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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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dropped date-24/3/03

M.P-66/02 ordersheet pg-1

allowed date-30/04/02

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Appelcation No. 460 /2001

Applicant(s) :- N.D. Bhuyan

Respondant(s) :- UOI 2008

Advocate for the Applicant :- Mr S. Ali, Mr B. Seal

Advocate for the Respondant :- Case - RVB

Notes of the Registry

Date

Order of the Tribunal

29.11.01

Heard learned counsels for the parties.

The application is admitted. Call for the records.

Mr.S.Sarma, learned counsel, accepts notice on behalf of the respondents.

List on 1.1.2002 for order.

Member

Vice-Chairman

mb
1.1.02

None appears for the respondents.
List on 30.1.2002 to enable the respondent to file written statement.

Member

Vice-Chairman

mb
30.1.02

List again on 4.3.2002 to enable the respondents to file written statement.

Member

Vice-Chairman

mb

This is application in form
C. F. for Rs. 50/- deposited
vide IPD/1064790218
Dated ... 28/11/2001

By, Registrar

Steps filed. NB 29/11/2001

Notices on behalf of
Respondent No. 1, 2, 3 & 4
5 Required by Mr. S. Sarma
Adm.

7/12/01

Drawn out
for

No. WTS has been filed.

4.3.2002

Heard Mr. S.Ali, learned Sr. counsel for the applicant.

29.1.02.

List on 4.4.2002 to enable the Respondents to file written statement.

IC Usha
Member

[Signature]
Vice-Chairman

mb

4.4.2002

No written statement so far filed though time granted. Three weeks time is granted to the respondents to file written statement as a last chance.

No written statement has been filed.

List on 26.4.2002 for order.

24.4.02.

IC Usha
Member

[Signature]
Vice-Chairman

bb

26.4.02

No written statement so far is filed despite the order dated 4.4.2002 issued the Respondents to submit written statement positively. Mr. S.Sarma, learned counsel for the Respondents prays again prayed for time to file written statement. On the prayer of Mr. Sarma, we allow the Respondents three weeks time to file written statement or to produce the connected records.

B. S. 2002
As per order dt. 30.4.02 in the Misc Petition and on recommendation keep in the O.A. 460/2001.

List on 21/5/2002 for orders.

No written statement has been filed.

IC Usha
Member

[Signature]
Vice-Chairman

mb

21.5.02

Heard Mr. S.Ali, learned Sr. counsel for the applicant and also Mr. M.K.Mazumdar learned counsel appearing on behalf of the Respondents.

20.5.02.

No written statement has been filed.

Mr. M.K.Mazumdar, who appeared on behalf of the Respondents today stated that they are filing written statement within three weeks from today. Accordingly, let the matter be listed for hearing on 26.6.2002. In the meantime, parties may exchange their pleadings.

25.6.02.

IC Usha
Member

[Signature]
Vice-Chairman

mb

26.6.2002
WTS submitted by the Respondent No. 1 & 5.

Notes of the Registry

Date

Order of the Tribunal

26.6.2002

It has been stated by Mr, S. Ali, Sr. counsel for the applicant that he has received the written statement today and he needs some time to go through.

Accordingly the case is adjourned and the case is listed for hearing on 27.6.2002.

ICU Sharma
Member

Vice-Chairman

bb

27.6.2002

On the prayer of the counsel for the parties the case is adjourned and listed for hearing on 1.7.2002.

ICU Sharma
Member

Vice-Chairman

bb

1.7.02

The case was heard at length on 27.6.02 and hearing could not be completed on the day. The matter was listed today again. Mr S. Biswas, learned counsel stated that the matter was entrusted to Mr M.K. Mazumdar who is seek today and could not be present. He prays for a short adjournment. Mr S. Ali, learned counsel does not have any objection.

List again 11.7.02 for hearing.

ICU Sharma
Member

Vice-Chairman

pg

11.7.02

Heard learned counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets. The application is allowed in terms of the order. No order as to costs.

ICU Sharma
Member

Vice-Chairman

pg

Indyout & order dtd
11/7/02 Communicated
to the parties counsel
and applicant.
25/7

4

11. 9. 00

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Notes of the Registry Date Order of the Tribunal

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Order of the Tribunal

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CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./X.X. No. . 460 of 2001.

DATE OF DECISION . 11.7.2002....

Sri N.D. Bhuyan

APPLICANT(S)

Sri S.Ali.

ADVOCATE FOR THE APPLICANT(S)

- VERSUS -

Union of India & Ors.

RESPONDENT(S)

Sri M.K. Mazumdar

ADVOCATE FOR THE
RESPONDENTS.

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

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

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the judgment is to be circulated to the other Benches ?

5.

Judgment delivered by Hon'ble Vice-Chairman.

Yes

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 460 of 2001.

Date of Order : This the 11th Day of July, 2002.

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

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

Shri N.D.Bhuyan,
Ex Principal,
Kendriya Vidyalaya, Digaru,
Resident of Sixth Mile near
Siva Mandir, Khanapara,
Guwahati-22.

. . . Applicant.

By Advocate Sri S.Ali.

- Versus -

1. Union of India,
represented by the Addl. Secretary
to Govt. of India,
Ministry of Human Resources
Development and Vice-Chairman,
KVS, New Delhi.
2. The Addl. Secretary, Govt. of India,
Ministry of Human Resources and
Vice-Chairman, K.V.S, Shastri Bhawan,
New Delhi.
3. The Commissioner,
K.V.S., 18, Institutional Area,
Saheed Jeet Singh Marg,
New Delhi-16.
4. The Asstt. Commissioner,
K.V.S., Regional Office,
Guwahati Region,
Maligaon, Guwahati-11.
5. The Principal,
K.V. Khanapara,
Guwahati-22.

. . . Respondents.

By Advocate Sri M.K.Mazumdar.

O R D E R

CHOWDHURY J.(V.C)

This application under Section 19 of the Administrative Tribunals Act 1985 has arisen and is directed against the order dated 19.9.2001 imposing the penalty of the applicant of compulsory retirement/ from service in the following circumstances.

2. On the basis of a selection the applicant was appointed as post Graduate Teacher (PGT) in Kendriya Vidyalaya Sangathan and he was posted at K.V.Jorhat where he joined on 21.2.66. He was also served as in-charge Principal at KV Silchar upto 1982. In 1982 the Kendriya Vidyalaya, Khanapara was confronted ^{with the} student agitation and the applicant was transferred to Khanapara KV as in-charge Principal ^{to tackle the situation} and he joined there on 22.10.82. In 1983 the applicant was appointed as regular Vice principal at K.V.Guwahati and served there upto 15.4.85. As there was no regular principal the applicant being the senior most was entrusted with the post of in-charge Principal. On completion of training the applicant was appointed as Principal in May 1988 and posted as Grade-I Principal at K.V. N.H.P.C, Laktak, Manipur. Thereafter he was transferred to K.V.CRPF(GC), Nine Mile, Guwahati in April 1992. The applicant was again transferred to K.V.Khanapara on 11.1.97 and he served there upto 15.12.98. Thereafter he was transferred to K.V.Paradip, Orissa on 16.12.98 but subsequently the transfer order was modified and he was allowed to join In K.V.Digaroo and he joined there on 17.2.99. While he was serving as such the applicant was served with the Office Memorandum No.F.8-51/98-KVS(VIZ) dated 22.6.99 informing the decision of the authority for holding an enquiry under Rule 14 of the Central Civil Service (Classification, Control & Appeal) Rules, 1965. The applicant was served with the articles of charges alongwith the imputation of misconduct or misbehaviour. As per the charge memo charges No. 1, 2 and 3 pertains to violation of admission guidelines. Article 4 of the charges reads as follows :

"That Shri N.D.Bhuyan while working as principal in Kendriya Vidyalaya, Khanapara during the year 1997-98 made purchases from School Fund and Pupil Fund without following the prescribed procedure laid down in Article-197 & 198 of Accounts Code for Kendriya Vidyalayas.

Thus Sri N.D.Bhuyan, Principal has violated Article 197-198 of Accounts Code for Kendriya Vidyalayas and Rule 3(1) (i) (ii) and (iii) of Central Civil Services (Conduct) Rules, 1964 as extended to the employees of Kendriya Vidyalaya Sangathan."

The statement of imputation against Article IV is also reproduced below :

"That Sri N.D.Bhuyan, Principal during his stay in Kendriya Vidyalaya, Khanapara during the year 1997 to 1999 misused his powers in operation of Pupil Fund. After his joining on 11.01.97 he dissolved all the Committees that were existing in Kendriya Vidyalaya, Khanapara vide his order dated 22.11.97 except Examination Committee and School Bus Committee. Then vide his order number NIL dated NIL he authorised Shri C.D.Rathore, Head Clerk, Kendriya Vidyalaya, Khanapara as convenor of Pupil Fund Committee and to sign the cheque as a Consignatory. He ignored all the P.G.Ts of the school and made purchases from Pupil Fund ignoring the instructions contained in Article-197 and 198 of Accounts Code for Kendriya Vidyalaya Sangathan.

Thus Shri N.D.Bhuyan, Principal committed a serious misconduct in violation of Articles-197 and 198 of Accounts Code and Rule-3(1) (i), (ii) and (iii) of Central Civil Services (Conduct) Rules 1964 as extended to the employees of Kendriya Vidyalaya Sangathan."

In Article V the applicant was charged for violation of the procedure of the Accounts Code in purchase of materials. In Article VI the applicant was charged for incurring conveyance charges without approval from the competent authority. Charge No.VIII was relating to misuse of Government money in violation of the instructions of the KVS authority. Charge No. VIII was relating to appointment of contractual teachers without obtaining 'No objection Certificate' or approval from the Assistant Commissioner.

In reply to Article of charges IV and V the applicant stated that he acted bonafide and purchased the materials by following the procedure. The applicant in his reply inter alia intimated the backgrounds in which he has to join the institution. The KV in question at the relevant time was almost non functional and most of the classroom doors, windows were went amiss five years since Desks, benches, chairs etc. were dumped in battered condition as sunks. No renovation works were done. All electrical fittings were damaged, removed only 10% electrical fans, light were functioning, A.S.E.B frequently disconnected the line due to non payment of electric bills. He informed the matter to the parents, Assistant Commissioner. In June 1997 the electricals line was disconnected by the ASEB. Mr Srinivaslu, the Principal of the school left the school after 1 1/2 years due to the teachers strike. Mr Asok Saikia, IAS the Chairman of the Vidyalaya Management Committee also resigned due to mismanagement of the K.V.Khanapara. The Assistant Commissioner, Guwahati Region signed the cheques. 90% local teachers being emboldened by the situation refused to co-operate with the Principal Mr M.N.Hazarika. The 4/5 local teachers carried the situation to such a stage that all non local teachers were directly and indirectly threatened not to co-operate the principal. The applicant after joining on 11.1.97 tried to take every one into confidence, but unfortunately no senior officer of KVS, Headquarter or regional office and internal audit visited the K.V during the period to assess the situation. The so called teachers association never allowed to function the K.V. smoothly. There was no alternative then to dissolve all teachers committees including the Pupils Fund Committee. The full

version of the applicant is re-produced below :

"All parents co-operated me. In the meantime Chairman V.M.C. also suggested me to start all resolution work. I was bound to go ahead with works for the welfare for the students & parents. In a meeting when I named a senior teacher who worked sincerely for the K.V. P.F. convener he was threatened. He did not like to be a member. The " so called leaders of K.V.TA., tried to collapse the administration directly & indirectly. So asked temporarily the H/C clerk to sign the P.F. along with me a notice to all, as I had to conduct Annual sports day. Annual cultural day for 1996-97 in February '97, for sending Scout guides, to clear the jungle, garbages from the campus, to clear the drainage system, to repair class room, for these needed P.F. expenditure. Previously the principal did not do it due to above situation. Due to above exigency, as a Principal it was very urgent to allow the head clerk to sign the cheque under my chairmanship of the committee, with some teacher P.E.T., drawing teacher, music teacher, SUPW and sincere PGT, whom I took in confidence to help me for the immediate and urgent expenditure of Annual day, Sports day, and sending school team for various activities. Money was utilised fully. From above situation I did for the welfare of school, following all procedure challenging non co-operation of " the notorious gang". I determined to go ahead to do positive, unlike the previous principals. Perhaps the enquiring officer did not assess the situation nor could take the witness of the above situation and "proved" the charges without taking the witness on the exhibited document with the charge sheet. Except teacher co-signator as per rule due to above situation, I followed all procedures. So I am relieved of the charge after verifying the above situation in 1997-98. (As I did not like to act as per their whims being local I studied them for in my 3 stints in K.V. Khanapara."

The authority did not accept his reply and decided to hold an enquiry. The enquiry officer submitted its report holding the applicant guilty of the charge. The applicant was furnished with a copy of the enquiry report. He submitted his reply assailing the enquiry report. The disciplinary authority however imposed penalty of dismissal vide order dated 18.4.2001. The applicant preferred an appeal. The appellate authority on consideration of his appeal and on hearing the applicant did not accept the finding of the

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enquiry officer as regards of the articles save and except Article IV. The appellate authority held the applicant guilty of charge IV for violation of Accounts Code of Kendriya Vidyalaya which was termed as serious charge and that could not be condoned. Considering the years of service the applicant has already put in for the Sangathan and also considering that he was from the North Eastern Region where officers had to work under certain difficult and compelling circumstances compared to others the appellate authority felt that the ends of justice would be met if a penalty of Compulsory Retirement from service was imposed. Accordingly he set aside the order of dismissal from service and ordered for compulsory retirement. Hence this application assailing the legality and validity of the order.

3. We have heard Mr S.Ali, learned senior counsel appearing for the applicant. Mr Ali, the learned senior counsel assailing the order of imposition of penalty submitted that there was no material for holding the applicant guilty of the charge. Learned senior counsel also pointed out that the disciplinary proceeding was vitiated by procedural lapses. He lastly submitted that at any rate the materials on record did not prove any misconduct against the applicant. Mr M.K.Mazumdar, learned counsel appearing for the respondents on the other hand contended that the applicant was found to be guilty in respect of Article IV. Admittedly the applicant as being a Principal violated the letter and spirit of the Accounts Code 197 and 198 and made purchases ignoring the same. The learned counsel further submitted that the materials on record clearly established the guilt of the accused. Mr Mazumdar also referred to the scope of judicial review under Section 19 of the Administrative Tribunals Act and submitted that such review could not be equated to that

of an appeal. The learned counsel in support of his argument referred to the decisions in Union of India vs. Upendra Singh, reported in (1994) 3 SCC 357 and in State of Gujrat and another vs. Suryakant Chunilal Shah, reported in (1999) 1 SCC 529.

4. Before entering into the merit it would be appropriate of the Accounts Code to refer to the relevant provisions mentioned in Chapter 21/ which relates to the Pupils Fund, that is required to be maintained out of collection from the students exclusively for the benefit of the student community. The principal is to act as the "Chief Trustee" of the Fund as envisaged in Rule 197. Rule 198 is reproduced below :

"198. The administration of the fund is to be entrusted to a Committee called the Pupils' Fund Committee consisting of the Principal, a senior P.G.T., a senior T.G.T., a senior primary teacher and one student each belonging to classes IX, X, XI and XII. If classes IX, X, XI and XII do not exist in a school, one student each of the next lower class/classes should be represented on the Committee. The student member should be nominated every academic year."

Admittedly no witnesses were examined in this regard. Even no documents were proved nor he was given any opportunity to explain the position. Admittedly the applicant operated the Pupils' Fund. The materials on record clearly indicated that all the committees were disbanded by the applicant in view of the facts mentioned above. The applicant took the responsibility of administering the Pupils' Fund himself in the absence of the Pupils' Fund Committee. As per the Accounts Code the Principal is to act like a Chief Trustee of the Fund. There is no allegation nor any whisper that the Pupils Fund was diverted or utilised for the purpose forbidden by rules. There is no allegation that the Pupils' Fund was not utilised for the purposes specified. The Pupils'

Fund Committee was disbanded in absence of a pupils' Fund Committee, the applicant spent the money and utilization certificate was given. At any rate there is no allegation of misuse of the fund. Mr Mazumdar, the learned counsel for the respondents referred to the Code of conduct and submitted that a Headmaster should have absolute integrity and anything should not be done which is unbecoming of a Government servant. The Enquiry Officer while considering his appeal as the disbursement of Pupils' Fund money held that whatever and however important and urgent work was to be done, when money was involved there should have been observation of laid down rules and procedures for it. For constituting the Pupils fund irregularly and spending the money through this irregular committee was a serious misconduct under CCS(Conduct) Rules, therefore it was a grave misconduct, according to the Enquiry Officer. The disciplinary authority mechanically adopted the view of the Enquiry Officer. The Appellate authority did not act differently. It casually embraced the view of the above two authorities without applying its mind. In the observation of the appellate authority, the applicant was found responsible for dissolving the existing committee in violation of the Accounts code was also a serious charge which cannot be condoned. A mere violation of the Accounts Code cannot ipsofacto be termed as a misconduct. Dereliction of duty, unlawful behaviour, improper and wrong exercise of power must refer to delinquency or impropriety. It must contain a corrupt motive. Misconduct must show some conduct which is blameworthy as a Principal or a teacher. According to Stroud's judicial dictionary the expression "misconduct" means misconduct arisen from

ill motive, acts of negligence, errors of judgment or innocent mistake, do not constitute such misconduct." In this context it would be appropriate to refer to the following passages from the Supreme Court judgment in Union of India vs. J.Ahmed, reported in (1979) 2 SCC 286 :

"In industrial jurisprudence amongst others, habitual or gross negligence constitute misconduct but in Utkal Machinery Ltd., v. Workmen, Miss Shanti Patnaik, in the absence of standing orders governing the employee's undertaking, unsatisfactory work was treated as misconduct in the context of discharge being assailed as punitive. In S.Govinda Menon v. Union of India, the manner in which a member of the service discharged his quasi judicial function disclosing abuse of power was treated as constituting misconduct for initiating disciplinary proceedings. A single act of omission or error of judgment would ordinarily not constitute misconduct though if such error or omission results in serious or atrocious consequences the same may amount to misconduct as was held by this Court in P.H.Kalyani v. Air France, Calcutta, wherein it was found that the two mistakes committed by the employee while checking the load-sheets and balance charts would involve possible accident to the aircraft and possible loss of human life and, therefore, the negligence in work in the context of serious consequences was treated as misconduct. It is, however, difficult to believe that lack of efficiency or attainment of highest standards in discharge of duty attached to public office would ipso facto constitute misconduct. There may be negligence in performance of duty and a lapse in performance of duty or error of judgment in evaluating the developing situation may be negligence in discharge of duty but would not constitute misconduct unless the consequences directly attributable to negligence would be such as to be irreparable or the resultant damage would be so heavy that the degree of culpability would be very high. An error can be indicative of negligence and the degree of culpability may indicate the grossness of the negligence. Carelessness can often be productive of more harm than deliberate wickedness or malevolence. Leaving aside the classic example of the sentry who sleeps at his post and allows the enemy to slip through,

There are other more familiar instances of which a railway cabinman signals in a train on the same track where there is a stationery train causing head-on-collision; a nurse giving intravenous injection which ought to be given intramuscular causing instantaneous death; a pilot overlooking an instrument showing snag in engine and the aircraft crashes causing heavy loss of life. Misplaced sympathy can be a great evil (see Navinchandra Shakerchand Shah vs. Manager, Ahmedabad Co-op. Department Stores Ltd.). But in any case failure to attain the highest standard of efficiency in performance of duty permitting an inference of negligence would not constitute misconduct nor for the purpose of Rule 3 of the Conduct Rules as would indicate lack of devotion to duty."

There is no allegation of misuse of fund or improper conduct of the applicant. In the absence of the Committee the applicant took the responsibility as a Trustee and he discharged his duty, there is also no hint to the effect that the applicant committed any breach of the trust.

5. As alluded earlier mere breach of procedural or formal rules by itself is not unlawful. It depends on the facts situation and also the nature of departure from the statute. Some of the statutory violation can be treated as mere irregularity rather than illegality while the breach is of trivial nature. Similarly where no substantial prejudice has been suffered by those for whose benefit the statutory requirements were entrusted (R. vs. Liverpool City Council; (1975) WLR 701).

6. The applicant was found guilty of charge mentioned in Article IV for contravention of Article 197 and 198 of Accounts Code. He was accordingly charged for violation of Rule 197 and 198 of the Accounts Code and Rule 3(i) (ii) (iii) of the Conduct Rules. As per Conduct Rules every Government servant is to (i) maintain absolute integrity, (ii) maintain devotion to duty and (iii) do nothing which is unbecoming of a Government servant. In the instant:

case the only allegation proved was that the applicant contravened Rule 197 and 198. Admittedly on the own showing of the respondents the Pupils' Fund Committee was dissolved at the relevant time. In view of the prevailing situation. For want of the Committee one cannot hold the applicant guilty of violation of 197. There is no materials to show and establish that the applicant failed to act as a Chief Trustee of the Fund. He discharged the confidence reposed on him. Admittedly the Pupils' Fund Committee was dissolved. One can do what is lawful. When there was no Pupils' Fund question of complying Rule 198 did not arise. "Id possumus quod de jure possumus," the applicant in the given circumstances acted bonafide and in the interest of the school. The law only intends that one should act what is reasonable. Law also take into account the natural order. One cannot expect to do what is impossible, "Lex non cogit ad impossibilia", the law does not compel anyone to do impossible things. The situation was extraordinary. In those situation he administered the institution and took the necessary steps in the given circumstances. The respondents authority failed to show and establish that the applicant committed any illegality or contravene any statutory provisions in managing the affairs of the school by running the administration in the absence of the Pupils' Fund Committee. All these are presumed to be done correctly and duly till there is proof to the contrary "Omnia praesumuntur rite et solenniter esse acta donec probetur in contrarium".

