KVS(E.IV)

DATED: 26-9-2000

TRANSFER ORDER

The transfer of the following Primary Teachers are hereby ordered on request:-

Sl. No.	Name of PRT	KV where working	KV where posted
1	2	3	4
01.	Mr./Mrs./Ms		
01.	Ms Lakshmi Naidu	Bheemuni, Patham	No. 2 Port Blair
02.	Ms Sannala Indira	No. 3 Cochin	Bheemuni Patham
03.	Mr. Rupinder Preet	No. 4 Cochin	No. 3 Cochin
04.	S.P. Sekhon	Khaprail	No. 4 Cochin
05.	Shailendra Kumar	Umroi Cantt.	Khaptail
06.	Paul A.M.	Ottapalem	No. 1 Port Blair
07.	Chitra Devi R Warrier	Manmad	Ottapalem
08.	Meena Ashok Thakur	Jhagrakhand SECL	Manmad
09.	Ramprasad Ram	Ojhar AFS	Jhagrakhand SECL
10.	Sowmya Ganesh	Missamari	Ojhar AFS
11.	John NG	Lokra	Missamari
12.	Deepa Deo Barman	Chabua AFS	Lokra
13.	Sophia Nair	Aravankadu	No. 1 Port Blair
14.	K. Madhu	Mandvi INS	Aravankadu
15.	Huma Kousar	No. 1 Itarsi	Mandvi INS
16.	Shobhana Mishra	No. 2 Itarsi	No. 1 Itarsi
17.	Priyadarshini Dubey	No. 1 Itarsi	No. 2 Itarsi
18.	Dr. Jayaprakash Jaiswal	No. 2 Itarsi	No. 1 Itarsi
19.	SK Sharma	Hoshangabad	No. 2 Itarsi
20.	Krishna Sharma	Nepa Nagar	Hoshangabad
21.	A Swathy Rajappan	Aravankadu	No. 2 Port Blair
22.	Sarah Sheila Anthony	Sulur	Aravankadu
23.	TK Dakshayani	Coimbatore	Sulur

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Advocate

1	2	3	4
24. K Prema	Avadi AFS	Coimbatore	
25. BC Usha	No.1 Tambaram	CLRI Chennai	
26. PT Balaji	AFS Avadi	No.1 Tambaram	
27. Ravi Mahadevan	Donimalai	AFS Avadi	
28. Jasmin Kaur	No.2 Ferozepur	AFS-Ojhar	
29. Gushma K.	Lorbandar	AFS-Samana	
30. Sunita Gill	Lalgarh Jattan	NAD Karanja	
31. Kanan G	No.2 Pondicherry	AFS Avadi	No.2 Pondicherry
32. Vijay Laxmi Hebbal	IISc Bangalore	IISc Bangalore	
33. Honamma SK	CRPF Yehlanka	CRPF Yehlanka	
34. Lucy Paul	Ernakulam	Ernakulam	
35. Leithika Santosh	No.4 Cochin	No.4 Cochin	
36. Valsama Joseph	Jagi Road	Jagi Road	
37. Manisha Chakravarty	Panbari	Panbari	
38. SR Basu Matary	Umroi Cnrtt.	Borjhar ✓	
39. Geetanjali Das	Shillong	CLRI Chennai	
Christy	CRPF Svedi		
41. Ramesh Kumar Sudha	No.2 Port Blair	CRPF Avadi	
42. Vaze Ravindra	Donimalai NDMC	Sambra AFS	
43. BS Lakshmi	Missamari	Donimalai	
44. K. Valsala Kumari	No.3 Colaba	Keltron Nagar (Cannanore No.2)	
45. Mrs. Gouri Singh	Karanja NAD	No.3 Colaba	
46. Shushma Gupta	No.3 Colaba	Karanja NAD	
47. Alpana Gupta	Karanja NAD	No.3 Colaba	
48. KV Rathnamala	Mysore	Dherwad ✓	
49. CK Sharda	Bellary	Mysore	
50. Sujata Subhash	No.3 Bikaner	Kalpetta	
51. Neena Bose	Gandhidham Riy.	No.3 Bikaner	
52. Parul Dev	Khanapara, Guwahati	No.1 Mangalore	
53. Tripti Borgohain	IOC Guwahati	Khanapara, Guwahati	
54. Ujira Chowdhury	Maligaon	IOC Guwahati	
55. Palmi Dass Seal	IOC Guwahati	Maligaon	

