

5/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/I.T.A No.....456/01.....

R.A/C.P No.....

E.P/M.A No.....

1. Orders Sheet. O.A-456/01 Pg. 1 to 2
2. Judgment/Order dtd. 14/12/01 Pg. No. to order. dismissed
3. Judgment & Order dtd. Received from H.C/Supreme Court
4. O.A. 456/01 Pg. 1 to 12
5. E.P/M.P. NIL Pg. to
6. R.A/C.P. NIL Pg. to
7. W.S. NIL Pg. to
8. Rejoinder. Pg. to
9. Reply. Pg. to
10. Any other Papers. Pg. to
11. Memo of Appearance.
12. Additional Affidavit.
13. Written Arguments.
14. Amendment Reply by Respondents.
15. Amendment Reply filed by the Applicant.
16. Counter Reply.

SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Application No. 456 /2001

Applicant(s) :- Chacko Joseph

Respondent(s) :- W.O. I 9015

Advocate for the Applicant :- Mr. A.K.Roy, Mr. I. Gogoi
Mr S. Sharma,

Advocate for the Respondent :- K.V.S.

Notes of the Registry	Date	Order of the Tribunal
This is application in form C. F. for Rs. 50/- deposited vide IPT/BD <u>166791539</u> Dated <u>1.9.2001</u>	<u>27.11.01</u>	<p>Issue notice as to why the application on shall not be admitted.</p> <p>Also issue notice as to why impugned order dated 22.11.2001 transferring the applicant Shri Chacko Joseph from IOC Noonmati to Digaru, shall not be suspended. Returnable by two weeks.</p> <p>Mr.S.Sarma, learned counsel, accepts notice on behalf of respondent Nos. 2 to 4.</p> <p>In the meantime, the operation of the impugned order dated 22.11.2001 shall remain suspended so far the applicant is concerned.</p> <p>List on 12.12.01 for admission.</p>
Notice prepared and sent to D/s for arrs the respondent No. 1 to 5 by legal A.D.	<u>27.11.01</u>	<u>I C Usha</u> Member
D/o No <u>44536-4457</u> Dtd <u>5/12/01</u>		<u>h</u> Vice-Chairman
① Service report are still awaited.	<u>12.12.01</u>	<p>After hearing learned counsel for the applicant and Sri. S.Sarma, learned counsel for the respondents, the application is admitted. Respondents may file written statement within 4 weeks.</p> <p>List on 14.12.01 for order. Meanwhile, interim order dated 27.11.01 shall continue.</p>
Order dtd. 12/12/01 communicated to the parties concerned.	<u>13/12/01</u>	<u>I C Usha</u> Member

✓
14.12.01 Heard Miss U.Das, learned
counsel for the respondents. None
is present for the applicant.

20.12.2001
Copy of the order
has been sent to
the Office for issuing
the same to the
2/ Advocate for the
parties.

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Miss U.Das, learned counsel for the
respondents informed that the impugned
order has been cancelled by order dated
15.12.2001. Copy of the order is placed
on record. Since the applicant has
already got the relief, the application
stands dismissed. There, shall, however,
be no order as to costs.

CC Usha
Member

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केन्द्रीय प्रशासनिक अधिकार अदायक
Central Administrative Tribunal

27 NOV 2001

गुवाहाटी न्यायालय

Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

ORIGINAL APPLICATION NO 456 /2001

Shri Chacko Joseph

.....Applicant

- VERSUS -

Union of India & others

.....Respondents

I N D E X

<u>Sl No.</u>	<u>Particulars</u>	<u>Page</u>
1.	Application	1 - 6
2.	Verification	7
3.	Annexure - A	8 - 10
4.	Annexure - B	11 - 12

For office use :-

Date :

Signature -

Filed by the applicant
through -
Anandam Gogoi
Advocate
27/11/2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

(An application under section 19 of the ~~Central~~
Administrative Tribunal Act 1985)

BETWEEN

Shri Chacko Joseph ,
S/o- Shri O. Chacko,
Qrt. NO. 2392 (Sector -II)
I.O.C. Noonmati , Guwahati -20

Primary Teacher ,
Kendriya Vidyalaya , Noonmati.