7. Mr M.K.Mazumdar, learned counsel for the respondents contended that the respondents exercised its discretion bonafide and imposed the punishment in view of the infringement of Rule 3(1) read with Rule 197 and

198 of the Accounts Code. Materials did not indicate that the respondents can specify any act which could be held to be an act making the applicant responsible for not maintaining absolute integrity. The term integrity means soundless or moral character. A mere infringement of Rule 197 and 198 cannot be said to be an act affecting the probity, honesty and uprightness of the applicant nor such act can be said to be an act lacking devotion of duty. The alleged violation of Rule 197 and 198 also cannot be said to an act which was unbecoming of a Government servant. The expression unbecoming means unsuitable, detracting from ones appearance, character or reputation. Materials on record did not disclose any alleged misconduct or contravention of Rule 3(i). On perusal of the materials on record it clearly demonstrates that the respondents in exercising its discretion failed to take note of the relevant facts and emphasised on irrelevant facts. Exercise of discretion in a democratic polity must be informed with reason. Discretion is not unfettered, it impose a duty to act "fairly, candid, unprejudice, non arbitrary, capricious or bias." In interpreting the rule ^{one is} ~~not~~ to act in a way calculated ^{to} ~~frustrate~~ the policy of the rule. In the instant case the respondents authority while holding the applicant guilty of the alleged charges failed to take into account the spirit of Rule 197 and 198 and acted in a way calculated to frustrate the policy of the rules. The authority failed to take into account individual merit. In the decision making process it faltered in genuinely ^{addressing} the relevant facts. In its decision making process the respondents took upon the ^{extraneous} ~~consideration~~ ignoring the relevant consideration. The impugned decision

of imposing penalty on the applicant is supported by inadequate or unsupported reason. A decision is arbitrary and unreasonable where it lacked ostensible logic or comprehensible justification. The respondents authority admittedly fell into obvious error in its decision making process.

8. For all the reasons stated above the impugned Order No. 9-55/2001-KVS (Vig) dated 19.9.2001 is liable to be set aside and the order is accordingly set aside. The applicant shall be deemed to be in service till he attained the age of superannuation. The respondents are accordingly directed to give all the consequential benefits to the applicant within three months from the date of receipt of this order.

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


(K.K.SHARMA)
ADMINISTRATIVE MEMBER


(D.N.CHOWDHURY)
VICE CHAIRMAN

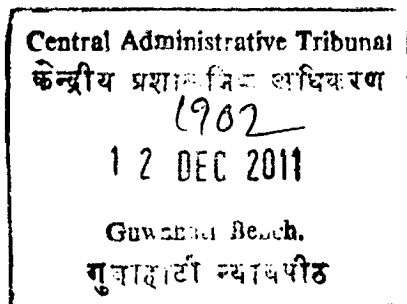
By spl messenger

O/c 20

IN THE GUHATI HIGH COURT.
HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA
MIZORAM AND ARUNACHAL PRADESH

No. 5477 /W.P.(C) Dtd. 09.12.11

From: Asstt. Registrar, (Judl-III),
The Gauhati High Court,
Guwahati.



To

✓ The Registrar,
Central Administrative Tribunal, (CAT), Guwahati Bench,
Rajgarh Road, Bhangaghar, Guwahati.

Sub: Return of records of O.A. 460/01 and M.P. 25/02, of O.A. 310/01 in
Connection with WP(C) 7634/02 & W.P.(C) 7809/02, respectively,
Commissioner KVS & Ors -Vs- N.D. Bhuyan.

Ref: Your Memo No. CAT/Ghy/ 68/2001/Judl 348/ dtd. 24/4/2003.

Sir,

With reference to your Memo No. cited above, I am returning herewith the Original
case records as mentioned above since the connected writ petitions have been disposed of by
this Hon'ble High Court.

Kindly acknowledge receipt of the same.

Enclosure

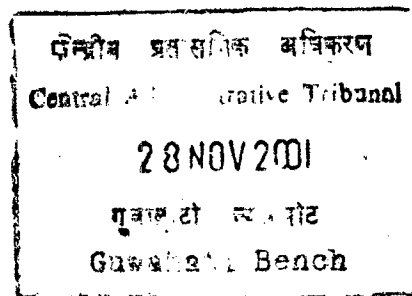
1. O.A. 460.01 (with Judgment)
2. C.P. 7/03
3. M.P. 66/02
4. M.P. 25/02

.....
Total 4 files.

Yours faithfully,

Asstt. Registrar (Judl-III),
Gauhati High Court, Guwahati.

8/12/11



I N D E X

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT GUWAHATI.

O.A. No. 460 /2001.

Shri N.D. Bhuyan Applicant.

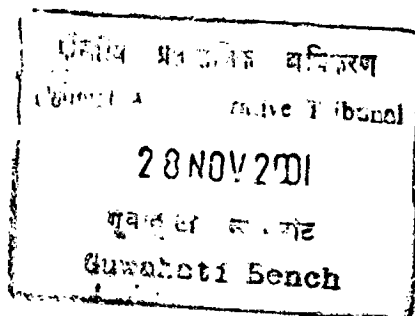
-VRS-

The Union of India & Ors Respondents.

<u>Sl.No.</u>	<u>Particulars</u>	<u>Pages</u>
1	Original Application	- 1 to 16
2	Annexure-4	- 17
3	Annexure-1	17

Filed by:-

Bahani Seal
28/11/2001.
Advocate.



Filed by Me
by the petitioner
through Me.
Benhar Seal
28/11/2001

Neha & her Brother

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT GUWAHATI.

An application under section 19 of the
Central Administrative Tribunal Act, 1985.

O.A. No. 460 /2001.

In Between:

N.D. BHuyan, Ex-Principal,
Kendriya Vidyalay, Diagaru,
S/o Late phanidhar Bhuyan
Resident of Sixth Mile near
Siva Mandir, Khanapara,
Guwahati-22, Dist. Kamrup, Assam.

.... Applicant.

-VRS-

1. Union of India, represented
by the Addl. Secretary, Govt.
of India, Ministry of Human
Resources Department and
Vice Chairman, K.V.S., New
Delhi
2. The Addl. Secretary, Govt. of
India, Ministry of Human
Resources and Vice Chairman,
K.V.S., H.R.D. Shastri Bhawan,
New Delhi.
3. The Commissioner, K.V.S.,
18 Institutional Area, Saheed
Jitsing Marg, New Delhi-110016.
4. The Asstt. Commissioner, K.V.S.
Regional Office, Gauhati
Region, Maligaon, Dist. Kamrup.

5. The Principal, K.V. Khanapara,
Guwahati-22, Dist. Kamrup, Assam.

.... Respondents.

PARTICULARS OF APPLICATIONS

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

This application is made against the order contained in F.No.9-55/2001-KVS(Vig) dated 19.09.2001 passed by the Addl. Secretary, M/O H.R.D. and Vice Chairman, K.V.S.

2. JURISDICTION OF THE TRIBUNAL :-

The applicant declares that the subject matter of the order against which this application has been made within the jurisdiction of the Central Administrative Tribunal at Guwahati.

3. LIMITATION :-

The applicant further declares that this application is within the limitation period as prescribed under section 21 of the Central Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE :-

4.1. That the applicant is an Indian citizen and permanent resident of Guwahati in the district of Kamrup, Assam and as such he is entitled to all the rights, privileges and protection guaranteed under the Constitution of India and various laws framed thereunder.

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Noted & for Bgayan
28/11/2001

4.2. That your humble applicant passed his M.Sc. in 1964 in Geography from Gauhati University securing 2nd class 2nd position. He also passed B.T. final examination from Dibrugarh University in 1969 securing 2nd Class with 55% marks in average. ✓

4.3. That in response to an advertisement made by the K.V.S. M/D for appointment of Post Graduate Teacher on 21.2.65 your applicant applied for the same and he appeared in the interview at Gauhati conducted by the K.V.S. (H.Q.) through D.P.I., Assam.

4.4. That after selection by the interview Board your applicant was appointed as Post Graduate Teacher (P.G.T.) and posted at K.V. Jorhat and he joined on 21.2.66 and served there for 2 years to the entire satisfaction of the K.V.S. authority.

4.5. That your applicant was transferred from K.V., Jorhat to K.V., Guwahati in 1968 and he served there at Guwahati upto 1974 i.e. period of 7 years continuously to the entire satisfaction of the K.V. authority. He was again transferred from K.V. Guwahati to Shillong K.V. and he served there upto 1981.

4.6. That the authority being highly satisfied with the performance of the applicant elevated the applicant to the post of I/C Principal at K.V., Silchar (Town) and he served there at Silchar upto 1982 to the satisfaction of the authority. In fact, the applicant was founder Principal of K.V., Silchar Town.

4.7. That in 1982 when the Khanpara K.V. undergoing student agitation then he was transferred

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Neha Sher Anyan

from Silchar to K.V., Guwahati as I/C Principal and accordingly he joined there at K.V. Guwahati on 22.10.82. In 1983 your applicant was appointed as regular Vice Principal and posted at K.V., Guwahati and served there as Vice Principal on regular basis upto 15.4.85. As there was no regular Principal the applicant being the Sr. most was entrusted with the post of I/C Principal at K.V., Guwahati.

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4.8. That on 18.4.85 the applicant was transferred from K.V., Guwahati to K.V. (Jagiroad Paper Mill, Nagaon) as Principal Grade-II and served there upto 16.5.88 to the entire satisfaction of the K.V. authority.

4.9. That after completion of training (after directly selected as Principal) for a period of 03 months at New Delhi your applicant was appointed as Principal in May, 1988 Grade-I and posted at K.V., N.H.P.C., Laktak, Manipur and he served there upto April, 1992 to the entire satisfaction of the K.V. authority.

4.10. That thereafter the applicant was transferred to K.V. CRPF (GC), Nine Miles, Guwahati-20 in April, 1992 and he served there upto 1997, 08th January, to the utmost satisfaction of the K.V. authority.

4.11. That it is worth mentioning in this connection that right from the date of appointment in K.V.S. till January, 1997 nothing was found against the applicant by the authority. He rendered commendable service to the authority during this long period from February, 1966 till January, 1997.

4.12. That on 11.1.1997 the applicant was again transferred from K.V., CRPF (GC) to K.V., Khanapara which was selected as Model K.V. and he served there upto 15.12.98. ✓

4.13. That thereafter the applicant was transferred from K.V. Khanapara to K.V. Paradip, Orissa on 16.12.98 but subsequently the transfer order was modified by the authority and allowed to join in K.V., Digaro and accordingly he joined there on 17.2.99.

4.14. That to utter surprise and astonishment while the applicant was serving as Principal at K.V., A.F.S. Digaro, Assam, The Commissioner, K.V.S., New Delhi, Head Quarter issued a memorandum vide No.F.8-51/98-KVS(VIZ) dated 22.6.99 proposing to hold an enquiry against the applicant under Rule 14 of the Central Civil Service (Classification, Control, Appeal) Rules, 1965 alongwith a substance of the imputation of misconduct or misbehaviour. The statement of imputation of mis-conduct or misbehaviour in support of each article of charge is also enclosed (Annexure-II) and the applicant was directed to submit written statement of his defence within 10 days from the date of receipt of the memorandum and also to state whether he desires to be heard in person. The Disciplinary authority also enclosed as many as 8 charges against the applicant.

4.15. That on receipt of the show cause notice dated 22.6.99 the applicant submitted his show

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cause reply on 7.7.99 to the Commissioner, KVS(H.Q.)
18 Institutional Area, Shahid Jeet Singh Marg, New
Delhi-110016 denying all the charges brought against
your applicant.

4.16. That thereafter one Smti Tilottama
Baruah (a non KVS Lady) was appointed as Enquiry Officer
and one Sri Rakesh Sharma, Administrative Officer, KVS
Regional Office, Guwahati was appointed as Presentating
Officer to present the case of the disciplinary authority
in the enquiry proceedings.

4.17. That after completion of the enquiry
the applicant was asked by the Commissioner, KVS to
submit a representation vide Memo No.F.8-16/98-KVS(VIZ)
dated 25.9.2000 and accordingly ~~he~~ he submitted his
representation on 12.10.2000.

* Annexure-1 is the photocopy of the said
representation submitted by the applicant
on 12.10.2000 to the Commissioner, KVS.

4.18. That it is submitted that though the
enquiry Officer found all the 8 charges proved against the
applicant but the disciplinary authority after a careful
consideration of the enquiry report submitted by the
~~disciplinary~~ Enquiry Officer, came to a conclusion that
only 4 charges against the applicant has been
proved.

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And accordingly the applicant was dismissed from service vide order dated

4.19. That being highly aggrieved by and dissatisfied with the judgment and order dated 19.9.2001 passed by the disciplinary authority your applicant filed an appeal before the appellate authority of Kendriya Vidyalaya Sangathan under ^{Rule 24, CCS, CCA, 1965} ~~section~~ and the appellate authority after giving personal hearing dated 23.8.2001 to the applicant and on perusal of various documents connected with the disciplinary proceeding have been made guilty against the Charge No. IV only brought against him and accordingly imposed penalty for compulsory retirement from service from the date of dismissal vide order dated 19.9.2001.

Annexure-2 is the photocopy of the appellate judgment and order dated 19.9.2001 passed by the Additional Secretary and Vice Chairman of Kendriya Vidyalaya Sangathan.

4.20. That for convenience sake the charge No. IV against which the applicant has been punished is reproduced below:-

"Article-IV : Shri N.D. Bhuyan while working as Principal of K.V. Khanapara during the years 1997 to 1998 has misused his power in operation of pupils fund accounts. Shri N.D. Bhuyan dissolved all the committees that were existing in the Vidyalaya except examination committee and school Bus committee, and Mr. Shri C.D. Pathak, Head Clerk of K.V., Khanapara as Convenor of Pupils Fund Committee and also authorised Shri Pathak

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Neha Dhar Bhuyan

to sign the cheque as a co-signatory of the Principal. As per Articles 198 and 200 of Accounts Code which stipulates that a pupils fund committee consists of a Senior PGT, a Senior PGT a Senior PRT and one student each from classes IX, X, XI and XII to administer the pupils Fund Accounts and the accounts should be operated jointly by the Principal and the PGT member respectively.

Thus Shri Bhuyan has violated the Rule of article 198 and 200 of Accounts Code and committed a serious mis-conduct".

4.21. That against the Charge No.IV quoted above about dissolution of all existing Committees including Pupils Fund Committee and appointment of Head Clerk as Convenor the applicant begs to state that at the relevant time there was no Vidyalaya Management Committee existed since 1993. There was virtually no administration and discipline but there was termoil and chaos. In fact, there was no administration when the applicant joined in the K.V., Khanapara on 11.1.97 being transferred from K.V., CRPF(GC) 9th Mile, Guwahati-23. On the other hand the K.V., Khanapara was declared as model M.V. In 1997 in which year your applicant was posted in the said K.V. one of 50 such model KVS in India, Khanapara K.V. was also declared as model K.V., The K.V.S. authority pressed the applicant to restore discipline in the K.V. It is stated that the teachers of K.V.'s at the relevant were making certain demands from the authority and some of the demands were relating to payment of S.D.A., non payment of proper salaries as per recommendation by the 5th Central Pay Commission and other facilities as per circular issued by the Govt. of India for the Central Govt.

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Nehru Bhavan

Employees serving in North Eastern Region. The teachers having not got their demands fulfilled decided not to cooperate with the Principal of the K.V. At that relevant time no committees were working and as such the parents of the students of K.V. went to media to criticise the management and function of the K.V.S. (RO) Office, Guwahati.

4.22. That the applicant was given direction by the Regional Assistant Commissioner, KVS (RO) Officer, Ghy to be tough enough to maintain the discipline of the prestigious K.V., Khanpara. The applicant being the Principal of the Institution had no other alternative to restore the discipline but to dissolve all the existing committees including P.F. Fund Committee except Bush Committee and Examination Committee, most temporarily. The P.F. Committee after dissolution has been constituted with teachers ^{informally} and the head clerk who is also Senior Accountant was made as Convenor of the P.F. Committee for smooth functioning of K.V. on good faith with the applicant as Chairman being Principal. The applicant had no alternative but to appoint the Head Clerk as Convenor of the P.F. Committee as temporarily. This temporary arrangement with head clerk has been circulated amongst the staff with a view to restore the discipline in the K.V., with regard to constitution of P.F. Committee as provided under Article 198 and the keeping of the amount of the said Account Code has been provided under Article 200 of the Account Code for the Kendriya Vidyalaya. The account opened in the Bank is operated by the Principal as Chairman of the P.F. Committee jointly with the Convenor of the P.F. Committee. The accounts for this

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fund are collected from the students and spent for day to day expenditure for providing facilities to the students such as sports, games, annual day etc.

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The applicant also begs to state that after dissolution of the Committee he also informed the Assistant Commissioner, K.V., Regional Office, Gauhati Region. The information was given about the chaotic condition of the Institution to the Assistant Commissioner, K.V. (RO) office, Guwahati through telephonic message and requested the Assistant Commissioner to approve the alternative arrangement of the Committees by the applicant, to meet the day to day P.F. expenditure. This was done with a view to manage the prevalent situation in the Institution and also for the welfare of the Institution on good faith. The Assistant Commissioner, Regional Office, Guwahati gave telephonic direction to the applicant that situation prevailing in the Institution must be controlled by any means as the Khanapara K.V. is a prestigious model K.V. So in compliance with the oral direction given by the Assistant Commissioner, Regional Office, he has dissolved the Committees to bring discipline, peace and harmony in the K.V. The parents of the students also approached the applicant and pressed him to manage the discipline, peace and harmony in the Institution so that the Institution may function smoothly. So the applicant being a Principal of the Institution compelled to dissolve the Committee as mentioned above and form a small informal Committee with game teachers, music teachers, S.U.P.W. teachers etc. just to give full satisfaction to the students and thereafter there was no agitation by the students.

Neelam Singh Arora

4.23. That in doing so the applicant have no malafide intention, whatever has been done by the applicant which is done only for bringing discipline and educational atmosphere, in the Institution so that Institution can give all facilities to the students in the Institution. By the action taken by the applicant the discipline and educational atmosphere were returned to the Institution and Institution function also normally. It is worth mentioning in this connection that Account Code provision under Article 197 to 200 have been now removed and suitably amended. Now the authority has constituted Executive Committee under the amended code published in May, 2000 and implemented w.e.f. April, 2000. in all Kendriya Vidyalayas, the P.F. Committee has been named as "Vidyalaya Vikash Nidhi" (V.V.N.) removing the participation of teachers committee etc., replaced by the Executive Committee with five (05) members of V.M.C. (Vidyalaya Management Committee) with the Chairman V.M.C. as Chairman and the Principal, as the Convenor, with the Bank operation jointly both by Principal and Chairman V.M.C., of the K.V., so that the Principal can run the institution smoothly.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :-

5.1. For that impugned judgment and order is illegal and unjust, hence the same is liable to be set aside and quashed.

5.2. For that the impugned judgment is cryptic one based on no ground or reason and hence the same is liable to be quashed.

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5.3. For that there was no malafide or any intention beyond the dissolution of the Committees including P.F. Committee and whatever has been done that has been done with a view to bring discipline and educational atmosphere to the Institution for smooth functioning of the same.

5.4. For that after dissolution of the Committees and providing necessary facilities by the applicant to the students the functioning of the school became normal and smooth and the pupils and their guardians were very happy having returned the discipline and educational atmosphere in the K.V.

5.5. For that there is no financial anomaly after the dissolution of the Committees including P.F. Committee.

5.5. For that the Khanpara K.V. being model K.V. out of 50 such KVs in India so it was not only the responsibility of the authorities but also the responsibility of the Principal of the Institution and as such for the good of the Institution and to bring peace and harmony of the same, the applicant have no other alternative but to dissolve the existing committees just to bring discipline, peace and harmony under the Institution.

5.6. For that after dissolution of the Committee mentioned in Charge No.IV against the applicant, the applicant used to invite the teachers concerned to know from them what is required in the respective department and in accordance with their advice the fund was distributed.

5.7. For that the guardians of the pupils went to media to criticise the management of the Khanpara K.V.

and as such he is compelled to take this action to remove all illegal activities to bring peace and harmony to the Institution and after dissolution of the Committees when peace, harmony and educational atmosphere returned to the Institution pupils, guardians ^{praised} prevented the applicant for ^{from} bringing discipline to the Institution.

5.8. For that about dissolution of the Committees in question including P.F. Committee the Assistant Commissioner serving at Regional Office at Guwahati has been informed and he also gave pressure on the applicant that on any ~~case~~ ^{cost.} discipline should be maintained in the K.V. because the Khanapara K.V. is one of the model K.V. in India. So the applicant had to dissolve all these committees temporarily with a hope to bring back discipline and good educational atmosphere in the Institution. ^{Case.}

5.9. For that no serious offence has been committed by the applicant by dissolving the committees under Article 198 and 2000 of the Account Code but it is only breach of procedure.

5.10 For that so far the violation of provision of Article 200 is concerned there is no violation as alleged ~~because money was~~ because money collected has been deposited in United Bank Bank of India which is a Nationalised Bank.

5.11 For that breach of procedure with a view to bring good management, discipline and educational atmosphere in the Institution is not a serious offence and as such compulsory retirement for the applicant from service is

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Yes unwarranted and hence the appellate judgment is liable to be quashed.

5.12. For that the breach of procedure has been adopted for the better interest of the Institution and on the pressure of the higher authority to maintain discipline in the Institution at the relevant time and the applicant *Yes* joined in the K.V. ^{but} there was virtually no discipline, no peace and harmony but there was chaotic condition and indiscipline.

5.13. For that the appellant was compelled *Yes* by this circumstances and situation prevalent ^{at} the time of his joining as Principal in Khanapara K.V. he was compelled *Yes* to ^{breach} bring the provisions of Article 198 of the Account Code and hence the punishment imposed is illegal, improper, malafide and the same is liable to quashed.

5.14. For that at the time of joining by the applicant as Principal in K.V. teachers were agitating demanding pay scale under the Central 5th Pay Commission of the Central Govt. and also for not paying the benefits as provided by the Central Govt. circular dated 14.12.83 and as such they decided not to cooperative with the Principal for normally functioning of the institution and hence he has no alternative but to dissolve the committees including P.F. Committee and appoint Head Clerk who is also Sr. ~~most~~ Accountant to appoint as Convenor of the P.F. Committee and the applicant himself a Chairman as Principal.