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Advocate

2	3	4
56. Neelima Barua	Borjhar	TOC Guwahati
57. Sugata Unni Mair	No.1 Hubli	No.2 Mangalore
58. Bharti Krishna Kamble	Sholapur	No.1 Hubli
59. Sabina Sayeed S Hakim	NAD Karanja	Sholapur
60. Promilla Dhattacharya	IAT Girinagar	NAD Karanja
61. Nav Jyoti	Hissar Cantt.	IAT Girinagar
62. Vishnu Dev Upadhyay	Passighat	Hissar Cantt.
63. Rani BT	Bambolim Camp	Payaanur
64. Santosh Kumar Yadav	Amla	Fonda
65. Imrat Bharti	No.3 Itarsi	Amla
66. Tripti Balaji	OF Bhandara	No.3 Itarsi
67. Surakha P. Joge	No.2 AFS Devlali	OF Bhandara
68. Champa D. Bhatia	AFS Ojhar	No.2 AFS Devlali
69. Nalini Mulmuley	Raipur	Ojhar AFS
70. Satguru Nayak	Bacheli	Raipur
71. Anjana Srivastava	ITI Rai Bareilly	Bacheli
72. Aurora Falipo Das	Ponda	Bambolim Camp
73. Sujata Krishnan	No.1 Mangalore	No.1 Kasargod
74. Ranjana Gupta	Happy Valley, Shillong	Ahmadnagar No.1
75. Kamla Devi	Laitkor Peak, Shillong	Happy Valley, Shillong
76. Sushma Sharma	No.1 AFS Jodhpur	Laitkor Peak, Shillong
77. Suman Sarol	Dabla	AFS No.1 Jodhpur
78. Dinesh Chandra Tiwari	Zakhma	Gangtok
79. Praveen Kaur Dhillon	No.1 Colaba	Jutogh
80. Madalsa Vyas	No.2 Colaba	No.1 Colaba
81. Raj Kishori S. Singh	No.3 Colaba	No.2 Colaba
82. GP Malviya	AFS Amla	No.3 Colaba
83. Kusum Yadav	Aligarh	Kapurthala Cantt.
84. Yash Pal Giri	Dharanigadra	Aligarh
85. Naresh Kumar Kala	Banswara	Ranikhet
86. Elizabeth Haward	JNU, N.Delhi	Banswara
87. Neelam Kshatriya	Shillong	JNU
88. Munna Lal Verma	New Tehri Town	New Delhi
89. Seema Gupta	Khaprauli	Batubasa
		New Tehri Town

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Advocate

1	2	3	4
90. Ratna Phanja	Bagdogra	Khaprail	
91. Renu Gcsh	Kokrajhar	Bagdogra	
92. SR Basu Malavia	Umroi Cantt.	Kokrajhar	
93. Sudhir Kumar Tiwari	Jhalawar	Leh	
94. Darshan Kumari	Tibri Cantt.	Dasoli	
95. Praveen Kumar	Gurdaspur	Lakhanpur	
96. Deepak Bhagal	Srinagar No.1	Bakloh	
97. Kiran Shashi Paul	No.2 Srinagar	Shikarpur	
98. Mani Deepa Dass	DSF Dholchera	ONGC Dholchera	
99. Jaya Dev	Cacher, Panchgram	DSF Dholchera	
100. Brijesh Kumar Kairi	Kumbhigram, AFS Dholchera	Kacher, Panchgram	
101. Sudip Roy	No.1 Agartala	Kumbhigram, Dholchera	
102. Nibha Reni Bargolai	Dinjan No.1	Agartala No.1	
103. Sujata Deshmukhya	Cacher Panchgram	Dumduma	
104. Surajit Dass	Cacher Panchgram	Kumbhigram	
105. Bina Lama	Dokajan CCI	Kumbhigram AFS	
106. Bina Mukosh Joshi	Sebarmati	Dimapur CRPF	
107. Sonvati Sikar War	ONGC Baroda	Ahmedabad Cantt.	
108. Jayanti Paraswar	Rajkot	Sakarmati	
109. Purohit Hansa Magan Lal	Dharangdhara	ONGC Baroda	
110. Ajit Kumar	AFS Ojhar	Rajkot	
	Gandhinagar CRPF	Dharangdhara	
111. Radha Krishna Dave	Chandkheda	Naliya AFS	
112. Shivangi Jain Dhekhar	ONGC	Gandhinagar CRFF	

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Advocate

2.

3.

4.