.....Applicant

- AND -

1. Union of India , represented by
The Secretary, Human Resource & Development ,
Govt. of India , New Delhi.
2. Kendriya Vidyalaya Sangathan,
Represented by the Commissioner ,
K.V.S. , 18, Institutional Area ,
Sahid Jeet Singh Marg , New Delhi.
3. Dy. Commissioner (Accadami) ,
Kendriya Vidyalaya Sangathan ,
18, Institutional Area ,
Shahid Jeet Singh Marg ,
New Delhi- 110016.
4. The principal, Kendriya Vidyalaya ,
Noonmati , Guwahati .
5. Smt. Suyesha Dexa Choudhury, PRT ,
K.V. Digaru, AssamRespondents

1. Particualars of order against which this
application is made :

This application is directed against the
order dated 22.11.2001 issued by the Respondent No 3
in violation of the policy decision and to adjust the
Respondent No. 5 .

2. Jurisdiction of the Tribunal :

The applicant declares that the subject matter

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in respect of which this application is made is within the jurisdiction of the Hon'ble Tribunal.

3. Limitation :

That the applicant also declares that this application is made within the limitation period as has been prescribed under section 21 of the Administrative Tribunal Act 1985.

4. Fact of the case :

i) That the applicant was appointed on 14.8.78 and he has been transferred to Guwahati vide order dated 10.11.2000 and joined on 2.1.2001 in the Kendriya Vidyalaya , Noonmati . The applicant was so transferred as per the clause 10(1) of the Kendriya Vidyalaya Sangathan's transfer guidelines .

ii) That the respondent No. 3 again issued an order dated 22.11.2001 transferring the applicant to Kendriya Vidyalaya , Digaru . Be it stated that the said order has been issued to adjust the Respondent No.5 who has made request to transfer her to Guwahati . The Applicant also states that the present transfer order has also been issued under clause 10(1) and 10 (3) of the guidelines .

One copy of the order dated 22.11.2001
is annexed herewith as Annexure - B

iii) That the applicant states that as per clause 10 (1) of the guidelines one person may be transfer to his /her choice place if he work for three years in

13

North East and /or any hard station and to adjust such person , any vacancy may be created by transferring the teachers who has stayed longest period in such station provided the that person has served not less than 5 years . The clause 10 (3) provides that if no person vacancy can be created because no teacher at that station has the requisit length of stay , the exercise will be repeated for the station which is the next choice of the teacher seeking transfer . But in the instant case the said guidlines have not followed by the respondents and the impugned transfer order has been issued whimsically .

iv) That the applicant states that he has joined at Noonmat ~~only~~ before eleven months and hence has not completed the requisit five years of stay at Noonmati as per the guidlines and hence he should not be transferred to adjust any other person .

v) That the applicant states that he is the junior most in respect of staying in the present station . Whereas all other teachers of Kendriya Vidyalaya , Noonmati have stayed much more years and most of them have the requisite length of stay in the station and hence if any transfer is required to be made to adjust any person as per clause 10 (1) of the guidlines , those teachers may be transfer to creat vacancy .

vi) That the applicant states that the instant order , so far the applicant is condern , has been

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issued without following the guidelines of transfer ,
moreso, if is a repeated transfer within a short span
of time .

vii) That the applicant states that he has received
the impugned transfer order dated 22.11.2001 on 26.11.2001
from the principal of Kendriya Vidyalaya , Noonmati and
till date he has not been released from the school and
the Respondent NO. 5 has also not come to join till
date .

viii) That the applicant states and submits that
if this Hon'ble Tribunal does not interfere with the
matter immediately ,he may be released from the present
post and the Respondent NO. 5 will join in his place
and hence the applicant approach this Tribunal alongwith
this original application .