5.15. For that the appellate authority in their impugned judgment observed that in the North Eastern Region

officers are to work under the difficult and compelling circumstances compared to others. In view of this observation the applicant submits that there is no offence committed by the applicant for dissolution of the P.F. Committee under Rule 4 of the Account Code and as such the impugned judgment is liable to be quashed.

5.16. For that during whole period of his service nothing was found against the applicant and whatever has been done in the instant case he was compelled to put breach of the procedure to maintain discipline, dignity, educational atmosphere of the Institution and hence the impugned order is liable to be quashed.

5.17. For that at any rate the appellate judgment and order is liable to be quashed.

6. DETAILS OF THE REMEDIES EXHAUSTED :-

The applicant filed an appeal against his order of dismissal before the appellate authority and the appellate authority found the Charge No. IV and of 4 charges brought against him proved and illegally imposed punishment of compulsory retirement from the date of his dismissal from his service.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN OTHER COURT OR TRIBUNAL:-

The applicant declares that no case against the present impugned order has been filed in Court or Tribunal or pending in any Court or Tribunal.

8. RELIEF SOUGHT FOR :-

In view of the facts and circumstances narrated above the humble applicant prays for the following reliefs:-

1. The impugned order of compulsory retirement dated 19.9.2001 imposed on the applicant by the appellate authority be quashed and consequent reliefs thereof may be granted to the applicant.
2. ~~The~~ After quashing the impugned order the applicant may be treated in service from the date of dismissal till 31.10.2001 the actual date of retirement of the applicant;
3. The salaries and other financial benefits be granted from the date of dismissal of the applicant from his service;
4. Any other relief/reliefs entitled to the applicant be granted.
5. To grant costs of the case.

9. PARTICULARS OF THE I.P.O. :-

- i. I.P.O No. 66790218
- ii. Date of issue :- 28.11.2001
- iii. Name of Post Office:- Head Post Office, Gandalah.

10. Enclosures:-

As per Index.

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Neha Chauhan

VERIFICATION

I, Shri N.D. Bhuyan, Ex-Principal, Son of Late Phanidhar Bhuyan, resident of Sixth Mile near Siva Mandir, Khanapara, Guwahati-22, District - Kamrup, Assam, do hereby verify and solemnly affirm and state that the statements made in paragraphs 2, 3, 4.1, 4.2, 4.11, 4.16 are true to my knowledge and those made in paragraphs 1, 4.3, 4.4., 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.12, 4.13, 4.14, 4.15, 4.17, 4.18, 4.19, 4.20 being matters of records are true to my information and the rests are my humble submissions and have not suppressed any material facts of the case.

And I sign this verification on this the 28th day of November, 2001 at Guwahati.

Nehruhar Bhuyan
Signature.

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BY REGD. POST.

KENDRIYA VIDYALAYA SANGATHAN
18, INSTITUTIONAL AREA
SHAHEED JEET SINGH MARG
NEW DELHI 110 016.

F.No.9-55/2001-KVS (Vig.)

Dated:

19-09-2001

ORDER

WHEREAS the penalty of 'Dismissal' from the services of Kendriya Vidyalaya Sangathan was imposed upon Shri N.D.Bhuyan, Ex-Principal Kendriya Vidyalaya, A.F.S., Digaru by the Commissioner, K.V.S., being the Disciplinary Authority, vide Order No. F.8-61/98-KVS[VIG.] dated 18-04-2001.

WHEREAS the said Shri N.D.Bhuyan filed an appeal against the aforesaid order of the Disciplinary Authority to the under-signed, being the Appellate Authority. The Appellant has also been heard in person on 23-08-2001.

AND WHEREAS based on the consideration of facts and circumstances of the case on record, the contents in the appeal including the grounds adduced by the Appellant, and the additional documents produced during the personal hearing, the undersigned has come to the conclusion that in the Inquiry Report, the Inquiry Officer has not been explicit about each charge of admission irregularity and has held them proved arbitrarily. To this extent benefit of doubt is given to the Appellant. However, the charge against the Appellant under Article-4 where he dissolved the existing Committee for operation of Pupil's Fund and appointment of Head Clerk as the Convener in violation of the Accounts Code for Kendriya Vidyalayas is a serious charge and cannot be condoned. Considering the years of service the Appellant has already put in for the Sangathan, and also considering that he is from the North-Eastern Region where Officers work under certain difficult and compelling circumstances compared to others, the undersigned feels that the ends of justice would be served by a penalty of Compulsory Retirement from service and accordingly order the same from the date he was dismissed from the service by the Disciplinary Authority.

NOW, THEREFORE, the undersigned, being the Appellate Authority, disposes of the appeal of Shri N.D.Bhuyan, ex-Principal accordingly.

A

[Signature]

(K.S.SARMA)
ADDL.SECRETARY, M/o H.R.D.
&
VICE-CHAIRMAN, K.V.S.

Copy to :-

1. Shri N.D.Bhuyan, ex-Principal, Kendriya Vidyalaya Digaru, Six Mile, Shiva, Mandir, Khanapara, Guwahati -781022 Dist Kamrup, Assam.
2. The Assistant Commissioner, KVS Regional Office, GUWAHATI.
3. The Dy Commissioner [Finance], Kendriya Vidyalaya Sangathan [Hqrs.], New Delhi for appropriate action.
4. Guard file

ORDERS OF APPEAL doc-6

*Attested by
B. Seal
Advocate.*

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUHATI BENCH
GUWAHATI.

(AMENDED ORIGINAL APPLICATION)

O.A. No.460/2001.

Shri N.D. Bhuyan Applicant.

-VRS-

Union of India & Ors Respondents.

I N D E X

<u>Sl.No.</u>	<u>Particulars</u>	<u>Pages</u>
1	Original application	- 1 to 15
2	Annexure-1	- 16 - 31
3	Annexure-2	- 32 - 41
4	Annexure-3	- 42 - 58
5	Annexure-4	- 59 - 64
6	Annexure-5	- 65

Filed by:-

Krishna Chatterji
26/4/2002

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUHATI BENCH
AT GUWAHATI.

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

O.A. No. 460/2001.

In Between:-

N.D. Bhuyan, Ex-Principal, Kendriya
Vidyalaya, Diagaru,

S/o Late Phanidhar Bhuyan,

Resident of Sixth Mile near

Siva Mandir, Khanapara,

Guwahati-22, Dist. Kamrup, Assam.

..... Applicant.

-VRS-

1. Union of India, represented by
the Addl. Secretary, Govt. of
India, Ministry of Human Resources
Department and Vice Chairman,
K.V.S., New Delhi.
2. The Addl. Secretary to the Govt.
of India, Ministry of Human
Resources and Vice Chairman,
KVS, HRD, Shastri Bhawan, New Delhi.
3. The Commissioner, K.V.S., 18
Institutional Area, Saheed Jitsing
Marg, New Delhi-110016.
4. The Asstt. Commissioner, K.V.S.,
Regional Office, Gauhati Region,
Maligaon, Dist. Kamrup, Assam.

Contd.....2

Filed by
Neha Dhar Bhuyan
Through me - Kaishna Chatterjee 26/4/2001

5. The Principal, K.V., Khanpara,
Guwahati-22, Dist. Kamrup, Assam.
.... Respondents.

PARTICULARS OF APPLICATION

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

This application is made against the order contained in F.No.9-55/2001-KVS(Vig) dated 19.09.2001 passed by the Addl. Secretary, M/O H.R.D. and Vice Chairman, K.V.S.

2. JURISDICTION OF THE TRIBUNAL :-

The applicant declares that the subject matter of the order against which this application has been made within the jurisdiction of the Central Administrative Tribunal at Guwahati.

3. LIMITATION :-

The applicant further declares that this application is within the limitation period as prescribed under section 21 of the Central Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE :-

4.1. That the applicant is an Indian citizen and permanent resident of Guwahati in the district of Kamrup, Assam and as such he is entitled to all the rights, privileges and protection guaranteed under the Constitution of India and various laws framed thereunder.

Neha Khan Bha...

4.2. That your humble applicant passed his M.Sc in 1964 in Geography from Gauhati University securing 2nd Class 2nd position. He also passed B.T. Final examination from Dibrugarh University in 1969 securing 2nd Class with 55% marks in average.

4.3. That in response to an advertisement made by the K.V.S. M/D for appointment of Post Graduate Teacher on 21.2.65 your applicant applied for the same and he appeared in the interview at Gauhati conducted by the K.V.S. (H.Q.) through D.P.I., Assam.

4.4. That after selection by the interview Board your applicant was appointed as Post Graduate Teacher (P.G.T.) and posted at K.V., Jorhat and he joined on 21.2.66 and served there for 2 years to the entire satisfaction of the K.V.S. authority.

4.5. That your applicant was transferred from K.V., Jorhat to K.V., Guwahati in 1968 and he served there at Guwahati upto 1974 i.e. period of 7 years continuously to the entire satisfaction of the K.V. authority. He was again transferred from K.V. Guwahati to Shillong K.V. and he served there upto 1981.

4.6. That the authority being highly satisfied with the performance of the applicant elevated the applicant to the post of I/C Principal at K.V., Silchar (Town) and he served there at Silchar upto 1982 to the satisfaction of the authority. In fact, the applicant was founder Principal of K.V., Silchar Town.

4.7. That in 1982 when the Khanapara K.V. undergoing student agitation then he was transferred

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N. Chandra Bhaia

from Silchar to K.V., Guwahati as I/C Principal and accordingly he joined there at K.V. Guwahati on 22.10.82. In 1983 your applicant was appointed as regular Vice Principal and posted at K.V., Guwahati and served there as Vice Principal on regular basis upto 15.4.85. As there was no regular Principal the applicant being the Sr. most was entrusted with the post of I/C Principal at K.V., Guwahati.

4.8. That on 18.4.85 the applicant was transferred from K.V., Guwahati to K.V. (Jagiroad Paper Mill, Nagaon) as Principal Grade-II and served there upto 16.5.88 to the entire satisfaction of the K.V. authority.

4.9. That after completion of training (after directly selected as Principal) for a period of 03 months at New Delhi your applicant was appointed as Principal in May, 1988 Grade-I and posted at K.V., N.N.P.C., Laktak, Manipur and he served there upto April, 1992 to the entire satisfaction of the K.V. authority.

4.10. That thereafter the applicant was transferred to K.V. CRPF (OC), Nine Miles, Guwahati 20 in April, 1992 and he served there upto 1997, 08th January, to the utmost satisfaction of the K.V. authority.

4.11. That it is worth mentioning in this connection that right from the date of appointment in K.V.S. till January, 1997 nothing was found against the applicant by the authority. He rendered commendable service to the authority during this long period from February, 1966 till January, 1997.

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Aneka Khan Bagan

~~_____~~

RECEIVED

cause reply on 7.7.99 to the Commissioner, KVS(H.Q.)
18 Institutional Area, Shahid Jeet Singh Marg, New
Delhi-110016 denying all the charges brought against your
applicant.

Annexure-2 is the photocopy of the
show cause reply dated 7.7.99 ~~dated~~
submitted by the applicant.

4.16. That thereafter one Smti Tilottama
Baruah (a non KVS Lady) was appointed as Enquiry Officer
and one Sri Rakesh Sharma, Administrative Officer, KVS
Regional Office, Guwahati was appointed as Presenting
Officer to present the case of the disciplinary authority
in the enquiry proceedings.

4.17. That after completion of the enquiry
the applicant was asked by the Commissioner, KVS to submit
a representation vide Memo No.F-8-16/98-KVS(VIZ) dated
25.9.2000 and accordingly he submitted his representation
on 12.10.2000.

Annexure-3 is the photocopy of the
enquiry report submitted by the
Enquiry Officer.

Annexure-4 is the representation on enquiry
report submitted by the applicant.

4.18. That it is submitted that though the
enquiry Officer found all the 8 charges proved against the
applicant but the disciplinary authority after a careful
consideration of the enquiry report submitted by the
Enquiry Officer, came to a conclusion that only 4 charges
against the applicant has been proved. And accordingly

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Nichekar Arjun

the applicant was dismissed from service vide order dated

4.19. That being highly aggrieved by and dissatisfied with the judgment and order dated 19.9.2001 passed by the disciplinary authority your applicant filed an appeal before the appellate authority of Kendriya Vidyalaya Sangathan under section and the appellate authority after giving personal hearing dated 25.8.2001 to the applicant and on perusal of various documents connected with the disciplinary proceeding have been made guilty against the Charge No. IV only brought against him and accordingly imposed penalty for compulsory retirement from service from the date of dismissal vide order dated 19.9.2001.

Annexure-5 is the photocopy of the appellate judgment and order dated 19.9.2001 passed by the Additional Secretary and Vice Chairman of Kendriya Vidyalaya Sangathan.

4.20. That for convenience sake the charge No. IV against which the applicant has been punished is reproduced below:-

"Article-IV : Shri N.D. Bhuyan while working as Principal of K.V. Khanapara during the years 1997 to 1998 has misused his power in operation of pupils fund accounts. Shri N.D. Bhuyan dissolved all the committees that ~~there~~ were existing in the Vidyalaya except examination committee and school Bus Committee and Mr. Shri C.D. Pathak, Head Clerk of K.V., Khanapara as Convenor of Pupils Fund Committee and also authorised Shri Pathak

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Neha Dhar Bagan

- 7a -

to sign the cheque as a co-signatory of the Principal. As per Article 198 and 200 of Accounts Code which stipulates that a pupils fund committee consists of a Senior PGT, a Senior PGT a Senior PRT and one student each from classes IX, X, XI and XII to administer the pupils Fund Accounts and the accounts should be operated jointly by the Principal and the PGT member respectively.

Thus Shri Bhuyan has violated the Rule of article 198 and 200 of Accounts Code and committed a serious mis-conduct."

4.21. That against the Charge No.IV quoted above about dissolution of all existing committees including pupils Fund Committee and appointment of Head Clerk as Convenor the applicant begs to state that at the relevant time there was no Vidyalaya Management Committee existed since 1993. There was virtually no administration and discipline but there was turmoil and chaos. In fact, there was no administration when the applicant joined in the K.V., Khanapara on 11.1.97 being transferred from K.V., CRPF(GC) 9th Mile, Guwahati-23. On the other hand, the K.V., Khanapara was declared as model K.V. In 1997 in which year your applicant was posted in the said K.V. one of 50 such model KVS in India, Khanapara K.V. was also declared as model K.V. The K.V.S. authority pressed the applicant to restore discipline in the K.V. It is stated that the teachers of K.V.'s at the relevant were making certain demands from the authority and some of the demands were relating to payment of S.D.A., non payment of proper salaries as per recommendation by the 5th Central Pay Commission and other facilities as per circular issued by the Govt. of India for the Central Govt.

Contd...8

Shri Bhuyan

employees serving in North Eastern Region. The teachers having not got their demands fulfilled decided not to cooperate with the Principal of the K.V. At that relevant time no committees were working and as such the parents of the students of K.V. went to media to criticise the management and function of the K.V.S (RO) Office, Guwahati.

4.22. That the applicant was given direction by the Regional Assistant Commissioner, KVS (RO) Officer, Guwahati to be tough enough to maintain the discipline of the prestigious K.V., Khanapara. The applicant being the Principal of the Institution had no other alternative to restore the discipline but to dissolve all the existing committees including P.F. Fund Committee except Bus Committees and Examination Committee, most temporarily. The P.F. Committee after dissolution has been constituted with teachers informally and the head clerk who is also Senior Accountant was made as Convenor of the P.F. Committee for smooth functioning of K.V. on good faith with the applicant as Chairman being Principal. The applicant had no alternative but to appoint the Head Clerk as Convenor of the P.F. Committee as temporarily. This temporary arrangement with head clerk has been circulated amongst the staff with a view to restore the discipline in the K.V., with regard to constitution of P.F. Committee as provided under Article 198 and the keeping of the amount of the said Account Code has been provided under Article 200 of the Account Code for the Kendriya Vidyalaya. The account opened in the Bank is operated by the Principal as Chairman of the P.F. Committee jointly with the Convenor of the P.F. Committee. The accounts for this

fund are collected from the students and spent for day to day expenditure for providing facilities to the students such as sports, games, annual day etc. The applicant also begs to state that after dissolution of the Committee he also informed the Assistant Commissioner K.V., Regional Office, Gauhati Region. The information was given about the chaotic condition of the Institution to the Assistant Commissioner, K.V. (RO) Office, Guwahati through telephonic message and requested the Assistant Commissioner to approve the alternative arrangement of the Committees by the applicant, to meet the day to day P.F. expenditure. This was done with a view to manage the prevalent situation in the Institution and also for the welfare of the Institution on good faith. The Assistant Commissioner, Regional Office, Guwahati gave telephonic direction to the applicant that situation prevailing in the Institution must be controlled by any means as the Khanapara K.V. is a prestigious model K.V. So in compliance with the oral direction given by the Assistant Commissioner, Regional Office, he has dissolved the committee to bring discipline, peace and harmony in the K.V. The parents of the students also approached the applicant and pressed him to manage the discipline, peace and harmony in the Institution so that the Institution may function smoothly. So the applicant being a Principal of the Institution compelled to dissolve the Committee as mentioned above and form a small informal committee with game teachers, music teachers, S.U.P.W. teachers etc. just to give full satisfaction to the students and thereafter there was no agitation by the students.

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Nehru 2 Kar Bhayan

4.23. That in doing so the applicant have no malafide intention, whatever has been done by the applicant which is done only for bringing discipline and educational atmosphere, in the Institution so that Institution can give all facilities to the students in the Institution. By the action taken by the applicant the discipline and educational atmosphere were returned to the Institution and Institution function also normally. It is worth mentioning in this connection that Account Code provision under Article 197 to 200 have been now removed and suitably amended. Now the authority has constituted Executive Committee under the amended code published in May, 2000 and implemented w.e.f. April, 2000. In all Kendriya Vidyalaya, the P.F. Committee has been named as "Vidyalaya Vikash Nidhi" (V.V.N.) removing the participation of teachers committee etc., replaced by the Executive Committee with five (05) members of V.M.C. (Vidyalaya Management Committee) with the Chairman V.M.C. as Chairman and the Principal as the Convenor, with the Bank Operation jointly both by Principal and Chairman V.M.C., of the K.V., so that the Principal can run the institution smoothly.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS:-

5.1. For that impugned judgment and order is illegal and unjust, hence the same is liable to be set aside and quashed.

5.2. For that the impugned judgment is cryptic one based on no ground or reason and hence the same is liable to be quashed.

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5.3. For that there was no malafide or any intention beyond the dissolution of the Committees including P.F. Committee and whatever has been done that has been done with a view to bring discipline and educational atmosphere to the Institution for smooth functioning of the same.

5.4. For that after dissolution of the Committees and providing necessary facilities by the applicant to the students the functioning of the school became normal and smooth and the pupils and their guardians were very happy having returned the discipline and educational atmosphere in the K.V.

5.5. For that there is no financial anomaly after the dissolution of the Committees including P.F. Committee.

5.6. For that the Khanapara K.V. being Model K.V. out of 50 such KV's in India so it was not only the responsibility of the authorities but also the responsibility of the Principal of the Institution and as such for the good of the Institution and to bring peace and harmony of the same, the applicant have no other alternative but to dissolve the existing committees just to bring discipline, peace and harmony under the Institution.

5.6. For that after dissolution of the Committee mentioned in the Charge No. IV against the applicant, the applicant used to invite the teachers concerned to know from them what is required in the respective department and in accordance with their advice the fund was distributed.

5.7. For that the guardians of the pupils went to media to criticise the management of the Khanapara K.V.

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Nepal Khan Bnyar

all illegal activities to bring peace and harmony to the Institution and after dissolution of the Committees when peace, harmony and educational atmosphere returned to the Institution pupils, guardians prevented the applicant for bring discipline to the Institution.

5.8. For that about dissolution of the Committees in question including P.F. Committee the Assistant Commissioner serving at Regional office at Guwahati has been informed and he also gave pressure on the applicant that on any cause discipline should be maintained in the K.V. because the Khanapara K.V. is one of the model K.V. in India. So the applicant had to dissolve all these committees temporarily with a hope to bring back discipline and good educational atmosphere in the Institution.

5.9. For that no serious offence has been committed by the applicant by dissolving the committees under Article 198 and 200 of the Account Code but it is only breach of procedure.

5.10. For that so far the violation of provision of Article 200 is concerned there is no violation as alleged because money collected has been deposited in United Bank of India which is a Nationalised Bank.

5.11. For that breach of procedure with a view to bring good management, discipline and educational atmosphere in the Institution is not a serious offence and as such compulsory retirement for the applicant from service is warranted and hence the appellate judgment is liable to be quashed.

Neha Dhar Rayan

5.12. For that the breach of procedure has been adopted for the better interest of the Institution and on the pressure of the higher authority to maintain discipline in the Institution at the relevant time and the applicant joined in the K.V. But there was virtually no discipline, no peace and harmony but there was chaotic condition and indiscipline.

5.13. For that the applicant was compelled to by this circumstances and situation prevalent at the time of his joining as Principal in Khanapara K.V. he was compelled to bring the provisions of Article 198 of the Account Code and hence the punishment imposed is illegal, improper, malafide and the same is liable to be quashed.

5.14. For that at the time of joining by the applicant as Principal in K.V. teachers were agitating demanding pay scale under the Central 5th Pay Commission of the Central Govt. and also for not paying the benefits as provided by the Central Govt. circular dated 14.12.93 and as such they decided not to cooperate with the Principal for normally functioning of the Institution and hence he has alternative but to dissolve the committees including P.F. Committee and appoint Head Clerk who is also Sr. most Accountant to appoint as Convenor of the P.F. Committee and the applicant himself a Chairman as Principal.