113. Lily Yanna John
 114. Arun Kumar
 115. Arpana Gogoi

Mehsana

Lakwa

Dinjan No.2

ONGC Chandkheda

Mehsana

Lakwa

(One Hundred fifteen Cases Only)

P.K. Aggarwal

(P.K. AGGARWAL)
 DEPUTY COMMISSIONER(FINANCE)
 for COMMISSIONER

Copy to:-

- 1- The Individual concerned.
- 2- The Principal, of KV where the teacher under orders of transfer is currently posted. The employees concerned should be relieved from the Vidyalaya immediately but in any case not later than 15 days of issue of this order. In case he/she is not relieved by the stipulated date, he/she shall be deemed to have been relieved of his/her duties with effect from the above date and no pay and allowances shall be drawn. It is the personal responsibility of the Principal to inform the Sangathan immediately regarding relieving/joining of the candidate. Any lapse/omission on the part of the Principal in this regard would be viewed seriously.
- 3- The Principal, KV where the teacher is going to join on transfer for similar action. He is requested to intimate the date of joining of the transferred employee in the Vidyalaya to this office
- 4- The Asst. Commissioner/AIO, All Regional Offices.
- 5- The General Secretaries of recognised service Associations of KVS.
- 6- O.S.D. (H.R.M.)
- 7- O.S.D. (DEF)
- 8- All Dy. Commissioners/Asst. Commissioners/ Sr. Admin./Audit/ Accounts Officers and Education Officers of KVS(HQ).
- 9- E.A. to the Commissioner, KVS.
- 0- Guard file/ Notice Board.

Dr. Pradhan
 (DR. E. PRADHAKAR)
 EDUCATION OFFICER

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Chandru
 Advocate

2725

KENDRIYA VIDYALAYA SANGATHAN
18, INSTITUTIONAL AREA
SHAHID JEET SINGH NARG
NEW DELHI-110016

No. F.2-1(D)2001-KVS(E.IV)

Dated: 22-11-2001

TRANSFER CANCELLATION ORDER

The representations of the following Primary teachers who have been transferred vide this office order dated 21.6.2001 for cancellation of his/her transfer have been considered carefully by the competent authority in accordance with the instruction/decision taken by the committee constituted for effecting transfers under clause 10(i) and 10(iii) of transfer guidelines.

Accordingly, the transfer order of following teachers are hereby cancelled. Their station seniority will be counted without any break. Hence this will in no way exempt them from displacement in future.

Sl. No.	Name of teacher	Transferred From KV	Transferred To KV	Ground
01.	Smt. P. Sharma	Narangi	Missamari	Sr./Jr. disparity
02.	Smt. K. Goswami	Khanapara	Digaru	-do-
03.	Smt. Namita Gowsami	Narangi	Digaru	-do-
04.	Smt. JD Roy	Khanapara	Digaru	-do-
05.	Smt. M. Das	Khanapara	Digaru	-do-
06.	Smt. Nilima Goswami	Narangi	Jagiroad	-do-

(Six case only)

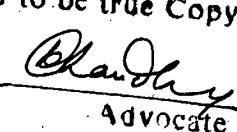
This issues with the approval of the Competent Authority.


(S.C.JAIN)
Dy. Commissioner(Acad)

Distribution to:

- 1- The employee concerned.
- 2- The Principal, KV, concerned.
- 3- The Asstt. Commissioner, KVS, RO, concerned. The station seniority may be counted w.e.f. their original date of joining in Guwahati station previously.

Certified to be true Copy


Advocate

TRANSFER GUIDELINES

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

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

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

Unless the context otherwise indicates

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

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

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

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

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

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

i. Organisational reasons, administrative grounds and cases covered by para 5;

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

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iii Mutual transfers as provided in para 12

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

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

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

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

(b) Performance:

RATING OF PERFORMANCE	ENTITLEMENT POINTS
Outstanding	10 for each year
Very Good	6 for each year
Good	4 for each year
Average	0 for each year
Unsatisfactory	(-10) for each year

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

S No.	REASONS/GROUND	ENTITLEMENT POINTS
A.	Blind and orthopaedically handicapped persons. The standards of physical handicap will be the same as prescribed by the Govt. of India for sanction of Conveyance allowance.	15
B.	SPOUSE CASES	
(i)	Where spouse is a Sangathan employee	20

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

Note for 'Spouse Cases' :

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

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

OR

Teachers who have less than 2 years to retire

20

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18. Notwithstanding anything contained in these guidelines,

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

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

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

(d) Following cases will not be considered for transfer

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

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

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Advocate

(iii) Principals, Education Officers and Assistant Commissioners will not be transferred back to the same station from where they were transferred earlier on completion of period as specified in para 4 above unless a period of three years has elapsed.