5. Grounds for relief :

i) For that the impugned order has been issued
against the provision laid down in the guidelines of
transfer in as much as the applicant has not completed
the requisit service in the present place after being
transfer from Bangalore .

ii) For that the present transfer order of the
applicant can not be termed as public interest in as
much as no public interest is involved in the instant
case and same has been made only with sole purpose to
adjust the Respondent NO.5-

iii) For that the applicant ,after being transfer



from Bangalore ,has not completed even one year and hence repeated transfer will hamper his interest in service and family life and hence the same is not tainable.

iv) For that as per the transfer policy , transfer should be made to the person who has stayed in the station for longest period ,but in the instant case shortest period person has been transferred .

v) For that the present transfer of the applicant is against the principle of natural justice and administrative fair play.

vi) For that the present action of the respondents violates the Article 14 and 16 of the Constitution of India .

vii) That the action of the respondents is illegal , whimsical and arbitrary and hence is not maintainable in the eye of law.

viii) For that at any rate the action of the respondents is not sustainable in the eye of law and the impugned order so far the applicant is concern ,is liable to be quashed and set aside .

6. Details of remedies exhausted :

That the applicant states that he has availed all the remedies as stated in paragraphs 4 of the application but failed and hence there is no other alternative efficacious remedy to him other than to approach this Hon'ble Tribunal .

CJ

7. Matter not previously filed or pending before any court : _____

That the applicant further declares that the applicant has not filed any application, Writ petition or suit regarding the matter Before any court or any other bench of this Tribunal nor any such application, Writ petition or suit is pending before any of them .

8. Reliefs sought for :

Under the fact and circumstances stated above the applicant prays for the following reliefs :-

- i) To set aside and quash the impugned order dated 22.11.2001 (Annexure -B) so far the applicant is concerned .
- ii) To direct the respondents not to transfer the applicant without following the guidelines and allow him to complete the requisit 5 years of service in the present place as per the policy.
- iii) Any other order or orders as Your Lordships may deem fit & and proper .
- iv) Cost of application.

9. Interim reliefs prayed for :

Under the fact and circumstance Your Lordships
may please to direct the respondents not to release
from the present place and stay the operation of the order,
dated 22.11.2001 so far applicant is concern .

10.

11. Particulars of I.P.O.: i) I.P.O No : 6G 791553
ii) Date of issue : 19/07/2001
iii) Payable at : Guwahati
12. List of enclosures :- As stated in Index.

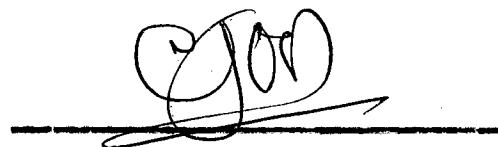
VERIFICATION

I, Shri Chacko Joseph, son of Shri O. Chacko, aged about 52 years resident of Qrt. No. 2392 (Sector -II), I.O.C. Noonmati, Guwahati -20, at present working as primary teacher, Kendriya Vidyalaya, Noonmati, do hereby verify that the statements made in paragraphs 1 to 12 are true to my personal knowledge and the submissions made therein, I believe to be true as per legal advice and I have not suppressed any material fact of the case.

And I sign this verification on this the 27th day of November 2001 at Guwahati.

Date : 27/11/2001

Place : Guwahati





KENDRIYA VIDYALAYA SANGATHAN
(ESTT. IV SECTION)

18, Institutional Area,
Shahid Jeet Singh Marg,
New Delhi-110 016

No. 2-1 (14) (F-I) 2000-KVS (E.IV)

Dated: 10.11.2000

TRANSFER ORDER

In accordance with the provisions contained in para 10(1) of the Kendriya Vidyalaya Sangathan's transfer guidelines, transfer of the following Primary Teachers is hereby ordered in public interest with immediate effect:-