5.15. For that the appellate authority in their impugned judgment observed that in the North Eastern Region circumstances compared to others. In view of this observation the applicant submits that there is no offence committed by the applicant for dissolution of the P.F. Committee under

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Neha Dhar Bhatia

Rule 4 of the Account Code and as such the impugned judgment is liable to be quashed.

5.16. For that during whole period of his service nothing was found against the applicant and whatever has been done in the instant case he was compelled to put breach of procedure to maintain discipline, dignity, educational atmosphere of the Institution and hence the impugned order is liable to be quashed.

5.17. For that at any rate the appellate judgment and order is liable to be quashed.

6. BETAILS OF THE REMEDIES EXHAUSTED :-

The applicant filed an appeal against his order of dismissal before the appellate authority and the appellate authority found the Charge No. IV out of 4 charges brought against him proved and illegally imposed punishment of compulsory retirement from the date of his dismissal from his service.

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

The applicant declares that no case against the the present impugned order has been filed in Court or Tribunal or pending in any Court or Tribunal.

8. RELIEF SOUGHT FOR :-

In view of the facts and circumstances narrated above the humble applicant prays for the following reliefs:-

Nehru & Kar Singh

1. The impugned order of compulsory retirement dated 19.9.2001 imposed on the applicant by the appellate authority be quashed and consequent reliefs thereof may be granted to the applicant.

2. Thereafter quashing the impugned order, the applicant may be treated in service from the date of dismissal till 31.10.2001 the actual date of retirement of the applicant;

3. The salaries and other financial benefits be granted from the date of dismissal of the applicant from his service;

4. Any other relief/reliefs entitled to the applicant be granted.

5. To grant costs of the same.

9. PARTICULARS OF THE IPO :-

- i. I.P.O. No.
- ii. Date of issue :
- iii. Name of Post Officer:-

10. Enclosures:-

As per Index.

Netu Khan Anya

V E R I F I C A T I O N

I, Shri N.D. Bhuyan, Ex-Principal, Son of Late Phanidhar Bhuyan, resident of Sixth Mile near Siva Mandir, Khanapara, Guwahati-22, District - Kamrup, Assam, do hereby verify and solemnly affirm and state that the statements made in paragraphs 2, 3, 4.1, 4.2, 4.11, 4.16 are true to my knowledge and those made in paragraphs, 1, 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.12, 4.13, 4.14, 4.15, 4.17, 4.18, 4.19, 4.20 being matters of records are true to my information and the rests are my humble submissions and I have not suppressed any material facts of the case.

And I sign this verification on this the 26th day of April, 2002 at Guwahati.

Signature

Neta Dhar Bhuyan

KENDRIYA VIDYALAYA SANGATHAN
(VIGILANCE SECTION)
18, INSTITUTIONAL AREA
SHANEED JEET SINGH MARG
NEW DELHI-110016.

No.F.8-61/98-KVS(Vig.)

Dated: 28-06-99.

MEMORANDUM

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

2. Sh.N.D.Bhuyan, Principal, is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

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

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

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

6. The receipt of the Memorandum may be acknowledged.

(H.M. CAIRAE)
COMMISSIONER

Sh.N.D.Bhuyan, Principal,
Kendriya Vidyalaya, A.F.S., Digaru.
(The then Principal, K.V.Khanapara).

Copy to :-

- 1) The Asstt. Commissioner, Kendriya Vidyalaya Sangathan (R.O), GUWAHATI.
- 2) The Asstt. Commissioner (Adm.), K.V.S. (Hqrs.), NEW DELHI-110016.
- 3) The Section Officer (Estt.2), K.V.S. (Hqrs.), NEW DELHI-110016.
- 4) Guard file.

/BKT/

Attested
Krishna Chatterjee
Advocate
26/4/2002

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STATEMENT OF ARTICLES OF CHARGES FRAMED AGAINST SHRI N.D. BHUYAN, THE THEN PRINCIPAL, KENDRIYA VIDYALAYA, KHANAPARA, GUWAHATI (NOW PRINCIPAL, KENDRIYA VIDYALAYA, A.F.S. DIGARU).

ARTICLE-I.

That the said Shri N.D. Bhuyan while functioning as Principal, Kendriya Vidyalaya, Khanapara, Guwahati during the academic years 1997-98 and 1998-99 granted admission to 71 students of Category-IV, 52 non-Kendriya Vidyalaya transfer certificates and 19 Kendriya Vidyalaya transfer certificates in different classes over and above the sanctioned strength of 32 students without obtaining approval from Competent Authority. Till the day of inquiry three admissions 2 in Class-XI (Science Stream) and one in Class-VIII were also found irregular during the academic year 1998-1999.

By this act Shri N.D. Bhuyan, Principal has violated admission guidelines issued from time to time and Rule-3(1) (i), (ii) and (iii) of Central Civil Services (Conduct) Rules, 1964 as extended to the employees of Kendriya Vidyalaya Sangathan.

ARTICLE-II.

That the said Shri N.D. Bhuyan while functioning in the aforesaid capacity in the said Kendriya Vidyalaya during the academic year 1997-98 granted admission to 09 students of Category-IV who failed to qualify the Admission Test conducted for Class-II and above.

By this act, Shri Bhuyan has violated admission guidelines and Rule-3(1) (i), (ii) and (iii) of Central Civil Services (Conduct) Rules, 1964 as extended to the employees of Kendriya Vidyalaya Sangathan.

Assessed by
Krishna Chellai
Advocate 26/4/2002

That the said Shri N.D. Bhuyan while functioning in aforesaid capacity at Kendriya Vidyalaya, Khanapara during the academic year 1998-99 denied admission to a genuine case of Category-I indicating the child absent on the date of test whereas the child appeared in the test and scored 39 marks.

Thus Shri N.D. Bhuyan, Principal has violated admission guidelines and Rule-3(1) (i), (ii) and (iii) of Central Civil Services (Conduct) Rules, 1964 as extended to the employees of Kendriya Vidyalaya Sangathan.

ARTICLE-IV.

That Shri N.D. Bhuyan while working as Principal in Kendriya Vidyalaya, Khanapara during the year 1997-98 made purchases from School Fund and Pupil Fund without following the prescribed procedure laid down in Article-197 & 198 of Accounts Code for Kendriya Vidyalayas.

Thus Shri N.D. Bhuyan, Principal has violated Article 197-198 of Accounts Code for Kendriya Vidyalayas, and Rule-3(1) (i), (ii) and (iii) of Central Civil Services (Conduct) Rules, 1964 as extended to the employees of Kendriya Vidyalaya Sangathan.

ARTICLE-V.

That Shri N.D. Bhuyan while working as Principal in Kendriya Vidyalaya, Khanapara during the academic year 1997-98 made purchases worth Rs. 4,22,086/- (Rupees Four lakh Twenty Two thousand and Eighty Six) from School Funds and of Rs. 1,03,702/- (Rupees One lakh Three thousand Seven Hundred and Two) from Pupil Fund without following the prescribed procedure as laid down in Chapter-17 of Accounts Code for Kendriya Vidyalayas.

Thus Shri N.D. Bhuyan, Principal has violated Rule-3(1) (i), (ii) and (iii) of Central Civil Services (Conduct) Rules, 1964 as extended to the employees of the Kendriya Vidyalaya Sangathan.

Checked by
Krishna Chatterjee
Advocate
26/4/2002

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ARTICLE-VI.

That the said Shri N.D.Bhuyan, Principal during the year 1997-98 at Kendriya Vidyalaya, Khanapara claimed Rs.13,141.85 say Rs.13,142/- towards conveyance charges for visiting Kendriya Vidyalaya Sangathan, Regional Office, Guwahati or Asstt. Commissioner's residence or official or local tours without taking approval from the Competent Authority and without producing the Attendance Certificate in support of his claim.

Thus he has violated the rules mentioned under S.R.-89 and para-24 (note) contained in Annexure-14 of Accounts Code for Kendriya Vidyalayas and Rule-3(1) (i), (ii) and (iii) of Central Civil Services (Conduct) Rules, 1964 as extended to the employees of Kendriya Vidyalaya Sangathan.

ARTICLE-VII.

That the said Shri N.D.Bhuyan while working as Principal at Kendriya Vidyalaya, Khanapara during the period 1997-98 misused the Government money sanctioned for minor work and repair to the tune of Rs.1,06,000/- by utilising Rs.49,315/on day to day repairs and purchase of submeters for staff quarters at the cost of Rs.36,000/- (Rs.18,000/from M. & R. fund and 18,000/- from Pupil Fund) in violation of instructions issued by Kendriya Vidyalaya Sangathan vide letter number F.8-10/95-KVS(Works-II) dated 30-10-95 and Rule-3(1) (i), (ii) and (iii) of Central Civil Services (Conduct) Rules, 1964 as extended to the employees of Kendriya Vidyalaya Sangathan.

ARTICLE-VIII.

That the said Shri N.D.Bhuyan while working as Principal in Kendriya Vidyalaya, Khanapara during the academic year 1997-98 made appointment of teachers from time to time on contractual basis without obtaining "No Objection Certificate" or approval from the Asstt. Commissioner and without following the prescribed procedure as referred under the rules.

Thus he has misused his powers and has violated Rule-3(1) (i), (ii) and (iii) of Central Civil Services (Conduct) Rules, 1964 as extended to the employees of Kendriya Vidyalaya Sangathan.

Attested by

Kishore Chatterjee
Advocate

26/4/2002

STATEMENT OF IMPUTATION OF MISCONDUCT OR MISBEHAVIOUR IN
SUPPORT OF THE ARTICLE OF CHARGES FRAMED AGAINST SHRI
N.D.BHUYAN, THE THEN PRINCIPAL, KENDRIYA VIDYALAYA,
KHANAPARA, GUWAHATI (NOW PRINCIPAL, KENDRIYA VIDYALAYA,
A.F.S., DIGARU).

ARTICLE-I.

That Shri N.D.Bhuyan while functioning as Principal, Kendriya Vidyalaya, Khanapara during the academic year 1997-98 admitted under mentioned students of Category-III and IV in different classes over and above the sanctioned/prescribed strength of 32 students without obtaining approval from Competent Authority:-

Sl. No.	Name of student.	Admission number.	Category.	Date of admission.	Class.	Enrolment on D.O.A.
1.	2.	3.	4.	5.	6.	7.
1.	Chaya Mumari Jha,	4963/97	IV.	04-06-97	III-B ✓	37.
2.	Dimpi Chaudhan,	4965/97	IV.	04-06-97	III-C ✓	38.
3.	Swati Shree,	4967/97	IV.	04-06-97	II-A ✓	34.
4.	Bikram Chaudhan,	4973/97	IV.	09-07-97	IV-B ✓	43.
5.	Sneha Saikia,	4974/97	IV.	23-07-97	I-A ✓	---
X 6.	Roseleen Ahmed,	4982/97	I.	05-06-97	IV-B ✓	36.
7.	Anju Baruah,	4991/97	IV.	09-06-97	III-C ✓	40.
8.	Bhaskarjyothi Bhuyan,	4993/97	IV.	09-06-97	II-B ✓	38.
9.	Aakash Sinha,	4994/97	IV.	10-06-97	III-C ✓	41.
10.	Geetesh Pandey,	4997/97	IV.	10-06-97	II-C ✓	40.
11.	Anu Pandey,	4999/97	IV.	10-06-97	III-B ✓	43.
12.	Animesh S. Rathode,	5005/97	IV.	19-06-97	V-A ✓	44.
13.	Faraz Ahamad,	5008/97	IV.	04-07-97	VI-B ✓	46.
14.	Saumitra S. Bhuyan,	5010/97	IV.	09-07-97	VIII-A ✓	42.
15.	Santanu Kaushik,	5011/97	IV.	09-07-97	XII-SC ✓	36.
16.	Jayshree Baruah,	5013/97	IV.	10-07-97	II-A ✓	42.
17.	Gaurav Mal,	5014/97	IV.	11-07-97	IX-A ✓	46.
18.	Rajdeep Singh,	5019/97	IV.	31-07-97	V-B ✓	48.
19.	Jyothirmoy Mohanti,	5023/97	IV.	17-07-97	IV-A ✓	43.
20.	Silpa Das,	5033/97	IV.	17-07-97	I-C ✓	32.
21.	Zeenath Aman Khatoon,	5036/97	IV.	08-07-97	V-C ✓	48.
22.	Sabita Kumari,	5119/97	IV.	08-07-97	VIII-A ✓	41.
23.	Priyanka Ray Kanwar,	5126/97	IV.	27-07-97	V-C ✓	50.
24.	Chinmoyi Borah,	5128/97	IV.	30-07-97	I-B ✓	37.
25.	Bhargav Borah,	5129/97	IV.	31-07-97	I-B ✓	38.
26.	Sangeeta Rai Konwar,	5130/97	IV.	31-07-97	III-A ✓	42.
27.	Samar Das,	5133/97	IV.	31-07-97	I-A ✓	38.
28.	Kakoli Barman,	5135/97	IV.	30-07-97	I-A ✓	36.
29.	Chandrani Goswami,	5138/97	IV.	31-07-97	I-A ✓	33.
30.	Ambarish Chowdhari,	5139/97	IV.	30-07-97	I-A ✓	32.
31.	Anshuman Gogoi,	5142/97	IV.	31-07-97	II-C ✓	44.

Attested by

Krishna Chatterjee

Advocate

26/4/2002

1.	2.	3.	4.	5.	6.	7.
32.	Seema Kumari Jha,	5143/97	IV.	31-07-97	II-C	43.
33.	Ujaldeep Rai Kahwar,	5145/97	IV.	31-07-97	VIII-B	43.
34.	Rupam Sarmah,	5146/97	IV.	31-07-97	X-C	42.
35.	Pritam Sheeta Borah,	5149/97	IV.	31-07-97	I-A	40.
36.	Meenaka Chawdhary,	5151/97	IV.	31-07-97	V-B	50.
37.	Haman Das,	5152/97	IV.	31-07-97	I-B	33.
38.	Shabina Mehjabeen,	5153/97	IV.	31-07-97	I-B	39.
39.	Dhananjay Sah,	5154/97	IV.	31-07-97	I-A	42.
40.	Devanga Gaurav Borah,	5155/97	IV.	31-07-97	I-A	41.
41.	Madhusmitha Hazarika,	5053/97	IV.	23-07-97	XI-SC	60.
42.	Surajit Magumdar,	5050/97	IV.	28-07-97	XI-SC	61.
43.	Aayush Sinha,	5064/97	IV.	08-07-97	VII-C	43.
44.	Anurag Singh Rathore,	5069/97	IV.	05-07-97	VII-B	49.
45.	Pratim Dutta,	5078/97	IV.	04-07-97	II-B	40.
46.	Padmanabha Sengupta,	5103/97	IV.	05-07-97	VII-B	48.
47.	Rittick Sharma,	5106/97	IV.	07-07-97	VI-C	43.
48.	Rubi Kashyap,	5156/97	IV.	31-07-97	I-A	41.
49.	Zaid Ahmad,	5158/97	IV.	31-07-97	I-C	40.
50.	Jhankar Baruah,	5159/97	IV.	31-07-97	V-B	49.
51.	Aman Jyothi Gogia,	5161/97	IV.	31-07-97	II-B	45.
52.	Pallavi Sarmah,	5211/97	IV.	31-07-97	III-A	43.

Following students were admitted in different class on Kendriya Vidyalaya's Transfer Certificates over and above the sanctioned/ prescribed strength :-

Sl. No.	Name of student.	Admission number.	Category.	Date.	Class.	Transferred from K.V.	Enrolment on D.O.A.
1.	2.	3.	4.	5.	6.	7.	8.
1.	Sarmistha Das.	4978/97	IV.	25-06-97	VII-C	Tejpur	43.
2.	Ajaydeep Singh Gill.	5022/97	IV.	16-07-97	II-B	CRPF Guwahati	43.
3.	Kalyam Kr. Sarmah.	5030/97	IV.	17-07-97	IX-A	CRPF Guwahati	47.
4.	Priyanka Sarmah.	5029/97	IV.	17-07-97	V-C	CRPF Guwahati	49.
5.	Priyadarshni Pathak.	5120/97	IV.	29-07-97	II-A	CRPF Guwahati	41.
6.	Enayat Haque.	5080/97	IV.	03-07-97	IX-B	CRPF Guwahati	49.
7.	Prathapratim Mahanta	5084/97	IV.	26-06-97	II-A	CRPF Guwahati	39.
8.	Nilakshi Konwar.	5157/97	IV.	05-08-97	VI-B	CRPF Guwahati	---
9.	Amin Sultane.	5162/97	IV.	31-07-97	XI-B	CRPF Guwahati	---
10.	Pratiti Tamuly.	5164/97	IV.	04-08-97	II-B	CRPF Guwahati	44.
11.	Krishna Choudhary.	5196/97	IV.	14-08-97	V-B	CRPF Guwahati	51.
12.	Bimal Chawdhary.	5197/97	IV.	14-08-97	III-C	CRPF Guwahati	43.
13.	Pratysh Borah.	5205/97	---	20-08-97	I-C	CRPF Guwahati	38.
14.	Rithuraj Pathak.	5206/97	IV.	20-08-97	XI-C	CRPF Guwahati	64.
15.	Ananya Borah.	5207/97	IV.	18-08-97	II-A	CRPF Guwahati	43.
16.	Md. Sarfaraz Hussain.	5217/97	IV.	09-09-97	VI-B	CRPF Guwahati	---
17.	Sansriti S. Chawdhary.	5234/97	IV.	10-11-97	IV-A	CRPF Guwahati	42.
18.	Sushriti Nahardeka.	5222/97	IV.	04-10-97	VI-C	CRPF Guwahati	49.
19.	Sapna Baruah.	5237/97	IV.	13-11-97	V-C	CRPF Guwahati	50.

Thus Shri N.D. Bhuyan, Principal has committed a serious misconduct in violation of Admission Guidelines by giving 71 admissions i.e. 52 fresh admissions and 19 on the

Attested by
Krishna Chatterji
Advocate
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Basis of Kendriya Vidyalaya Transfer Certificates in the school without taking approval from the Competent Authority when the strength in each class was above the prescribed limit of 32 students except in 3 to 4 cases. Thus he has misused his powers and violated Rule-3(1) (i), (ii) and (iii) of Central Civil Services (Conduct) Rules, 1964 as extended to the employees of the Kendriya Vidyalaya Sangathan.

ARTICLE-II.

That Shri N.D.Bhuyan while working as Principal in Kendriya Vidyalaya, Khanapara during the academic year 1997-98 admitted under mentioned 09 students of Category-IV in different classes who failed to qualify the Admission Test :-

No.	Sl. No.	Date of admission.	Name of Student.	Occupation.	Class.	Enrolment on D.O.A.
1.	2.	3.	4.	5.	6.	7.
1.	4967	04-06-97	Swati Shree	Business.	II.	34.
2.	4973	09-07-97	Bikram Choudhary	Business.	IV.	43.
3.	5036	08-07-97	Zenath Aman Khatoon	Business.	V.	48.
4.	5151	31-07-97	Meena Chowdhan	Business.	V.	50.
5.	5019	31-07-97	Rajdeep Singh	Business.	V.	48.
6.	4991	09-06-97	Anju Baruah	State Govt.	III.	40.
7.	4997	10-06-97	Geetesh Pandey	State Govt.	II.	40.
8.	4999	10-06-97	Anu Pandey	State Govt.	III.	43.
9.	5119	08-07-97	Sabita Kumari	State Govt.	VIII.	41.

Thus Shri N.D.Bhuyan, Principal has violated Admission Guidelines and also committed a misconduct in violation of Rule-3(1) (i), (ii) and (iii) of Central Civil Services (Conduct) Rules as extended to the employees of Kendriya Vidyalaya Sangathan.

ARTICLE-III.

That the said Shri N.D.Bhuyan while working as Principal in Kendriya Vidyalaya, Khanapara during the academic year 1998-99 denied admission to Sumit Dey in Class-I, the son of Shri Sajal Chaudhary Dey, an employee of A.G. Office and has one transfer in 07 years (Category-I). He was deliberately classified as Category-III and the

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 Advocate
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Principal willfully wrote on the application form as "absent" on the date of interview whereas the child was interviewed by the Admission Committee and he was awarded 39 marks.

The remarks of Principal in Application Form No. 306 Registration No. 180 of Shri Sumit Dey indicates that Principal has wilfully marked absent on the application form for not permitting the child to appear in the interview for admission.

Thus Shri N.D.Bhuyan, Principal has committed a misconduct by violating Rule-3(1) (i), (ii) and (iii) of Central Civil Services (Conduct) Rules, 1964 as extended to the employees of Kendriya Vidyalaya Sangathan and also has violated Admission Guidelines issued by Kendriya Vidyalaya Sangathan.

ARTICLE-IV.

That Shri N.D.Bhuyan, Principal during his stay in Kendriya Vidyalaya, Khanapara during the year 1997 to 1999 misused his powers in operation of Pupil Fund. After his joining on 11-01-97 he dissolved all the Committees that were existing in Kendriya Vidyalaya, Khanapara vide his order dated 22-11-97 except Examination Committee and School Bus Committee. Then vide his order number NIL dated NIL he authorised Shri C.D.Rathore, Head Clerk, Kendriya Vidyalaya, Khanapara as convener of Pupil Fund Committee and to sign the cheque as a Cosignatory. He ignored all the P.G.Ts. of the school and made purchases from Pupil Fund ignoring the instructions contained in Article-197 and 198 of Accounts Code for Kendriya Vidyalaya Sangathan.

11.1.97
Dissolved

Thus Shri N.D.Bhuyan, Principal committed a serious misconduct in violation of Articles-197 and 198 of Accounts Code and Rule-3(1) (i), (ii) and (iii) of Central Civil Services (Conduct) Rules, 1964 as extended to the employees of Kendriya Vidyalaya Sangathan.

ARTICLE-V.