(iv) cases of fresh postings whether on direct recruitment or on promotion unless they complete three years of stay at the place of their posting except that, in case of women teachers, the request for posting to a place of choice can be considered after stay of one year. This will not, however, be applicable in cases covered by para 5, 6, and 7(1) of these Guidelines.

19. These Guidelines shall mutatis mutandis apply to non-teaching staff to the extent applicable.

20. If any difficulty arises in giving effect to these guidelines, the Commissioner may pass such orders as appears to him to be necessary or expedient for the purpose of removing such difficulty.

21. If any question arises as to the interpretation of these guidelines, it shall be decided by the Commissioner.

22. The attention of all the employees is invited to Rule 55(27) of the Education Code and rule 20 of the CCS(Conduct) Rules which provide as under:

(i) As per Rule 55(17) of Education Code

"No teacher shall represent his grievance, if any, except through proper channel, nor will he canvass any non-official or outside influence or support in respect of any matter pertaining to his service in the Vidyalaya."

(ii) As per Rule 20 of CCS(Conduct) Rules.

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

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

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

(b) That the teacher will be open to disciplinary proceedings as per rules.

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Advocate

No. F.10-8/2001-KVS(GR) 18557

Date : 19.11.2001

Sub : Forwarding of list of employees who have served for 5 years or more
at the present station in the present post (as on 31.03.2001)

<u>SL.No.</u>	<u>NAME</u>	<u>DATE OF JOINING</u>
1.	M. Saikia	26.06.74
2.	M. Devi	11.08.78
3.	Lila Deka	30.09.79
4.	Lily Das	13.08.79
5.	P. Baruah	08.08.80
6.	I. Sen	10.08.81
7.	Mila Baruah	21.07.83
8.	Usha Chabba	23.07.83
9.	K. M. Borah	09.09.83
10.	S. Talukdar	26.07.84
11.	G. Dubey	30.07.84
12.	Mita Sen	03.08.84
13.	M. Rahman	04.08.84
14.	A. Kalita	08.08.84
15.	S. Bhattacharjee	08.08.84
16.	P. Goswami	27.08.84
17.	M. Baruah	05.09.84
18.	D. Sinha	24.09.84
19.	M. Borthakur	15.02.85
20.	C. C. Mahanta	23.07.85
21.	Tripti Borgohain	08.08.85
22.	K. Adhikari	20.08.85
23.	T. K. Begum	26.08.85
24.	C. Hazarika	31.08.85

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25.	A. Goswami	01.09.86
26.	V. L. Sharma	01.09.86
27.	I. Dowarah	01.09.86
28.	M. M. Das	03.09.86
29.	Swarupa Dey	08.09.86
30.	Archana Bhuyan	11.09.86
31.	Bithi Sen	07.10.86
32.	Miss Dipali Das	12.11.86
33.	Smti. A. Sharma	18.12.86
34.	Mrs. B. Deka	06.03.87
35.	C. D. Kar	27.10.87
36.	Tapashi Neogi	11.11.87
37.	P. Goswami	19.11.87
38.	Mrs. G. Roy	15.11.89
39.	Mrs. A. Choudhury	01.01.90
40.	Mrs. J. Choudhury	17.01.90
41.	Miss. R. Borpujari	19.03.90
42.	Miss D. Baruah	19.03.90
43.	Smti. R. L. Deuri	19.03.90
44.	Mrs. D. D. Sharma	18.02.91
45.	Mrs. S. Hazarika	20.12.91
46.	R. Borgohain	04.01.92
47.	Mrs. B. P. Choudhury	03.02.92
48.	Mrs. M. R. Muiz	04.02.92
49.	Mrs. K. Talukdar	04.02.92
50.	Mrs. Rina Das	22.10.92
51.	Mrs. C. Chakravarty	23.10.92
52.	Mrs. S. Chakravarty	28.10.92
53.	Mrs. A. Ahmed	02.11.92
54.	Subodh Das	13.07.93

55.	Mrs. M. Sultana	06.08.93
56.	Mrs. K. Goswami	10.08.93
57.	D. Pathak	10.08.93
58.	Mrs. Anju Gogoi	10.08.93
59.	Mrs. S. R. Chakravorty	10.08.93
60.	Mrs. M. Gogoi	10.08.93
61.	Mrs. I. Bordoloi	10.08.93
62.	Mrs. Sikha D. Baruah	12.08.93
63.	Mrs. N. Baruah	12.08.93
64.	Miss Sikha Devi	12.08.93
65.	Mrs. A. Das	13.08.93
66.	T. Roy Choudhury	13.08.93
67.	Kalita Devi	13.08.93
68.	Dipika Devi	16.08.93

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Shanty
Advocate