Sl. No.	Name	Transferred	Transferred
		From KV	To KV
1.	P. Mehta	AFS Wadsar	No. 1 AF Jamnagar
2.	P. Chandek	No. 1, Baroda	No. 2, AFS Bhuj
3.	J. Jethi	No. 1, AFS Bhuj	AFS Naliya
4.	H. D. Trivedi	No. 1, Gandhinagar	Dantiwada
5.	A. Tirkey	ONGC Mohisana	No. 2, Sibsagar
6.	G. M. Joshi	No. 1, Surat	ONGC Cambay
7.	M. K. Pathania	V. V. Nagar	No. 2, EME Baroda
8.	C. Joseph	Hebbal Bangalore	TOC Guwahati
9.	G. L. Gokavi	AFS Sambhar	NAD Karanja
10.	K. P. Srinath	No. 1, Cannor	Payyannur
11.	M. B. Siddabas Jayaramthy	Mysore	NAL Bangalore
12.	L. Thawani	Bairagarh	Rewa
13.	K. K. Chanchal	Chandameita	No. 1, Belco Korba
14.	S. K. Diwivedi	Dewas	RD Mines
15.	Shailander Sharma	Hoshangabad	NEPA Nagar
16.	A. D. Pandey	No. 2, Itarsi	No. 2, NTPC Korba
17.	M. V. Gode	Kamptee	Jalgaon
18.	S. N. Jibkate	VSN Nagpur	Kamptee
19.	K. Jain	No. 1, Sagar	Dhipu
20.	R. K. Sinha	Chakardharpur	BHEL Hardwar
21.	R. P. Mahapatra	Balasore	No. 2, Vizag.
22.	B. B. Dixit	Baripada	No. 2, Korba
23.	A. K. Radhy	Berhampur	Kirandul
24.	P. P. Dass	No. 2, CRPF	Asansol
25.	A. K. Roy	Bhubneshwar	Loktak
26.		No. 1, Bokaro	

Contd... 3/..

Attested by

Indravil Gogoi
20/11/00
Advocate.

1.	2.	3.	4.
166.	K.C. Sharma	Mugalsarai	Zakhama
167.	K.L. Roy	Muzaffarpur	Kedia Nagar
168.	K.L. Srivastava	Patratu	Missamari No.1
169.	S.Verma	Namkum Ranchi	Khatkhatti
170.	Virendra Prasad	Rihandnagar	Lumding
171.	S.E. Ahmad	Samastipur	Dimapur CRPF
172.	K.Bhandari	Singharshi	NERIST
173.	N.Singh	Sonpur	No.1, Bhuj
174.	S.Joardar	Agartala No.1	Panisagar
175.	P.Seal	Dhelchera	Cachar Panchgram
176.	N.C. Jain	GCR-Jabalpur	No.1 Dinjan
177.	A.N. Shukla	Duliajan	Doom Beoma
178.	D.P. Bhuyan	Sibsagar No.2	Dinjan No.2
179.	V.P.Verma	Tinsukia	Dinjan No.1
180.	Pankaj Upadhyay	Agra Cantt. No.2	Amla AFS
181.	Satindra Singh	Bharatpur	Okha
182.	V.P.Khare	Babina Cantt.	Anta
183.	S.K.Chaturvedi	Chhatarpur	Uri
184.	R.K. Aggarwal	No.3, Gwalior	Doyang
185.	A.K. Banerjee	Jhansi Cantt.	Namrup HFC
186.	G.Sharma	Karera ITBP	Diphu
187.	N.P.Gautam	MRP Mathura	Patratu
188.	B.N.Purohit	Talbhet	Balaghat

(One Hundred Eighty Eight cases only)

This issues with the approval of the competent authority.


(P.K. AGGARWAL)
Dy. COMMISSIONER(FIN.)

Copy to:

- 1- The teacher concerned.
- 2- The Principal, of the Vidyalaya from where the teacher has been displaced. The concerned teacher may be relieved immediately. In case the said teacher is a female or physically handicapped as per the standard guidelines framed by Govt. of India, the said teacher should not be relieved. Intimation to this effect should be sent to corresponding Vidyalaya/ both the Regional Offices/KVS(HQ) immediately so that further appropriate action can be taken. Representation of the teacher also should be sent to KVS(HQ) for records.