That Shri N.D.Bhuyan during the academic year 1997-98 made purchases of different items worth Rs.1,03,702/- from Pupil Fund and of Rs.4,12,086/- from School Fund without following the purchase procedure as laid down in Chapter-17 of Accounts Code for Kendriya Vidyalayas. He made the following purchases from Pupil Fund during the year 1997-98 by totally ignoring the purchase procedure. :-

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Sl. No.	Voucher number and date.	Amount paid(Rs).	Cheque Number and date.	Expenditure incurred on items.
1.	NIL (CBP-107).	7764.00	253254 / 26-02-97	Printing of Question paper.
2.	NIL (CBP-12).	30510.00	164716 / 24-12-97	Printing of Question paper.
3.	63 (CBP-13).	20678.00	164717 / 24-12-97	Belts etc. for selling to students.
4.	67 / 13-01-98.	5250.00	176221 / 13-01-98	Waste paper basket
5.	72 / 29-01-98.	1900.00	176226 / 29-01-98	Excide battary.
6.	82 / 19-02-98.	1000.00	176235 / 19-02-98	Opening of closed windows/repairs.
7.	88 / 25-02-98.	25650.00	336403 / 25-02-98	Exam items.
8.	01 / 04-04-98.	3500.00	336417 / 04-04-98	Repair of school's Main gate.
9.	74 / 29-01-98.	1000.00	176228 / 29-01-98	Display board glass etc.
10.	76 / 22-12-97.	1400.00		Exam items.
11.	89 / 25-02-98.	4000.00	336404 / 25-02-98	Oil paintings of great leaders.
12.	97 / 26-03-98.	1050.00	336413 / 25-03-98	Teaching aids.

TOTAL = 103702.00

Term "CBP" stands for "Cash Book Page No.".

The under mentioned expenditure has been incurred from School Fund by Shri N.D.Bhayan without following the prescribed purchase procedure :-

Sl. No.	Voucher number and date.	Amount paid(Rs).	Cheque Number and date.	Expenditure incurred on items.
1.	22 / 19-06-97.	8500.00	301134 / 19-06-97	Steel furniture.
2.	23 / 20-06-97.	1715.00	301136 / 20-06-97	Contingency items.
3.	31 / 09-07-97.	2250.00	301157 / 09-07-97	Furniture from M/S Samrat Furniture House.
4.	42 / 30-08-97.	6700.00	855065 / 30-08-97	- - -
5.	44 / 02-09-97.	36000.00	855071 / 02-09-97	- - -

Checked by
 Krishna Chellai
 Advocate
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6	50 / 22-09-97.	15531.00	855085 / 22-09-97	Science items from M/S Brightway Store
7.	61 / 20-10-97.	2949.00	901365 / 20-10-97	Electrical goods.
✓ 8.	66 / 13-11-97. ✓	19800.00	901392 / 13-11-97	Furniture (Modal School Fund) from M/S Rat Furniture.
✓ 9.	68 / 24-11-97.	24960.00	901402 / 24-11-97	Hexagonal M/S Samrat Furniture (Modal School Fund) from Rat Furniture.
10.	69 / 24-11-97.	1575.00	901403 / 24-11-97	Furniture from Ajanta Furniture.
11.	70 / 24-11-97.	3000.00	901404 / 24-11-97	Steel Furniture from M/S Master Furniture. M.V.
12.	101 / 03-01-98	18870.00	953111 / 03-01-98	Steel furniture from Samrat Furni- ture. M/S
13.	102 / 03-01-98	9532.00	953114 / 03-01-98	Office stationery.
✓ 14.	110 / 22-01-98 ✓	39600.00	953127 / 22-01-98	Furniture from M/S Samrat Furniture.
15.	111 / 22-01-98	10400.00	953128 / 22-01-98	Furniture from M/S Ajanta Furniture.
✓ 16.	118 / 20-02-98	30240.00	953128 / 22-02-98	Furniture from M/S Rat Furniture.
17.	125 / 28-02-98	4950.00	953164 / 28-02-98	Teaching aids. B
18.	131 / 16-03-98	7200.00	953179 / 16-03-98	Furniture from M/S Samrat Furniture. P
19.	132 / 16-03-98	3381.00	953180 / 16-03-98	Science equipment & from M/S Brightway Store.
20.	138 / 31-03-98	4931.00	953191 / 31-03-98	Spl. cont items.
21.	141 / 31-03-98	5000.00	953196 / 31-03-98	Sports items from M/S Verma Brothers.
22.	142 / 31-03-98	18600.00	953197 / 31-03-98	(Complete voucher not produced).
23.	143 / 31-03-98	18000.00	953198 / 31-03-98	Fixing submeters.
24.	144 / 31-03-98	5500.00	953199 / 31-03-98	Glass fitting and Cement work from M/S Ritika fabri- cation.
25.	146 / 31-03-98	6100.00	858351 / 31-03-98	Steel Almirah from M/S Master Fabrica- tions.
✓ 26.	150 / 31-03-95	93652.00	858355 / 31-03-98	A.C & Stabilizer.

2 nos.

Attested by

Kaishre Chellai

Advocate

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27.	151 / 31-03-98	16150.00	858356 / 31-03-98	Latest vinigel flooring for computer room.	vin M
28.	152 / 31-05-98	7000.00	858357 / 31-03-98	Compact table from M/S Methodox.	Cur
=====					
TOTAL =		422086.00	=====		
=====					

Shri N.D.Bhuyan, Principal has purchased all the above items without taking approval from Competent Authority. He also purchased the items in piece male and violated the purchase procedure laid down in Chapter of Accounts Code for Kendriya Vidyalayas where in it is clearly mentioned that a consolidated list should be prepared before making the purchase.

Thus by this misconduct Shri N.D.Bhuyan has committed a misconduct in violation of purchase procedure laid down in Chapter-17 of Accounts Code for Kendriya Vidyalayas and Rule-3(1) (i), (ii) and (iii) of Central Civil Services (Conduct) Rules, 1964 as extended to the employees of Kendriya Vidyalaya Sangathan.

ARTICLE-VI.

That Shri N.D.Bhuyan while functioning as Principal during the year 1997-98 drawn conveyance allowance amounting to Rs.13,142/- as a matter of regular practice for visiting Kendriya Vidyalaya Sangathan, Regional Office, Guwahati / Assistant Commissioner's residence and other offices without taking approval of the Chairman, Vidyalaya Management Committee and without submitting Attendance Certificate in support of his claims. The following amount has been drawn towards conveyance by Shri N.D.Bhuyan on the basis of vouchers on plain paper wherein only the amount received towards conveyance on a plain paper is written :-

=====					
Sl. No.	Vr. No.	Amount. (Rs.)	Cheque number	Purpose for which conveyance is claimed.	
=====					
1.	03	264.50	821682 / 28-04-97	For visiting AC's office & residence in April, 97.	✓
2.	04	376.35	821697 / 08-08-97	For visiting AC's office & residence in April and May, 1997.	✓
3.	07	954.00	301108 / 20-05-97	Local journey in April & May, 1997.	

Witnessed by

Krishna Chatterjee
Advocate
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4.2	10	341.00	301120 / 04-06-97	For School duty during May and June, 1997. ✓
5.	26	500.00	301149 / 01-07-97	Official duty in June, 97 ✓
6.	32	600.00	301103 / 23-07-97	Official duty in July, 97 ✓
7.	35	410.00	201183 / 06-08-97	Official duty for the month of July, August, 97
8.	39	529.00	301196 / 16-06-97	Official duty for August 1997.
9.	47	851.00	855080 / 'NIL'-97	Conveyance charges for the month of August and September, 1997.
10.	58	871.00	901359 / 17-10-97	Official work for September and October, 1997.
11.	67	196.00	901393 / 18-11-97	Official duty for November, 1997.
12.	74	347.00	901408 / 26-11-97	Official duty for November, 1997.
13.	79	335.00	901428 / 05-12-97	Official duty for December, 1997.
14.	81	576.00	901430 / 16-12-97	Conveyance Charges for December, 1997.
15.	90	495.00	901443 / 20-12-97	Conveyance charges for December, 1997.
16.	94	761.00	----- / 27-12-97	Conveyance charges for December, 1997.
17.	103	437.00	953115 / 08-01-98	Conveyance charges for December, 97 & January, 98
18.	106	616.00	953120 / 12-01-98	Conveyance Charges for January, 1998.
19.	107	1000.00	953122 / 19-01-98	Conveyance charges for visiting Laitkar Peak on 30-01-98 for enquiry by own car AS01/C 2000. <i>minst-26</i>
20.	112	1000.00	953130 / 31-01-98	Conveyance for official duty for November, October, 1997 & January, 1998.
21.	114	782.00	953139 / 18-02-98	Official work for the month of February, 1998.
22.	145	900.00	953200 / 31-03-98	Official work for the month of February, March 1998.

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TOTAL = 13141.85

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Attested by

Kishore Chellu
Advocate
26/4/2002

For the above claims Shri N.D.Bhuyan, Principal has neither furnished the approval of Chairman, Vidyalaya Management Committee nor has submitted the Attendance Certificate. Further the amount received indicates that for each month amount has been claimed on different dates for more than two or three times.

Thus by this act Shri N.D.Bhuyan, Principal has violated S.R. 89 and Para-24 (Note) contained in Appendix-14 of Accounts Code for Kendriya Vidyalayas and Rule-3(1) (i), (ii) and (iii) of Central Civil Services (Conduct) Rules, 1964 as extended to the employees of Kendriya Vidyalaya Sangathan.

ARTICLE-VII.

That Shri N.D.Bhuyan while functioning as Principal in Kendriya Vidyalaya, Khanapara during the year, 1997-98 misused the Minor Repair Fund of Rs.1,06,000/- by utilising Rs.49,315/- on purchase of Sub-metres and rest on electric work and minor day today repairs without taking approval from the Chairman, Vidyalaya Management Committee as well as M.E.S./ C.P.W.D./ P.W.D. and other Govt. Construction Agency who are the deputed authorities for maintenance of school building. Shri Bhuyan deposited Rs.57,485/(Rs.28,805 + Rs.28,650) with the construction agency and Rs.49,315/- was used by him on day to day repair and Rs.18,000/- for purchase of Sub-metres for staff quarters. It is also observed that an amount of Rs.18,000/- have been incurred from Pupil Fund also for fixing submetres etc. which indicates that not Rs.18,000/- but Rs.36,000/- has been incurred on purchase of Sub-metres by violating instruction contained in letter number F.8-10/95-KVS(W-I) dated 30-10-95 and Rule-3(1) (i), (ii) and (iii) of Central Civil Services (Conduct) Rules, 1964 as extended to the employees of Kendriya Vidyalaya Sangathan.

ARTICLE-VIII.

That the said Shri N.D.Bhuyan while functioning as Principal at Kendriya Vidyalaya, Khanapara during the academic year, 1997-98 made contractual appointment of the following persons without following the procedure and without taking "No Objection Certificate" from the Assistant Commissioner concerned and without obtaining roster position:-

Attended by
Krishna Chellu
Advocate
26/4/2002.

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- 1) Mrs.R.Dey (Maths) 14-07-97 to 12-09-97.
- 2) Mrs.M.Baruah (English) 15-07-97 to 01-09-97.
- 3) Mrs.S.M.Baruah (English) 15-07-97 to 30-04-98.
- 4) Mr.B.C.Deka (Physics) 19-08-97 to 30-04-98.
- 5) Mrs.N.Zaman (English) 19-08-97 to 20-01-98.
- 6) Mr.R.Roy (Commerce) 01-11-97 to 02-01-98.

By this act Shri N.D.Bhuyan, Principal has committed a misconduct in violation of instructions issued from Kendriya Vidyalaya Sangathan (Headquarters), New Delhi from time to time and Rule-3(1) (i), (ii) and (iii) of Central Civil Services (Conduct) Rules, 1964 as extended to the employees of Kendriya Vidyalaya Sangathan.

Assessed by

Kaishor Chatterji
Advocate

26/4/2002

LIST OF DOCUMENTS BY WHICH THE ARTICLES OF CHARGES ARE PROPOSED TO BE SUSTAINED AGAINST SHRI N.D.BHUYAN, THE THEN PRINCIPAL, KENDRIYA VIDYALAYA, KHANAPARA, GUWAHATI (NOW PRINCIPAL, KENDRIYA VIDYALAYA, A.F.S., DIGARU).

1. 71 applications of students who were admitted during the academic year 1997-98 (52 on Non-Kendriya Vidyalaya Transfer Certificates + 19 on Kendriya Vidyalaya Transfer Certificates).
2. Statement of marks awarded to 09 students who got admission in different classes without clearing the Admission Test.
3. Application of Master Sumit Dey whose admission was willfully not considered by Shri N.D.Bhuyan, Principal.
4. Copy of rotation note wherein all the committees framed for different purposes have been cancelled.
5. Copy of articles 199-198 of the Accounts Code for Kendriya Vidyalayas.
6. 12 vouchers of different items purchased by Shri N.D.Bhuyan, Principal at a cost of Rs.1,03,702/- from Pupil Fund.
7. 18 vouchers of different items purchased by Shri N.D.Bhuyan, Principal at a cost of Rs.4,22,086/- from School Fund.
8. Copy of Chapter-17 of the Accounts Code for Kendriya Vidyalayas.
9. 22 vouchers of Conveyance allowance drawn by Shri N.D.Bhuyan, Principal amounting to Rs.13,142/- during the year 1997-98.

10. Copy of S.R. 89 and Para-24 (Note) contained in Appendix-14 of the Accounts Code for Kendriya Vidyalayas.
11. Copy of Cash Book of School Fund and Pupil Fund for 1997-98.
12. Copy of letter number F.8-10/95-KVS(W-I) dated 30-10-95.
13. Pay-Bill indicating the appointments of contractual appointees.

Offered by

Kantshree Chatter

Advocate

26/11/2002

Ref: F. NVD/Confidential/99-2000/102 dated-07-7-99

To
The Commissioner,
Kendriya Vidyalaya Sangathan, (HQ)
18, Institutional Area
Shaheed Jeet Singh Marg
New Delhi-110016.

DATED: 07/7/99

Subject : Written statement filed by Shri N.D. Bhuyan, Principal
K.V. I.A.F. Digaru, Sonapur, Assam in response to the
memorandum vide No. 8-61/98-KVS dated 22-6-99.

Respected Sir,

This is to inform you I have received your letter at 11-15 a.m. on 29/6/99. I have gone through the articles 16 contained in memorandum and I hereby submit my written statements article wise as under.

I joined in K.V. Khanapara as Principal on 11-10-97 and relieved on 16-12-98 in absence when I was on medical leaves w.e.f. 8-11-98 to 8-12-98 and 10-12-98 and 17-12-99. I would like to reply article wise as required by your honourable office, vide letter No. 86-1/98-KVS(HQ) dated 22-6-99. Whatever I am recording here from my memory without relevant files with me, based on truth and knowledge and on experience as Principal and P.G.T. is for long 32 year in KVS in different states, in side and out side of Assam (From 1966 till to day).

ANNEXURE I

ARTICLE -I, II & III

Class XI(Sc & Arts) admission of K.V. Khanapara in 1997 and 1998 were done through admission committee of class teacher of class XI(Sc. & Arts) & Vice-Principal as incharge. They prepared lists of eligible candidates as per norms and students were admitted. Every year 55 to 60 students have been admitted as per XI class admission rule from the large number of candidates in this K.V. The two particulars students (One which was a Sci. candidate) were admitted. It was observed that previous years some students after admission leaving the K.V. got admitted in other colleges out side Assam reading the strengths. So the above student admitted as per admission rule. On the other hand maximum limit of admission is not specified in the Sangathan circular for class XI admission.

So I deny charges (i), (ii) & (iii) of C.C.S. rules as alleged admission test, from class onward conducted by the examination incharge, as per guide lines. The list of qualified candidates were prepared by i/c Exam. Eligible candidates from the list were admitted as per the priority after proper verification. Category I & cat. II candidates were very few, so next eligible candidates were admitted, from lists of i/c Exam. Regarding the particular child who was

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Kishore Chatterjee
Advocate

26/4/2002

Contd...2/-

allegedly kept absent and on date of test where as the child was found to appear the test scoring 39 marks. Since details of class in which he appeared was not mentioned, it is difficult to comment in this case. The parent did not meet me, nor he ~~complaint~~ in this complained about this allegation. It might be that he did not produce other relevent papers.

So I was not violating rules, 3(i), (i), (ii) & (iii) of the C.C.S. rules of 1964, as alleged.

ARTICLES - IV & V

When I joined, the K.V. Khanapara was in chaos with student indiscipline without class teachings. In fighting among some teachers and employees escalated the indiscipline in the K.V. damaging the image of the K.V. there was no administration in the K.V. Khanapara, complaints from the parents and students were flushed in the local media. The school building was in a dilapidated condition without electricity and drinking water properly.

Since 80% members of staff being locals serving 15 to 20 years in the same K.V. Khanapara dominated the whole administrations of the K.V., All committees were formed among themselves and no nonlocal teachers were included in the committees, so a great resentments and misunderstanding cropped up, which damaged the smooth running of the K.V., Parent, students complained me. I found, some teachers intentionally left the classes sitting idly leaving the campus without working sincerely and they will fully disturbed the office administration. So I dismissed all committees except examination and bus committee. The P.F. committee was also not properly functioning in this K.V. and it was run by two teachers without doing any work for the benefit of the student. Even they did not like to spend the amount for sending the athletic contingents, debing students squads in the regional and National meet. The Principal had to waste a lot of time to make expenditure of P.F. as per K.V.S. letters. So, I had to take the help of serious and sincere teachers for the smooth works of the Vidyalaya.

Regarding School Fund and the model K.V. Scheme fund in 1997, 1998 the purchase procedure was strictly followed as per KVS for School Fund from KVS (RO) Guwahati and M. K.V. scheme as per directions and specification contained in the direct KVS (HQ) letter for expenditure of M K.V. scheme from the Joint Commissioner K.V.S. (HQ) (M.K.V. monitoring cell).

M. K.V. Fund was received only at the last week of March 1997 and we had to spend the amount in the same financial year ending 31.3.97 and we were instructed to send the utilizing certificates immediately. So we have to purchase the articles mentioned the K.V.S (M) letter of M.K.V. with specification of models and direction.

Alleged
Patel
Advocate
 21/6/2002
 Contd- 03

Quickly following the K.V.S. rule procedures of K.V.S. We have to complete the procedures in a week, and we sent the utilization certificates with details of purchased articles & prices, to the Joint Commissioner KVS(HQ), i/c M.K.V. schemes, Mr. Puran Chand, (It is to be noted that till date in 1997, no V.M.C. K.V. Khanapara was constituted w.e.f. 1991). The cheques were signed by the A.C. K.V.S. (R.O.) Maligaon.

Then I left for model K.V. Principal's conference held in N.C.E.R.T. Delhi campus w.e.f. 07.4.97 to 12.4.97. In series of meetings with commissioner & Joint Commissioner, E.O., Executive Engineer, KVS(HQ), we discussed the purchase procedure about the scheme and its implementation, so there is no scope of violating C.C.S. rules (i), (ii), & (iii) 1964 as alleged.

Regarding other purchases School of Fund all materials and articles were purchased through the departmental head by following KVS rules of K.V.S.. Office contingencies were purchased by the office people following rules of KVS. Since the K.V. Khanapara is away from main market the office was unable to purchase the bulk items for whole year as farm never supplied the things of huge amount on cheque.

~~Regarding other purchases School of Fund~~

In 1997 also, purchase of molded chairs, hexagonal tables, for classes I & II and A.C. with stabilizers (2 set) computer tables, venyle floor covering etc. for the computer room for the "M.K.V. class ^{project} computer scheme" had also been done against the M.K.V. fund received directly by the KVS(HQ) in the 2nd instalment, as per specifications guidelines contained in the KVS letter from the Joint Commissioner. In this purchase also ~~the~~ I did not violate (i), (ii) & (iii) C.C.S. rules as alleged. Regarding Pupil Fund expenditure maximum amount was spent for offset printing of question paper for Half yearly & Annual Examination in 1997 and 1998, as per rules for expenditure of printing question paper confidentially. As per KVS (HQ) letter dt. 1980, Principal is empowered to print question paper himself with top secrecy & standard. For other printing, say, Answer scripts etc. in 1997-98, it was done by examination i/c of K.V. Khanapara, So, on the above circumstances there was no scope for me to violate the rules of (i), (ii) & (iii) of C.C.S. rules 1964, as alleged.

ARTICLE VI & VII

Principal had to work hard for the smooth running of the teaching work besides restoring proper environment for which the Principal had to meet A.C., Chairman, different firms, and establishment news paper office different Principals, C.E.W.D. office in

Attested by
Kishor Chatterjee
Advocate
26/4/2002

Contd...4/-

1997-98 for the development of School building and welfare of the student and teacher. The Principal was claiming only actual expenditure by his own vehicle. The Principal never submitted the TA/DA for serving as member of the inspection team and attending conferences in 1997-98, he only claimed actual expenditure as per the instruction of the Act. Deptt KVS(G.R.). I discussed with Act department KVS(G.R.).

So the expenditures by my own vehicles for 2 years, are justified if it is properly calculated, and it was for the development of this deteriorating K.V.. This K.V. is 9 Km. away from the main city, and it was very urgent to use vehicle. It has got approval of the Chairman V.M.C. Visits of AC's Residence at K.V. C.R.P.F. were done for important discussion. I have got attendance certificates of concerned Principals of K.V.'s, inspected. As such I deny the charges 1(i), (ii) & (iii) of C.C.S. rules 1964, as alleged. Perhaps the concerned clerks could not properly produce the vouchers with proper calculation.

ARTICLE -VIII

K.V. Khanapara having large number of students in XI & XII (Sc, Art & Commerce) 1997 with vacancies, PGT(Math, English & Commerce), for which it was very urgent to fill up the posts with contractual basis in 1997-98 while we did not receive the NOC from Regional head quarter, parents & the Chairmen pressed me to fill up teachers early. Math, English, Commerce P.G.T.s are vital teachers for the XI and XII class students. I personally approached the then A.C. Dr. Rakesh and the Chairman V.M.C. himself urged the A.C., to issue NOC for greater interest on A.C.'s instruction only I advertised the posts and made appointment through proper V.M.C. interview committee for the benefit of the students. It was very urgent to fill up the vacancies for the smooth running of classes. The fact may be verified from the then Chairman V.M.C., Dr. B. Bergehain I.A.S. the secretary Govt. of Assam. It is a routine duty of Principal to see the benefit of the students. So I did not violate the instructions of KVS(HQ) as alleged in this article. The KVS(RO) Office, Guwahati Region, did not ask any thing about this matter. Nor it appreciated about my sincerity and hard work extinguishing a big fire of resentment and discontentment of elite parents and public of Guwahati city. Now my happiness is the result of C.B.S.E '98-99 of K.V. Khanapara (of my period) is extremely good. Should I not get laurels from KVS? I deny the charges all charges of rules 3.1. (i, ii, iii) C.C.S 1964 as alleged in this article.

Attested by
Bishnu Chellu
Advocate
26/4/2002.

P.T.O

I would like to state again, that I have already mentioned that admission tests were held by the examination committee and papers were examined by the teachers allotted by i/c Examination and list of qualified students were prepared by the i/c Exam. Since, the details are not with me and I have been relieved from the K.V. Khanapara I cannot explain properly. As per admission KVS (HQ) guideline Principal is authorised to admit up to 40 students in N.E. States in class I. Regarding class II onward candidates were qualified, as per list provided by the Examination i/c and vacancy positions provided by the class teachers. It is surprising to me to see the lists. There might be some mistakes in some where. Without examining the cases in the file, it is not possible to correct right now. Regarding the K.V. T.C., no approval is needed from competent authority. So I am not violating rules of KVS as alleged in this article.

ARTICLE - II

It is already stated that admission were done from the list of the qualified students prepared by the i/c Examination, this may be verified, I have not done such mistakes and no body even i/c Examination or class teacher ^{but to me.} I feel in this matter I did not violate & relevant rules as alleged.

ARTICLE - III

Master Sumit Dey was admitted later. This case is known to me, Class I registered candidates were interview by the interview committee. Primary teachers, to headed by the Head master and supervised by a senior T.G.T. This case was investigated and found from the file that, he was not present in interview meant for cat-I but ^{he did not} appeared in interview board of cat.III. As per the members of interview committee, he did not submit the relevant papers of transfer from his officer, with seal. Later on after a week he submitted the proper documents and his name was enlisted in cat-I list. Later on Master Sumit was admitted. This case was ^{informed} found to the E.O., KVS (G.R.). The E.O., enquired about this case as I re member So it was the mistake of the candidates.

Approved by
Rajendra Chatterjee
Advocate
26/4/2002

Contd.... 06

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I never agree that, it was done "deliberately" and "willfully" while I scrutinised finally, after getting the admission forms of cate-I after interview, his name was not recorded in interview papers of cate-I, by the committee members, so perhaps I wrote "rejected". So many cases were like that. It is my procedure to ^{as a small} identify the big bulk of candidates. Newly 250/300 candidates registered for class I and interview for 2 days by eight Primary teachers.

ARTICLE - IV & V

Already I mentioned earlier in the article, that while I joined in this vadyalaya on 11-1-97, there was no alternative there to be dissolved. Actually there were no committees for worth saying, many many teachers approached me to change the committee as few local teachers P.G.T. & T.G.T., dominated the committees without any work. They never worked, but quarreling each other. It was observed in constraints that nonlocal T.G.T./P.G.T.'s were not allowed to be in the committee. Different lobbies were working in the K.V. Khanapara for last 5/10 years. Doors, window, electrical filling fan, drinking water system, drainage system - all were dilapidated condition. No inspecting officers were allowed to inspect properly by there opposition. They very often disturbed the Principal to work. I worked in this K.V. in 1968-74 as P.G.T. and 1982-83 as i/c Principal having vast experiences in this K.V. Parents & whole public of Guwahati is aware of ~~xxx~~ it. Even the A.C. KVS(R.O) office knew about this K.V. last 9 years no internal audit took place. Pupil Fund Committee, bus committee etc. are running last 10 years without any change. Whole school campus became unhygienic with zagas with stagnation of water, no doors and windows were in all 48th class rooms. The old iron gate were not working, the approached roads were always under water in rainy days, electrical fan out of order in all classes, partition walls were broken, lifting water pump set were defective due to the short circuit of the whole electrical wiring system with high risk, followed by constant warning from ASEE engineers. The ~~xxx~~ C.P.W.D. agency did not care about the above environment and condition of the building and its infrastructure. So Principal had to be hard in the administration to get the things quickly to restore the minimum and very important facilities to the ~~xxx~~ student & teacher with help of very sincere serious member of staff. M

Unfortunately no V.M.C. K.V. Khanapara ~~xxxx~~ were not constituted till May 1997. The new V.M.C. K.V. Khanapara was formed in June with Chairman Dr. B. ~~xxxx~~ Gehain I.A.S., The Commissioner, Edn. Govt. of Assam after 1992. The A.C. KVS(RO) signing the cheques.

Heard by
Keishre Chatterjee
Advocate
26/4/2002

Contd.... 7

I requested very often, the then A.C.(RO) Guwahati, Dr. Rekes, to visit our K.V. in New look but he was either so busy or very often on leave. Our chairman Dr. D.K. Gohain I.A.S., whose daughter^{was} also our student of class XI(Sc), ~~he~~ had asked him to visit the school, and he even requested, Mr. Pandey I.A.S, I/C Commissioner KVS(Head Quarter) about the long standing situation, but, sincerely KVS(RO) ,Guwahati did not ~~varifiy~~ ^{verify} from the Chairman and elite parents^{about it}. To ~~run~~ ^{run} the administration. I was bound to nominate Mr. C.D. ^{about it} Pathok(Not Mr. C.D. Rathar as mentioned in your letter) the H/C as co-signatory very effectively with full responsibility as Principi, as per the Suggestion of the Chairman. While the local PGT, TGT's threatened the non-local teachers to be included in the P.F. Committee. My aim was to restore the administration, as I am local and know the nerves of the local teachers. It is the extreme and vindictive comment that I ignored those PGT and TGT's. It can be verified from the non-local teachers. Regarding P.F. expenditures - maximum expenditures were in the printing of question papers of 14 hundred students in H.Y. Examination and annual examination for 2 years. Other big expenditures were as KVS athletic Junior, Sub-Juniors and Senior and Regional and National meets, games and sports as per KVS(RO) Sports meet Circular and Scout and guides. Other expenditures were for annual day and annual sports day, - rest were pity expenditure of electrical fittings. Other expenditures were repairing of electrical connections, small plumbing works and repairing and over hauling of water pump set for drinking water of overhead tank, and some renovating works and campus cleaning. All ~~these~~ ^{these} were and very urgent for day to day running of the classes. Other important work of

contd..p/2

Attested by

Krishna Chatterjee
Advocate

26/4/2002

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reparing of electrical connection ceiling fans, fixing electrical switch boards in all 48 classes, besides repairing old desks and benches. All these works of electricity reached the total expenditure of Rs. 15,000/- to 18,000/- Regarding other works of drainage system, renovating approach road, overhauling of staff quarter- drinking water pump set of 10 H.P., street light reparing and fitting were done by the Banjathian annual maintenance fund as per the KVS(Head Quarter) letter and C.P.W.D. estimates.

School Fund- includes ~~from~~ for two funds one from sanctioned recurring Fund Laboratory equipments, chemicals ^{of} laboratory, furniture, teaching aids, library sports and games all

were purchased through the Departmental Heads. Office contingencies by the office through procedures.

Second Fund for Modal K.V. Scheme received directly from KVS(Head Quarter) with specification and direction in 1997 and 1998. These were done as per KVS(H.Q.) , M.K.V. scheme- Circular, 97, 98. I have already detailed in the previous articles. These may be verified from the ^{files} ~~file~~ in the

office Regarding drainage system in the campus, expenditure of Rs. 12,000/- was done KVS(HQ) reparing fund. As per the

suggestion of C.P.W.D E/E(C) the work was completed by V.M.C. through the Principal, on C.P.W.D. estimate and approved by the Chairman V.M.C. It is to be mentioned that we have got sanctioned from KVS(HQ) ~~letter~~ when we

sent all papers ^{for approval} to the Commissioner KVS(HQ) New Delhi. So

I personally discussed this matter with Mr. Saxena the E/E KVS(H.Q.). So all procedures were followed.

Attested by
Kishore Chatterjee
Advocate
26/4/2002 -

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Other expenditures of fixing electrical Sub-Meters in the Staff Quarters in the campus, it was very urgent to reduce the electricity bills of thousand rupees. It was very urgent. The teachers' family consumed huge amount of units of consumption using ~~in heaters~~ ^{heaters} and other household work amounting Rs. 6,000/- to 1,000/- individually per month. Due to over load very ~~upon~~ ^{often} whole electrical circuit of the campus ^{became short circuited.} ~~short circuited~~. It was done through the Supervision of CPWD and A.S.E.B. and the M/S Golden Electrical firm, Guwahati, approved by C.P.W.D. & ASFB did this work as per C.P.W.D. estimate. The C.P.W.D. refused to do this work of Rs. 18,000/- for 20 quarters including labour charges. All these papers were ~~available~~ in the file.

Here I am to draw the attention of the Hon'ble Commissioner that the E.O. KV8(R.O.) office and two clerks visited our school on 29/7/98 and they examined all relevant files and papers of school fund and P.F. fund for three days upto 2 P.M. 31/7/98. During the three days, they did not ask a single word for my brief or otherwise. They met all teachers who were already polluted. They themselves took the files, recorded all files. Our office staff was very short. One U.D. was absent without information. One U.D. & H.C. ~~had~~ ^{had} to furnish things. Some important documents, files were in my custody. ~~file xxxxxxxxxx~~ They did not discuss or asked ^{me} for any ~~visit~~ files kept with me. While they visit ^{ed} they seemed to be vindictive having ill feelings ^{against} ~~with~~ me. The A.C. was on long leaves in July, 1997 and reached on 24/7/99 or so, ~~he~~ ^{he} met some members

Affected by

Kishore Chatterjee
Advocate

26/4/2002

concl. p/6

of staff before the above inspection. It is a fact that some lobby of so-called K.V.T.A. members in the mean time met A.C. and complained against me. They also organised some ill minded parents of Guwahati to move against me. Some news flushed through the Daily.. So I am sure inspection team of KVS(RO) was influenced by those people. ^{The} inspection was hurried and haphazard without confidence in me. It is also noted that I have been relieved in absentia on 16/12/98 without ^{Charges} charges being handed over to me. KVS(H.Q) Transferred order ~~dated~~ ^{New Delhi} dated 11/12/98 was received on 13/12/98 ~~xxx~~ at KVS(RO) office. The principal of KV, ~~Digaru~~ ^{Digaru} was received on 15/12/98 at night in presence of E.O. and admin officer KVS(R.O.), Guwahati and was made joined on 16/12/98 at 11 P.M. at K.V. Khanpara. The Principal Chamber was locked and sealed ^{at the same day} in presence of E/O and Admin officer KVS(RO), Guwahati in ^{front} ~~presence~~ of all teachers and students. I informed Your Hon'ble Office KVS(H.Q) New Delhi. This operations were carried at the instance of the then A.C. KVS(R.O.) ~~was~~ ^{of joining} Dr. M. Swamy who was transferred after 8 months. I would be grateful if you look after this point to find out the reality.

So I promised my full co-operation in further enquiry with all ~~deliberation~~ ^{deliberation} as sincere and long experienced principal of KV. But I denied all charges article wise as per C.C.S. ¹⁹⁶ rules ~~at~~ 3.1(1)(ii)(iii) as alleged. Regarding list of data of Annexure-1, II, III some mistakes have been observed. Example-M/S Ravi Furniture, G.S. Road, but Christan Basty Guwahati but not M/S 17th furniture in page No. 9

contd..p/2

Witnessed by
Krishna
A.D. Bhupar
Principal KV AFS
Digaru
26/4/2002
PO Sonapar
Assam
07/7/99

CONFIDENTIAL
SPEED POST

KENDRIYA VIDYALAYA SANGATHAN
18 INSTITUTIONAL AREA
SHAHEED JEET SINGH MARG
NEW DELHI-110016.

(11)

F.B-61/98-KVS[VIG]/

DATED: 25/9/2000

MEMORANDUM

WHEREAS disciplinary proceedings under Rule 14 of CCS [CCA] Rules, 1965 were initiated against Shri N.D.Bhuyan, Principal Kendriya Vidyalaya Digaru, formerly at K.V Khanapara. vide memorandum of even number dated 22-06-1999.

WHEREAS Shri N.D.Bhuyan, having denied the charges, Smt. Tilottama Barooah Consultant KVS (NE Region) was appointed as Inquiry Officer to enquire into the charges framed against the said Shri N.D.Bhuyan. The said Inquiry Officer has completed the inquiry and submitted her report.

NOW, THEREFORE, the disciplinary authority before taking a suitable decision in this case would like to provide an opportunity to the charged officer to make any representation which he may like to do in writing to the disciplinary authority on the report of the Inquiry Officer, a copy of which is being enclosed herewith.

Accordingly, Shri N.D.Bhuyan, is directed to submit his representation on the Inquiry report within fifteen days of the receipt of this order.


25/09/2000
[H.M.CAIRAE]
COMMISSIONER

Encl: As above.

Shri N.D.Bhuyan,
Principal,
Kendriya Vidyalaya
Digaru
PO Sonapur

Agreed by
Rishu Chatterjee
Advocate
26/4/2002

Dated : 18.8.2002

INQUIRY REPORT IN THE CASE OF SHRI N.D. BHUYAN.

PRINCIPAL, KV, DIGARU, PO : SONAPUR : ASSAM :

Kendriya Vidyalaya, Digaru, Sonapur, 1999

Shri N.D. Bhuyan, Principal was charge-sheeted and I was appointed as Inquiring Authority by Commissioner, KVS, New Delhi vide Order No.F. 8-61/98-KVS(Vig), dated 08.10.1999 to inquire into the charges framed against Shri N.D. Bhuyan. Shri Rakesh Sharma, Administrative Officer, KVS, Guwahati Region, Assam, was appointed as the Presenting Officer. The preliminary Hearing in the case was held on 10.4.2000 at 10 A.M. and after inspection of the documents etc. the Regular Hearing in the case was held on 22.6.2000.

In the Inquiry, the presenting officer introduced all the original listed documents which were marked as Exhibits from Sl.No. 1 to Sl. No. 13, in Annexure-III of the said letter (No.8-6/98/KVS(Vig), dated 8.10.99 and taken on record also one defence document was marked as Exhibits D.I and taken on record. There were no prosecution witnesses but the charged officer offered himself as his own defence witness and his evidence as DW-I was recorded. The charged officer has filed his written brief :-

Nature of the Charge :-

Article-I : Shri N.D. Bhuyan while functioning as Principal Kendriya Vidyalaya, Khanapara during the academic year 1997-98 and 98-99 admitted 71 children of category-III and IV in different classes over and above the sanctioned prescribed strength of 32 students without obtaining the approval of the Assistant Commissioner who is the competent authority.

Assessed by

Prithvi Chatterjee
 Director
 26/4/2002

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Thus he has violated the admission guidelines circulated vide KVS(Hqrs) letter No.F.6-7/90/KVS (Class) dated 24.10.91 and Shri Bhuyan has misused his power violating Rule 3(I), (i), (ii) and (iii) of CCS(CCA) conduct Rule 1964 as extended to the employees of KVS.

Article-II : While functioning as Principal in KV, Khanapara during 1997-98, Shri N.D. Bhuyan admitted 9 students of category IV in different classes who failed to qualify the admission test. Thus, Shri N.D. Bhuyan has violated the admission guidelines and it is his mis conduct of violation of Rules 3(I) (i), (ii) and (iii) of CCS Conduct Rules.

Article-III : Shri N.D. Bhuyan, during the academic year 1998-99, while working as Principal, KV, Khanapara refused admission of Master Sumit Dey in class-I, son of Shri Sajal Choudhuri Dey, an employee of Accountant General Office, who had one transfer in 7 years (Cat. I). But the Principal has categorised Mr. Dey's application in category-III. Thus, Shri Bhuyan has violated the Rule 3(I) (i), (ii) and (iii) of CCS Conduct Rules.

✓ Article-IV : Shri N.D. Bhuyan while working as Principal of KV, Khanapara during the years 1997 to 1999 has misused his power in operation of pupils fund accounts. Shri N.D. Bhuyan dissolved all the Committees that were existing in the Vidyalaya except examination committee and school fund committee and made Shri C.D. Pathak, Head Clerk of KV, Khanapara as Convenor of pupils fund Committee & also authorised Shri Pathak to sign the cheque as a co-signatory of the Principal.

As per Article 198 and 200 of Accounts Code which stipulates that a pupils fund committee consists of a Senior PGT, a Senior TGT a Senior PRT and one student each from classes IX, X, XI and XII to administer the Pupils Fund Accounts and the accounts should be operated jointly by the Principal and the PGT member respectively.

Thus Shri Bhuyan has violated the Rule of article 198 and 200 of Accounts Code and committed a serious mis-conduct. ✓

Article-V : While working as Principal, KV, Khanapara from 1997 to 1999, Shri N.D. Bhuyan has made purchase of different items of worth Rs. 1,03,702/- from Pupils' Fund and Rs. 4,12,086/- from School Fund and without observing the formalities of purchase procedures laid down in chapter-17 of the Accounts Code. Thus Shri Bhuyan has violated the purchase procedure while making the various purchases for the school.

Article-VI : Shri N.D. Bhuyan while functioning as Principal, KV, Khanapara in the year 97-98 has drawn conveyance allowances exceeding Rs. 150/- per month. As per para-2(1) page No. 543 of Accounts Code, the total amount of conveyance in one month should not exceed Rs. 150/- per individual that also with the approval of the competent authority.

Thus, Shri N.D. Bhuyan as a Drawing and disbursing officer of the Vidyalaya violated all the guidelines in total and the Rules 3(I) (1), (11) & (111) of CCS Conduct Rule extended to employees of KVS.

Assessed by

Kishor Chatterjee

Advocate

26/4/2002

....4/-

Article-VII : While working as Principal of KV, Khanapara

88 Shri N.D. Bhuyan has spent Rs. 1,06,000/- in total out of it Rs. 49,315/- for day to day repairs and Rs. 18,000/- for purchases of things for the staff quarters without observing the formalities and without following the prescribed procedures as circulated by KVS(Hqrs) letter No. 8-10/95-KVS(W-I) dated 30 Oct'95, para-4 (VIII). As per this letter the approval for maintenance and repairs shall be accorded by the Chairman, VMC, based on the estimates submitted by the Construction Agency. But in Shri Bhuyan's case no formalities were observed as such. Hence, he violated the Rule 3(I) (i), (ii) & (iii) of CCS Conduct Rules, 1964.

Article-VIII : Principal Shri N.D. Bhuyan during his tenure from 1997 to 99 has appointed the contractual teachers without following the procedure laid down for the appointment of contractual teachers where (NOC) No Objection Certificate has to be received from the competent authority Shri Bhuyan without receiving the NOC appointed the Contractual teachers. Thus violating the Rule 3(I) (i), (ii) & (iii) under CCS Conduct Rule.

Case of the Disciplinary Authority.

The Disciplinary Authority has explained its case as below :-

ARTICLE-I

That the said Shri N.D. Bhuyan while functioning as Principal, Kendriya Vidyalaya, Khanapara, Guwahati during the academic years 1997-98 and 1998-99 granted admission to 71 students of Category IV, 52 non Kendriya Vidyalaya transfer certificates and 19 Kendriya Vidyalaya transfer certificates in different classes over and above the sanctioned strength

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of 32 students without obtaining approval from competent authority. Till the day of inquiry three admissions, 2 in Class-XI (Science Stream) and one in Class-VIII were also found irregular during the academic year 1998-1999.

By this act Shri N.D. Bhuyan, Principal has violated admission guidelines issued from time to time and Rule-3(I) (i), (ii) & (iii) of Central Civil Service (Conduct) Rules 1964 as extended to the employees of Kendriya Vidyalaya Sangathan.

ARTICLE-II

That the said Shri N.D. Bhuyan while functioning in the aforesaid capacity in the said Kendriya Vidyalaya during the academic year 1997-98 granted admission to 09 students of Category-IV who failed to qualify the Admission Test conducted for Class-II and above.

By this act, Shri Bhuyan has violated admission guidelines and Rule-3(I) (i), (ii) & (iii) of Central Civil Service (Conduct) Rules 1964 as extended to the employees of Kendriya Vidyalaya Sangathan.

ARTICLE-III

That the said Shri N.D. Bhuyan while functioning in aforesaid capacity at Kendriya Vidyalaya, Khanapara during the academic year 1998-99 denied admission to a genuine case of Category-I indicating the child absent on the date of test whereas the child appeared in the test and scored 39 marks.

Thus Shri N.D. Bhuyan, Principal has violated the admission guidelines and Rule-3(I) (i), (ii) & (iii) of Central Civil Services (Conduct) Rules, 1964 as extended to the employees of Kendriya Vidyalaya Sangathan.

ARTICLE-IV

That Shri N.D. Bhuyan while working as Principal in Kendriya Vidyalaya, Khanapara during the year 1997-98 made purchases from School fund and Pupil Fund without following the prescribed procedure laid down in Article 197 & 198 of Accounts Code for Kendriya Vidyalayas.

Thus Shri N.D. Bhuyan, Principal has violated Article 197-198 of Accounts Code for Kendriya Vidyalaya and Rule-3(I) (i), (ii) & (iii) of Central Civil Services (Conduct) Rules, 1964 as extended to the employees of Kendriya Vidyalaya Sangathan.

...6/-

Attested by

Kishor Chatterjee
26/4/2002

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ARTICLE-V

That Shri N.D. Bhuyan while working as Principal in Kendriya Vidyalaya, Khanapara during the academic year 1997-98 made purchases worth Rs. 4,22,086/- (Rupees four lakhs Twenty Two thousand and Eighty Six) from School Funds and of Rs. 1,03,702/- (Rupees One lakh Three thousand seven hundred and two) from Pupil Fund without following the prescribed procedure as laid down in Chapter-17 of Accounts Code for Kendriya Vidyalayas.