Contd. P.7/-

3. The Principal of the Kendriya Vidyalaya to where the teacher has been transferred for information and necessary action. In case of receipt of information as indicated at Sl.No. 2 above, the teacher from his Vidyalaya should not be relieved and the matter be reported to this office forthwith to enable KVS(HQ) for locating another teacher from the displacement zone.

4. The Assistant Commissioner, KVS, All Regional Offices.

5. The Gen. Secretaries of recognised Service Associations of KVS.

6. C.S.D. (HRM).

7. O.B.D. (Def.)

8. All Deputy Commissioners/Assistant Commissioners/Sr. Admn. Officers/Audit Officers and Education Officers of KVS(HQ).

9. E.A. to the Commissioner, KVS.

10. Guard File/Notice Board.

E. Prabhakar

(DR. E. PRABHAKAR)
EDUCATION OFFICER.

Attested by

Indrajeet Gogoi
Advocate. 26/3/2001

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KENDRIYA VIDYALAYA SANGATHAN
 12, INSTITUTIONAL AREA
 SHAHID JEET SINGH MARG
 NEW DELHI-110016

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

Dated: 22/11/2001

TRANSFER ORDER

The following transfer of PRTs in terms of clause 10(1) and 10(3) of the transfer guidelines which inter-alia provides to create vacancy so as to accommodate the persons who are figuring in priority list-II as per their priority position are hereby ordered in Public interest. They are directed to get relieved as enumerated in the endorsement:

The employees transferred in Public Interest are entitled for transfer TA as per KVS rules.

S.No.	Name of the employee	Transferred From	Transferred To	Nature of transfer
<u>MR./MRS./MS.</u>				
01.	Ms. M. Devi	Khanapara	Jagi Road	In P.J.
	To accomodate priority list-II transfer request of			
	Sh. Syed Saifuddin	Jagiroad		On request
	Ahmed			
02.	Sh. C. Joseph	IOC Noonamati	Digaru	In Pub. Int.
	To accomodate priority list-II transfer request of			
	Smt. Suyesha Dexa	Digaru		On request
	Choudhary			
03.	Smt. L. Deka	Maligaon	Digaru	In Pub. Int.
	To accomodate priority list-II transfer request of			
	Smt. Lalita Das	Digaru		On request

(Three only)

This issues with the approval of the competent authority.

(S.C. JAIN)

By: Commissioner(Acad)

10(1)

Attested by

Advocate. 28/11/01
Sardarul Dey

Copy to:

11. The employees concerned.

12. The Principal Kendriya Vidyalaya from where the employee has been transferred in Public interest(displaced). He is directed to relieve the employee concerned immediately.

(1) In case the said employee come under any of the following categories:

- Less than 02 years to retire w.e.f. 1.4.2001 if he is to be retired before 31.3.2003;
- Physically handicapped as per Govt. of India rules;
- Suffering from those diseases as defined in the transfer guidelines of the concerned Vidyalaya;
- Death of spouse(death having occurred within 02 years i.e. after 31.3.99).
- General Secretary, President of the recognised service Association who are also the member of JCM.

He/she should not be relieved and intimation to this effect should be sent to the corresponding vidyalaya both Regional Offices and KVS(HQ) Estt.III/Estt.IV section immediately so that further appropriate action can be taken. Representation of the employee also should be sent to KVS for record.

3. The Principal, KV from where the employee is transferred on request. In case the vidyalaya receives any information about the displaced employee coming under any of the 05 categories as stated under Sl.No.2 above, the relieving of his employee (Request transfers) should be deferred till further order. KVS(HQ)/Assistant Commissioner Office should be kept informed for further orders. Hence the employee may be relieved after 10 days. In case the displaced employee reports for joining immediately, the request transferee may also be relieved immediately.

1. The Asstt. Commissioner, KVS, RO, Bhopal.

2. Guard file.

Dr. E. Prabhakar
(Dr. E. Prabhakar)
Education Officer

Attested by

Sundaril Gogoi

Advocate. 27/3/2001