Thus, Shri N.D. Bhuyan, Principal has violated Rule-3(I) (i), (ii) & (iii) of Central Civil Service(Conduct) Rules, 1964 as extended to the employees of the Kendriya Vidyalaya Sangathan.

ARTICLE-VI

That the said Shri N.D. Bhuyan, Principal during the year 1997-98 at Kendriya Vidyalaya, Khanapara claimed Rs. 13,141.86 say Rs. 13,142/- towards conveyance charges for visiting Kendriya Vidyalaya Sangathan, Regional Office, Guwahati or Asstt. Commissioner's residence or official or local tours without taking approval from the Competent Authority and without producing the Attendance Certificate in support of his claim.

Thus, he has violated the rules mentioned under S.R. 89 and para-24(note) contained in Annexure-14 of Accounts Code for Kendriya Vidyalayas and Rule-3(I) (i), (ii) & (iii) of Central Civil Services(Conduct) Rules 1964 as extended to the employees of Kendriya Vidyalaya Sangathan.

ARTICLE-VII

That the said Shri N.D. Bhuyan while working as Principal of Kendriya Vidyalaya, Khanapara during the period 1997-98 misused the Govt. money sanctioned for minor work and repair to the tune of Rs. 1,06,000/- by utilising Rs. 49,315/- on day to day repairs and purchase of submeters for staff quarters at the cost of Rs. 36,000/- (Rs. 18,000/- from M&R fund and 18,000/- from Pupil Fund) in violation of instructions issued by Kendriya Vidyalaya Sangathan vide letter No.F.8-10/95-KVS (Works-II) dated 30.10.95 and Rule-3(I) (i), (ii) & (iii) of Central Civil Services(Conduct) Rules, 1964 as extended to the

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the employees of Kendriya Vidyalaya Sangathan.

ARTICLE-VIII

That the said Shri N.D. Bhuyan while working as Principal in Kendriya Vidyalaya, Khanapara during the academic year 1997-98 made appointment of teachers from time to time on contractual basis without obtaining 'No Objection Certificate' or approval from the Asstt. Commissioner and without following the prescribed procedure as referred under the rules.

Thus he has misused his powers and has violated Rule 3(I) (i), (ii) & (iii) of Central Civil Services (Conduct) Rule, 1964 as extended to the employees of Kendriya Vidyalaya Sangathan.

ASSESSMENT OF EVIDENCE

Article-I. : The essence of the charge against Shri N.D. Bhuyan, Principal, KV, Khanapara is that during the academic year 1997-98, he granted admission to 71 students of category IV, out of which 52 non KV transfer certificates and 19 KV transfer certificates in different classes over and above the sanctioned strength of 32 students without obtaining approval from competent authority (Assistant Commissioner). In 1999 also he admitted 2 in class XI (Sc. stream) and one in class VIII.

In his defence reply Shri Bhuyan on 10.4.2000 in presence of the Presenting Officer when Bhuyan was heard after reading out the allegations against him has said he had to do it under pressure and under unavoidable Circumstances and and in good faith. In his written defence Mr. Bhuyan said that he constituted an examination committee and the final list of the qualified students was put up to him and as per vacancy

Assessed by

Heishu Chatterji

Advocate
26/4/2002

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positions provided by the class teachers he admitted the students accordingly. But he never mentioned about the surplus students admitted by him in the various classes. Shri Bhuyan did write to the competent authority for approval of the surplus students and for 'No objection certificate' for such admission. Just mere writing, without getting a reply, does not mean that in anticipation he could admit the surplus students. May be his intention was good as circumstances demanded and wanted to oblige people but not by violating the prescribed rules for admission.

Here Shri Bhuyan violated the admission guidelines circulated vide KVS(Hqrs) letter No. F.6-7/90/KVS/Class, dated 24.10.91.

Article-II : Shri Bhuyan, Principal of KV, Khanapara during 1997-1998 admitted students of category-IV who failed to qualify in the Admission Test conducted for class-II and above. Shri Bhuyan denied the allegation saying that the list of the qualified students was prepared by the I/c Examination Committee and the class teachers have not done such mistakes. Principal is the overall authority for admission in his KV, but he has to abide by rules laid down for the admission. The Principal has to do proper scrutiny of the list submitted by the Examination Committee by going through the marks obtained by the candidates. The strength of the classes was beyond the limit prescribed

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admitting in most of the students who could not qualify themselves in the Test without any proper scrutiny of the list. The Principal can not deny the allegation against him. Thus he can not pretend to be innocent and putting all the responsibilities to be taken ^{by} on the Examination committee for the admission test that also when the admitted students were disqualified in the test. In his defence statement he could not substantiate the allegation against him. Thus, he has violated the rules for admission in KV. It is established that as a Principal he is responsible for the allegation made against him.

Article-III : Shri N.D. Bhuyan, Principal, KV, Khanapara in the year 1998-99, denied admission to Master Sumit Dey in class-I, the son of Shri Sajal Choudhury Dey of A.G. Office who has one transfer in 7 years category-I. Shri Bhuyan's remarks on the application of Mr. Dey as absent and classification as category-III as alleged is intentional and willful misdoing.

In his defence statement, Shri Bhuyan again says that Master Dey was not present on the admission test day for category-I as because his father could not produce his relevent transfer certificate/papers on that day. But Master Dey was allowed to appear in the Admission Test for category-III. When his father submitted all the required and relevent papers to the Principal, Master Dey was admitted in cat. I in class-I. All is well that ends well. Through ommission and commission from both the parties, the KV Principal and Shri S.C. Day, involvement of human

Attested by

Harish Chatterji

Advocate

26/4/2002

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elements, sometimes such problems crop up. Anyway, ultimate result is that the boy got admitted in class-I in category-I which was desired. On the part of the Principal, Shri Bhuyan should have been more careful and tactful in dealing with such cases. This establishes the allegation against Shri Bhuyan for his negligence of abiding the prescribed rules for admission in KVs.

Article-IV : Shri N.D. Bhuyan, as Principal of KV, Khanapara, during the year 1997 to 1999 has misused his power in operation of pupils fund account. Shri Bhuyan dissolves the existing committees of the Vidyalayas except Examination Committee and School fund Committee. Shri Bhuyan makes Shri C.D. Pathak the Head clerk of KV, Khanapara as Convenor of Pupils fund Committee and to sign the cheque as a co-signatory. As per Accounts Code - Article 198 and 200, the pupils fund committee consists of a Senior PGT, a Sr. TGT, a Sr. PRT and one student each belonging to Class IX to XII to administer the pupils fund Accounts and the accounts to be operated jointly by the Principal and the PGT member respectively.

In his defence statement Shri Bhuyan says that some of the senior teachers either not co-operating with him or did not want to be in the different committees of the Vidyalaya. As such, Shri Bhuyan had to make Mr. Pathak the Head clerk to be the Convenor of the Pupils' fund committee and the expenditure he made on repair, improvement etc. of the Vidyalaya was very much urgent, necessary and immediate action was to be taken by him as Principal of the Vidyalaya. Whatever and However important and

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urgent work was to be done, when money was involved, there should have been with observation of laid down rules and procedures for it, why the Principal should take all the responsibilities and authority on himself for spending money from the pupils' fund ignoring the rules and formalities.

Thus, spending money without following the rules is a serious offence with however good intention and welfare spirit. Shri Bhuyan has operated the accounts from the pupils' fund, he can not be excused firstly because - for constituting the pupils' fund committee irregularly and secondly for spending the money through this irregular committee. Thus, Shri Bhuyan has committed a serious misconduct under CCS(Conduct) Rule.

Any more

Article-V : Shri N.D. Bhuyan has made purchase of different items of worth Rs. 1,03,702/- from pupils' fund and Rs. 4,12,086/- from School Fund without following the procedure laid down in Chapter-17 of the Accounts Code. This expenditure includes printing of question papers, games and sports kits, Annual Day, Sports day, Regional and National meets etc. Moreover, a huge sum of money was received by the Principal in 1997 and 1998 under 'Model KV Scheme' from the KVS Headquarter, Delhi with specification and direction. But the Principal spends this money also without going through procedures for doing so. It is ~~xxx~~ a fact that a huge sum of money is meant to be spent for the Kendriya Vidyalaya to make it a Model School, but it can not be under the whim of the Principal to spend the money by violating the rules and regulations laid down for spending money for the KV.

Approved by

Bishu Chellu
Advocate
26/4/2002

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44 In his defence statement Shri Bhuyan mentions that the expenditure was made as per suggestion of CPWD E/E(C) and the work was completed by VMC through the Principal on CPWD estimate approved by the Chairman, VMC. He also says that when the E.O., KVS(RO) and two clerks visited his school on 29.7.98 for examining all the relevant files and papers of school fund and pupils fund for 3 days, they never cared to ask him anything instead they met and discussed things with those teachers who were against him. When the allegation is against the Principal, it is not necessary that the Principal is questioned or asked anything, the documents are there to prove everything. He also says in his oral statements that prior permission was taken from Model School Monitoring Committee, Delhi from Joint Commissioner, Mr. Puran Chand. The KVS(Hqrs), Delhi sanctions money under the Model School Scheme, does not mean that the Principal can spend the money without following any laid down rules and procedure. When the A.C(RO) Office is situated in the same place, the Principal can take the suggestions and guidelines and rules to be followed by him for spending the huge money for his KV. But Shri Bhuyan without observing the purchase formalities for KV, directly contacted the KVS(Hqrs), Delhi thinking that he could remain on safe side. But he made a mistake by doing so.

Regarding expenditure incurred for printing of question papers, Shri Bhuyan says that every work done in connection with running the examination and school tests, it is a confidential matter.

No doubt about it, but as soon as the examination and tests are over, the total expenditure has to be audited thoroughly. In this point Shri Bhuyan fails to follow the purchase procedure for confidential matters also.

Article-VI : Shri N.D. Bhuyan, while functioning as Principal, KV, Khanapara during the year 1997-98 drawn Rs. 13,142/- as conveyance allowances for visiting KVS(RO), A.C.'s residence local tours without taking approval from the competent authority and without producing the Attendance certificate in support of his claim.

As per rule of the Accounts Code the total amount of conveyance hired, reimbursed in one month should not exceed Rs. 150/- per individual with approval of the competent authority. In his defence Shri Bhuyan says that he has taken written permission from the VMC Chairman for using his vehicle as he has to run about from his Vidyalaya to AC, RO's Office and make some local tours as because transport communication is not so good as he thinks. As per Shri Bhuyan's version during that time one Master Abhisek Verma was missing from his school and CBI inquiry was going on. Hence, his T.A. accumulated. On verification of his TA vouchers it is found that he put his signature on the vouchers to be passed as he himself is the drawing and disbursing officer. Shri Bhuyan after getting permission from the Chairman, VMC started making the tours and never considered for the limitation of Rs. 150/- per month as per rule. Shri Bhuyan also took the advantage of the situation that prevailed in the school then when Master Abhisek Verma was missing from his School,

Attested by
Kishor Chatterjee
Advocate
26/4/200214/-

CBI inquiry, evaluation etc. etc. Shri Bhuyan also blames the office for manipulating some of his T.A. bills and vouchers as there was no chance left for him to check his T.A. bills and vouchers after seizure of the papers and files by the Regional Office, Guwahati.

All together we can not put all the blame on Shri Bhuyan for his drawal of more T.A. bills as (permissible) permitted as per rule during that specific time as because situation demanded of him to make his tours as such.

Article-VII : Shri N.D. Bhuyan, Principal, KV, Khanapara during 1997 and 98 spends Rs. 1,06,000/- for some purchases and also day to day repair of the staff quarters from M & R fund and Pupils' fund violating the instruction issued by KVS letter No.F.8-10/95-KVS(Works-II) dated 30.10.95. This letter says that the approval for maintenance and repairs shall be accorded by the Chairman, VMC on the estimates submitted by the construction Agency.

In his defence Shri Bhuyan says that he spends the money and the purchase was made on record with permission of the Chairman, VMC, it is seen that the Chairman remarks "work may be taken up observing all the formalities". But he could not establish the fact that he has followed the prescribed procedure and formalities and the estimates were submitted by MES.

Thus, Shri N.D. Bhuyan has violated the Rule 3(I) (i), (ii) & (iii) of CCS(Conduct) Rules 1964.

Article- VIII

Shri N.D. Bhuyan while working as Principal in KV, Khanapara during 1997 and 98 appointed the contractual teachers without following the procedure laid down for the appointment of contractual teachers.

In his defence Shri Bhuyan says that particular year "No Objection Certificate" was not sent to the school for about 2 months. Major subjects posts were vacant in that big school and it was very difficult on his part to run the school. When Shri Bhuyan wrote to the Chairman, VMC for appointment of contractual teacher in KV, Khanapara the Chairman remarked as "arrangements be made for contractual appointments after conducting interviews as per existing rules".

Upto this part if was alright the Principal got the permission from the Chairman to select the teachers through interview as per rules. But the Principal was under pressure and as he has to face the music, news in the news paper, classes are running without teachers, in anticipation of NOC he appointed the contractual teachers in good faith & for smooth running of the classes. On the part of the Principal, as it shows, his concern for the students was more than strictly observing the rules, to some extent Principal's feeling can be appreciated.

Noted by
Kishore Chellu
Advocate
26/4/2002

FINDINGS

ARTICLE I : Proved
 ARTICLE II : Proved
 ARTICLE III : Proved
 ARTICLE IV : Proved
 ARTICLE V : Proved
 ARTICLE VI : Proved
 ARTICLE VII : Proved
 ARTICLE VIII : proved.

Tilottama Barooah
 (TILOTTAMA BAROOAH)
 INQUIRING OFFICER

.....

Reference No. KVD/423/ESC/2000-01/391

dt. 12/10/2000
(12)

To
The Commissioner,
Kendriya Vidyalaya Sangathan
18, Institutional Area
Shaheed Jeeb Singh Marg
New Delhi-16.

Subject : Representation to the disciplinary authority, KVS (HQ. New Delhi)
by Shri N.D. Bhuyan, Principal R.V. AFS Digaru.

Reference: KVS (HQ.) letter No. P.O.-61/98-KVS (VIG) / dt. 25.9.2000

Sir,

With reference to your memorandum vide P.O.-61/98-KVS (VIG) / dt. 25.9.2000, (confidential), by speed post, received by me on 30.9.2000 (A/N) at the office, I am to inform you that I have carefully gone through your letter and the attached reports submitted by the enquiry officer article wise, with findings, which "proved" all articles. Here on this report I want to represent the following important points, article wise, taking opportunity given to me.

That Sir, it is true that on 10.4.99 & 22.6.2000 the preliminary hearings and regular hearings were held respectively but the hearings were held mostly verbally in both the occasions within a short time and I could not inspect the documents mentioned as exhibit from Sl. No. 01 to Sl. No. 13 in Anx. III in details. Due to lack of sufficient time to inspect all documents, and I could not place all the points of defence in writing in details. Also it was not possible to do so for the huge numbers of files & documents exhibited. However, I explained in my defence briefly which were real & true.

ARTICLE: I : Regarding admission cat. III & IV, candidates, 28 vacancies were filled by S/C & ST candidates from cat. IV candidates in first list along with cat. I as per the KVS guide lines, and rest nearly 15 candidates were admitted in cl. II on wards among the candidates qualified in admission tests cleared by the examination committee in 1997-98 in the second part of July '97. These were done through the displaying the names in the display board with last date on admission. Rest of vacant seats lying till the 28.7.97, and filled up the by the cat. III & cat. IV candidates from the list sent to the A.C. for approval. Cat. IV candidates were selected as per marks obtained in interview taken by interview committee, constituted by the Primary teachers with two senior T.G.T. & Headmaster as the supervisor. All admission of cat. I candidates (Class I) were completed in June '97 by being re-checked by i/c TIGIT & class teachers allotted. So whole process of class I admission from interview to preparing selected students - cat. I, to IV has been completed by the primary teachers & senior T.G.T. - and the Principal acted as a whole.

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Attested by
Krishna Chatterjee
Advocate
26/4/2002

Principal maintained all formalities, without clue of any injustice for admission. No compliments were received as record, in the 1997-98, 98-99 admission for the parents. The unable is true and can be proved if the KVS examining the files & examined those teachers involved in the above process. I followed all the process of guide lines and I sent letter for approval to the A.C. No response I could get till the 27.7.2000. Perhaps the then A.C. was on leave or on tour I admitted cat.IV candidates from the merit list against the total vacancies left to be filled up on the last date 31.3.00. The enquiry officer perhaps did not examine my verbal explanations and papers submitted and also examined the quality of circumstantial exigencies on the situation of large number of lower priority categories of candidates mostly from A.G. Office, post office, M.E.S., Bank, central and state Govt. employees etc. registered there candidates in K.V. Khanapara Guwahati in 1997-98. The "Pressure", I indicated in my writing evidence was meant "circumstantial exigence" in admission in K.V. Khanapara a city based, civil sector K.V.

ARTICLE: II : I fully cleared as I have already replied against this article in reply to my first letter. Quotation papers was set by the teachers, corrected by the teachers in the same day, submitted to i/c of the ex.committee, again rechecking was done. Qualified marks are 17.5 out of 50. And some concession may be given in "Hindi subject to non-speaking candidates and in Eng. subject" to Hindi speaking candidates. So even failed candidates also can be admitted as per KVS admission guide line. In year 1997-98 for admission to class II and about cat.I to II candidates were almost nil, only cat.III & IV candidates appeared in admission test held in 1997-98. On record even S/C and ST candidates was rejected who failed. So I cleared the charges. Perhaps enquiry officer did not examine the files and relevant papers in details.

ARTICLE: III: This articles should have not been taken as charge, as it was pretty matter. He was absent in interview fixed for cat.III and his name was not in the list for cat.I. His parent without informing me met E.O., Mr. Provakar. When provakar, sent the parent to me, I examined the case, I also was informed by the i/c interview, Mr. Chakravarty that parents transfer documents were not proper. The parent (Group 'D') belong to A.G. Office, just transferred from Shillong, later on, he re-submitted his proper document from Shillong A.G. (Hq.). So he was admitted later on and I informed the E.O. Mr. Provakar, Nothing more. I worked last 34 years in KVS, such many similar cases I solved, and even to-day many Principals may come across such cases. I feel it is not charge at all.

Addressed by

Krishna Chatterjee
Advocate

26/4/2002

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agitation-time when all School-colleges were closed in Assam) -
 conducted academic activities in such a situation with 100%
 result on record again I joined in 1997 January as Principal,
 after already serving as Principal K.V. Loktak Manipur, K.V.
 C.R.P.F., K.V. Silchar (1981-82).

At the time of joined in the above said situation, all parents
 pressed to restore the V.M.C. I newly formed the Vidyalaya
 management Committee with Edn. Commission Dr. Gehain I.A.S.
 as chairman with senior education's and retd. beurocrates as
 member. The A.C. was kind enough to approved the V.M.C. in May
 May 1997.

The so called teaches - leaders of K.V.T.A. - misguided, threa-
 tend all not to co-operated with me. The notorious leader Mr.
 C.K. Holo, TGT(S.St.), Mr. Murya, PGT(Chem.), the then president
 K.V.T.A. (Who was dismissed from the KVS). It so there was no
 alternative then to desolve all teachers committees including ^{exist}
 P.F. committee which were most corrupted. All parents co-opera-
 ted me. In the mean time Chairman V.M.C. also suggested me to
 start all ^{restoration} works. I was bound to go ahead with works
 for the welfare fo the students & parent. In a meeting when I
 named a senior teacher who worked Sincerely for the K.V. P.F.
 convener he was threstend. He did not like to be a member. The
 "so called leaders of K.V.T.A., tried to collaps the administrat-
 ion directly & indirectly. So, asked temporarily the H/C clerk
 to sign the P.F. along with me with a notice to all, as I had
 to conduct Annual sports day, Annual cultural day for 1996-97
 in February '97, for sending Scout guides, to clear the Jungle,
 garbages from the campus, to clear the drainage system, to
 repair class room, for, these needed P.F. expenditure. Previously
 the Principal did not do it due ^{to} above situation. Due to ^{the} above
 exeigence, as a Principal, it was very urgent to allow the head
 clerk to sign the cheque under my chairmanship of the committes,
 with some teachers P.E.T., drawing teacher, music teacher, SUPW
 and sincere PGT, whom I took in confidence to help me for the
 immediate and urgent expenditure of Annual day, Sports day, and
 sending school team for various activities. Money was utilised
 fully. From above situation I did for the walfare of school,
 following all procedure challenging non co-operation of "the
 notorious gang". I determined to go ahead to do positive, unlike
 the previous Principal. Perhaps the enquiring officer did not
 assess the situation nor could take the witness of the above
 situation and "proved" the charges without taking the witness
 on the exhibited document with the charge sheet. Except teacher-
 co-signature as per rule due to above situation, I followed all
 procedures. So I may be relieved of the charge after varyfing
 the above situation in 1997-98.

Attested by
 Kishore Chatterjee
 Advocate
 26/4/2002

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ARTICLE:V: I have not purchased as whole Rs 1.03702/-. It was wrongly shown in the papers. It should be assessed It was not properly specified, not based on proper bills. It should be assessed on the spot again from the U.D.C.'s & Head clerk, of K.V.Khanapara. The expenditure includes repairing of old desk benches, repairing old godrej chair for 20 numbers, rennuvating white washing the class rooms, repairing boys & girls ladies toilet, cleaning jungle by daily basis labours, repairing all primary class rooms, repairing electrical connection, fixing switch boards, main switches, as fixing tube lights in Physics, Chemistry & Bio. labs., making proper light arrangements in office, Library, fixing school electrical bells for the whole school, repairing street lights & corridor lights, and repairing over handling the 2-decade - old drinking water system with lifting elect-Motors (4 HP & 10 HP) and its connection, changing & refixing 3-phast electrical Junction house to prevent electrical short circuits, purchasing & fixing 20 individual electrical metre-for every staffquarter to save over consumption electrical power. All above works were done through the V.M.C. chairman, and estimates from the approved engineer of C.P.W.D. I observed all formalities - wherever necessary through tendering quotation with one or two teachers incharges. Perhaps these documents were not in the exhibited files. The enquiring officer proved charges without taking witness and emergent situation I faced, So I again denied charges on this article. I followed all purchasing procedure. I request to varify the fact in the spot. Regarding School Fund I observed all formalities as per the Model K.V. circular received at last week of March '97 & 98, and purchased the items already specified by the Sangathan letters for M. K.V. scheme & bills have been sent after purchasing and at the M. K.V. Principal conference from 7.4.97 to 14.4.97 held at KVS(HQ) (we all the 50 Principals discussed the purchase procedures again. All items were purchased through advertisement asking quotations from the reputed & registered whole seller/ with all stander prices, and with proper order as per the KVS purchase procedure, except the chairman signature, as May 1997. But A.C. KVS signed all cheques so I should be charged violating the KVS relevent rules.

ARTICLE:VI: True as per the documents, exhibited & vouchers it was misquoted to conveyance allowance. It was confused totally perhaps the documents exhibited misquoted as conveyance allowance, all expenditure mislabeled conveyance allowance, carrying official items, School items, expenditure for T.A. bill on actual petrol consumption for inspection (2 days) to K.V. Digaru 50 Km. K.V. IOC (2 days) 45 Km., K.V. Maligaon - 36 Km., K.V. Borjhar

offered by
Krishna Chatterjee
Advocate
26/4/2002

The clerks submitted all petrol vouchers in the head -convenience for Principal, in actual petrol charges. I did not submit the TA/DA Bills for inspection of school for going B/A, only petrol charges was drawn as T/A. I agreed that some times takes had cropped up in the office file in these matters. I am ready to refund the balance money in this office. I explained and requested the enquiry office to examine the files with taking hearings of clerks, K.V. Khanapara, to find the fact.

Hence I also except the charges that I could not verify the bills timely.

ARTICLE VII: Please refer the circumstantial exigencies and worte conditions of the K.V. Khanapara explained in the Article VI. I followed the procedure obtained estimate from M.E.S., prior permission of the chairman as per KVS order. It was very urgent to the thing for the welfare of students. For examples repairing old 40 desk benches, fixing electrical fittings in all classes, repairing main switches, over handling water pumps, cleaning overhead tanks, rennovating and white washing class rooms, window fittings, purchasing few tubes for street light, repairing approach road and new wiring in installing of computer lab. This amount includes KVS annual funds and M.K.V. Fund for computer lab, etc. - for 1997-98. Electrical repairing includes digging out cable and repairing water pump also Rs.106000/- was spent for total expenditure shown for two years. Calling quotation for M.E.S./ASEB approved firms, with regd. contractor of M.E.S., informing the Chairman V.M.C. with constant discussion.

Regarding Rs 18000/- was spent for suppling 20 electrical meters to fix in the individual staff quaters to reduce the per head consumption electrical power consumed (individual teachers. It was required as 3-phase connection was done along with the staff quaters through a consolidated meter with school building resulting several thousand rupees electrical bills per month to be paid by the school as excess payment from the school fund, by fixing the meters in the staff quater we could save nearly 60 thousand per year from the Sangathan money. This has been done by the suggestion of the ASEB Assam on the estimate of by the M.E.S. approved and registerate firm. Also approved by C.P.W.D., Ghy. M/S Golden electrical Dispur completed the works vide the supervision by the A.S.E.B. Dispur. It has got approval of the Chairman V.M.C. Khanapara.

Agreed by
Kishore Chatterjee
Advocate
26/4/2002

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So I had followed all purchase procedure to complete the works which were very urgent. All documents were placed in the relevant files in the office and some papers also were handed over to the enquiry officer. So I denied again all the charges in this articles. The enquiry officer without taking the witness perhaps proved the charges on the exhibited document.

ARTICLE:VIII: Please refer the article VI all ready explained that many senior teachers were vacant in the K.V. in 1997-98. Parents were demanding appointment of teachers meeting the chairman V.M.C. B. Gohain, I.A.S. and also parent met A.C. for the feeling of the teachers. Because the commerce & Sci. stream teacher - PGT(Phy.), PGT(Eng.), PGT(Maths) and TGT(Eng.) were vacant till the Aug.-Sept. in 1997-98. But appointment of adhoc teacher could not be done due to non-availability N.O.C. from the KVS(R0) Dhy. After awaiting two months upto Aug./Sept. teachers had been appointed on adhoc basis through the advertisement and V.M.C. selection board through the expert from Cotton college and Commerce College. So for greater interest of the academic activities and for the future of the CBSE candidates there were no alternative then to make the appointment the teachers without availing N.O.C. It was a unfortunate situation that the concerned authority of the KVS Regional Office did not response the Principal, the parent and the Chairman V.M.C., the Edn. Commissioner of Assam. So I am constrained to feel that the enquiry officer and Educationist instead of appreciating the Principal, charged him for improving the academic activities in K.V. Khanapara. Here also I followed all procedures except availing N.O.C. under the parents, Chairman V.M.C. pressure for welfare of the academic development. I do request this can be examine to find out the fact from the then Commissioner, Dr. B.K. Gohain, I.A.S., Dispur. Again I denied the charge in this article also

Attested by
 Justice Chellai
 Advocate
 26/4/2002

(N.D. BHUYAN)
 PRINCIPAL
 KV. AFS DIGARU
 P.O. SONAPUR
 KAMRUP (ASSAM)
 Pin-782402.

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Annexure-5

107

BY REGD. POST.

KENDRIYA VIDYALAYA SANGATHAN
18, INSTITUTIONAL AREA
SHAHEED JEET SINGH MARG
NEW DELHI 110 016.

F.No.9-55/2001-KVS (Vig.)

Dated: 19-09-2001

ORDER

WHEREAS the penalty of 'Dismissal' from the services of Kendriya Vidyalaya Sangathan was imposed upon Shri N.D.Bhuyan, Ex-Principal Kendriya Vidyalaya, A.F.S., Digaru by the Commissioner, K.V.S., being the Disciplinary Authority, vide Order No. F.8-61/98-KVS[VIG.] dated 18-04-2001.

WHILE AS the said Shri N.D.Bhuyan filed an appeal against the aforesaid order of the Disciplinary Authority to the under-signed, being the Appellate Authority. The Appellant has also been heard in person on 23-08-2001.

AND WHEREAS based on the consideration of facts and circumstances of the case on record, the contents in the appeal including the grounds adduced by the Appellant, and the additional documents produced during the personal hearing, the undersigned has come to the conclusion that in the Inquiry Report, the Inquiry Officer has not been explicit about each charge of admission irregularity and has held them proved arbitrarily. To this extent benefit of doubt is given to the Appellant. However, the charge against the Appellant under Article-4 where he dissolved the existing Committee for operation of Pupil's Fund and appointment of Head Clerk as the Convener in violation of the Accounts Code for Kendriya Vidyalayas is a serious charge and cannot be condoned. Considering the years of service the Appellant has already put in for the Sangathan, and also considering that he is from the North-Eastern Region where Officers work under certain difficult and compelling circumstances compared to others, the undersigned feels that the ends of justice would be served by a penalty of Compulsory Retirement from service and accordingly order the same from the date he was dismissed from the service by the Disciplinary Authority.

NOW, THEREFORE, the undersigned, being the Appellate Authority, disposes of the appeal of Shri N.D.Bhuyan, ex-Principal accordingly.

affected by
false
Chatter
Advocate
26/4/2002

(K.S.SARMA)
ADDL.SECRETARY, M/o H.R.D.
&
VICE-CHAIRMAN, K.V.S.

Copy to :-

1. Shri N.D.Bhuyan, ex-Principal, Kendriya Vidyalaya Digaru, Six Mile, Shiva Mandir Khanapara, Guwahati - 781022 Dist Kamrup, Assam.
2. The Assistant Commissioner, KVS Regional Office, GUWAHATI.
3. The Dy Commissioner [Finance], Kendriya Vidyalaya Sangathan [Hqrs], New Delhi for appropriate action
4. Guard file.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI
BENCH GUWAHATI

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Filed by 1st Respondent's
Through Mr. Nijender
Advocate
26/6/02

IN THE MATTER OF :

O.A. No. 460/2001

Sri N.D. Bhuyan

..... Applicant

- Vs. -

K.V. Sangathan & Ors.

..... Respondent.

- AND -

IN THE MATTER OF :

Written statement on behalf of
Respondent No. 1,2,3,4, & 5 of
the above cited case.

1. That the copies of the original application being O.A. No. 460/2001 have been served upon the above name Respondents and the Respondents No. - 4 being empowered by the other Respondents to look into the case. The Respondents No. - 4, after going through the assessment and understanding the contents thereof filed this affidavit in opposition being acquainted the facts & circumstances of this case.

2. That the deponent states that save and Except what is specifically admitted in this affidavit in

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opposition and the statements which are in consistence with the record the others contrary to records shall be deemed to have been denied.

3. That the answering Respondent state that before controverting the ~~assertions~~ ~~assertments~~ in the original application the deponent raises preliminary objection regarding the maintainability of the application vis-a-vis the relief sought for on the following grounds namely :-

(a) That the applicant as preferred an appeal U/S.- 19 of the Administrative Tribunal Act., 1985 before this Hon'ble Tribunal being O.A. No. - 460/01 challenging the validity and legality of the order dated 19.09.2001 passed by the Addl. Secretary, Ministry of Human Research Development and Vice Chairman K.V.S. imposing the penalty of Compulsory Retirement from service and thereby modifying the Penalty of dismissal from service issued earlier vide order dated 18.4.2001. The said original application came ~~me~~ for consideration before the Hon'ble Tribunal on 29.11.2001 and The Hon'ble Tribunal hearing the counsel of the appellant admitted the case issuing notice to the opposite parties. The Respondent craves leave of the Hon'ble Tribunal to present the order at the time of hearing.

3.(b) That thereafter the appellant filed a misc case vide Misc. Petition 66/01 for amendment of the original application and the Misc petition was allowed by the Hon'ble Tribunal and copy of the original application was served on advocate of the Respondent only on 30.5.2002 in pursuance to the Hon'ble Tribunal's order

passed on 21.5.2002 fixing 26.6.2002 for W/S and hearing of the matter.

The Respondant craves leave of the Hon'ble Tribunal to present the order at the time of hearing.

3.(c) That the Respondent states that, the fact of the case may be narrated as under :-

1) That the Respondent states that, on the basis of the report of the preliminary inquiry conducted by a team comprising of Dr. Prabhakar, EO and two Assistants of Regional Office Guwahati into the complaints of Admission irregularities received against Shri N.D. Bhuyan, Principal, KV Khanpara, First stage advice was sought from CVC who had advised major penalty proceeding against Shri Bhuyan. Accordingly, chargesheet was issued to Shri Bhuyan on 29.6.99.

The following articles of charges were framed against Shri N.D. Bhuyan :

1) That the Respondent states that, Shri N.D. Bhuyan, Principal, Kendriya Vidyalaya Khanapara during 1997-98 and 1998-99 admitted 71 children of Category III and IV in different classes over and above prescribed strength of 32 without approval of the Assistant Commissioner, RO Guwahati which is a violation under Rule 3(1),(i), (ii) and (iii) of Central Civil Services (Conduct) Rules, 1964.

2) That the Respondent states that, Shri N.D. Bhuyan admitted 9 students of Cat IV who failed the admission

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test which is a violation under Rule 3(1),(i),(ii) and (iii) of CCS (Conduct) Rules, 1964 and admission guidelines of the KVS.

3) That the Respondent states that, Shri N.D. Bhuyan refused admission of Master Sumit Dey in class I who was of Cat. I but was registered under Cat. III. which is a violation under Rule 3(1),(i),(ii) and (iii) of Central Civil Services (Conduct) Rules, 1964 and admission guidelines of the KVS.

4) That the Respondent states that, Shri Bhuyan misused his official offer in operation of pupils funds accounts by dissolving all the existing Committees and appointing Shri C.D. Pathak Head Clerk as convenor of Pupils Fund Committee and as authorised co-signatory which is a violation under Rule 3(1),(i),(ii) and (iii) of Central Civil Services (Conduct) Rules, 1964 and Article 197 & 198 of Accounts Code for Kendriya Vidyalayas.

5) That the Respondent states that, Shri Bhuyan has violated the laid down purchase procedure in making purchases of different items worth Rs. 1,03,702 from Pupils Fund and Rs. 4,12,036 from School Fund which is a violation under Rule 3(1),(i),(ii) and (iii) of Central Civil Services (Conduct) Rules, 1964.

6) That the Respondent states that, Shri Bhuyan has claimed Rs. 13,412 towards conveyance charges for visiting KVS RO Guwahati or AC's residence or official or local tours without taking approval from the competent authority which is a violation under Rule 3(1),(i),(ii) and (iii) of Central Civil Services (Conduct) Rules, 1964 and the rules mentioned under SR-89 and para-24 contained in Annexure-14 of Accounts Code for KVs.

7) That The Respondent states that, Shri Bhuyan misused the Govt. money sanctioned for minor work and repair to the tune of Rs. 1,06,000/- by utilising Rs. 49,315/- on day to day repairs and purchase of sub-meters for staff quarters at the cost of Rs. 36,000/- which is a violation of instructions issued by KVS vide letter dt. 30.10.95 and under Rule 3(1),(i),(ii) and (iii) of Central Civil Services (Conduct) Rules, 1964.

8) That the Respondent states that, Shri Bhuyan appointed contractual teachers without following the laid down procedure and also obtaining the permission from the competent authority which is a violation of prescribed procedure of KVS and Rules 3(1),(i),(ii) and (iii) of Central Civil Service (Conduct) Rules, 1964.

Therefore, from the aforesaid paras it is clear that the authority while dealing with the matter relating to the appellant have acted altogether only on legal & just manner which does not require intervention in the form of judicial Review. On the otherhand the Hon'ble Tribunal's intervention may surely justify the reasoning of the Sangathan in passing such order basing as just ground and reason, while every opportunity was provided to the appellant to prove his nonguilt and as such the present application is only exegeration of the procedure which creates doubts of the maintainability of the same.

3.(d) That on denial of charges by Shri Bhuyan, Smt. Tilottama Baruah was appointed as Inquiry Officer to inquire into the said charges.

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The Inquiry Officer had held all the articles of charges as proved.

That the findings of the Inquiry, the reply of the Charged Officer and comments thereon was submitted to the Central Vigilance Commission for their second stage advice.

That the Central Vigilance Commission has observed vide notes dated. 2/3/2001 that charges under Article 1) to 4) enumerated above are proved beyond doubt and a suitable major penalty was recommended.

That the Commissioner, KVS having considered the article of charges proved against Shri N.D. Bhuyan and taking into consideration all the facts and materials on record, ordered the penalty of dismissal upon Shri Bhuyan vide his order dated 18.4.2001.

3.(e) That against the said order of the Disciplinary Authority, Shri Bhuyan preferred an appeal to the Vice-Chairman, KVS, who having perused the case and hearing him personally, observed as under :

".... The charges under Article 1,2, and 3 are, in my opinion, not grave enough to warrant a punishment of dismissal from service particularly when the incumbent is about to retire during the current academic year.

However, the charge against the appellant under Article 4 where he dissolved the existing committee for operation of Pupil's Fund and appointment of the Head Clerk as the convener thus violating the Accounts Code of the KVS is a serious charge. Though the appellant was trying to take cover under the fact that there was certain urgency, that the other Members of the Committee were not cooperating with him etc., this indeed a

serious lapse on the part of the appellant. The question is whether this Offence warrants dismissal from service. Considering the years of service he has already put in for the Sangathan, considering that he is from the North Eastern Region where officers work under certain difficult and compelling circumstances compared to others, I feel that ends of justice would be served by a penalty of compulsory Retirement from service and accordingly order the same. All benefits due to him due to the compulsory retirement from service from the date he was dismissed from the service should be granted to him."

The aforesaid opinion of the Appellate Authority was expressed in the order dated 19.9.2001 which ~~the~~ is the subject matter of contention of the applicant.

4. That with regard to para 1 of the original application the deponent submits that :

The order No. 9-55/2001-KVS(Vig) dated 19.9.2001 was issued by the Vice-Chairman, KVS in pursuance to the appeal preferred by the applicant against the order of dismissal from service passed by the Commissioner, KVS, based on the consideration of facts and circumstances of the case on record, the contents in the appeal including the grounds adduced by the Appellant and the additional documents produced during the personal hearing.

In the order, the Vice-Chairman, KVS has observed that that in the Inquiry Report, the Inquiry Officer has not been explicit about each charge of admission

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irregularity and has held them proved arbitrarily. To this extent benefit of doubt is given to the Appellant. However, the charge against the Appellant under Article-4 where he dissolved the existing Committee for operation of Pupil's Fund and appointment of Head Clerk as the Convener in violation of the Accounts Code for Kendriya Vidyalayas is a serious charge and cannot be condoned. Considering the years of service the Appellant has already put in for the Sangathan, and also considering that he is from the North-Eastern Region where Officers work under certain difficult and compelling circumstances compared to others, the undersigned feels that the ends of justice would be served by a penalty of Compulsory Retirement from service and accordingly order the same from the date he was dismissed from the service by the Disciplinary Authority.

The orders of the Appellate Authority reflects the sympathetic consideration on his part and deserve no further relief.

5. That the Respondent submits that para 2 & 3 of the Original Application in the form of jurisdiction of the Tribunal and limitation respectively, does not warrent any comment.

6. That the Respondent submits that with regards to para 4 : 1, 4 : 2, 4:3, 4:4, 4:5, 4:6, 4:7, 4:8, 4:9, 4:10, 4:11, 4:12, and 4:13 are all are matters of Records and the Respondent does not forwarded any comment.

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7. That the Respondent submits that with regard to para 4.14, 4.15, 4.16 and 4.17 the memorandum proposing to hold inquiry under Rule 14 of the Central Civil Service (Classification Control, Appeal) Rules 1965, and show cause reply and appointment of inquiry Officer and further the charges that were framed against Sri Bhuyan the appellant were on the basis of complaints of gross irregularities in admission and financial irregularities that were received against him and which were premafaci establish during the preliminary inquiry and the other facts those are mentions in paras are in the matters of record.

8. That the Respondent state that ~~the~~ with regard to the submission made in para 4.18 of the original Application, the disciplinary authority after careful consideration arrived at the decesion and accordingly passed the order dated 18-4-2001 as per rule.

9. , That the Respondent states that the contention of the Applicant in para 4.19 in so far filing of Appeal and thereafter providing opportunity of personal hearing followed by the appellate order dated 19-9-2001 are all matter of procedure and the respondent have taken all care to follow the Rule.

10. That the Respondent states that with regard to para 4.20 to 4.23 that the contention of the applicant is baseless and hence denied. Whatever be the exigencies of the situation, Shru Bhuyan should not have diverted from the normal prescribed procedure of the KVS. He could have at the best, taken the superiors

into confidence and acted on their advice. The guiding factors leading to the violation of rules and procedures cannot be an excuse for his misdemeanor.

The Appellate Authority's observation on the said charge may also be recalled who having considered all aspects of the case, had come to the conclusion that the charge against the Appellant under Article-4 where he dissolved the existing Committee for operation of Pupil's Fund and appointment of Head Clerk as the Convener in violation of the Accounts Code for Kendriya Vidyalayas is a serious charge and cannot be condoned. The appellant has tried to turn the situation in his favour to tide over the charge leveled against him.

The introduction of the Vidyalaya Vikas Nidhi Fund in suppression of all other existing funds of the KVS, namely, the Pupils Fund, the Maintenance and Developments is a prospective decision of the KVS to grant more financial autonomy to the administrators at the primary level so as to gear up development facilities and activities of the Vidyalayas. Even this fund is subject to prescribed procedure enunciated in the Accounts Code for KVS.

11. That the Respondent submits that the ground for relief as forwarded by the Applicant in para 5.1 and 5.2 are denied. The order of appeal is neither illegal nor unjust. In fact adequate consideration has been given to each fact of the charges held proved against the appellant on the basis of hearing accorded to him and also to the fact that the appellant has served in the North Eastern Region and that very little time was

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left for his retirement. Such this way a lot of mercy has been shown to the Appellant as such but does not deserve any ~~further~~ further consideration.

12. That with regard to ground 5.3 to 5.17 the respondent submits that the grounds adduced by the applicant is denied. The CVC, in its second stage advice has categorically stated the charges against Shri Bhuyan which stands proved are: (1) he admitted 71 students of Category - III and IV in different classes of over and above the prescribed strength of 32 without Assistant Commissioner's approval. (b) 9 students of Category-IV who had failed in the admission test, were admitted (c) he denied admission to a Category I student by registering him under Category III and (d) he dissolved all the existing committee for operation of Pupil's Fund and appointed the Head Clerk as the convenor thus violating the Accounts Code.

13. That with regard to para 6 and para 7 the respondent does not framed any comment.

14. That with regard to relief sought in para 8 of the Original Application the respondent submits that in view of the submissions made above, the impugned order of compulsory retirement dated 19.9.2001 imposed on the applicant by the Appellate Authority may not be quashed or set aside and no relief may be provided to the applicant in this regard.

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VERIFICATION

I, Sunder Singh Sehrawat, S/o Shri Harish Chander, Age about 52 years, presently working as the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Guwahati Region, Maligaon Chariali, Guwahati-12, do hereby verify that the statement made in paragraphs 1, 2, 8, 9, 10 & 13 are true to my knowledge and those made in paragraphs 3, 6, 7 & 12 are based on records.

And I sign this verification on this the 25th day of 2002 at Guwahati.

Place : Guwahati

S.S. Sehrawat
DEPONENT

Date : 25/6/02

Asst. Commissioner
Kendriya Vidyalaya Sangathan
Regional office, Guwahati