

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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B/2/2017
SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42).

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 487/2001

Applicant(s) Mr. T. K. Chakrabarty

Respondent(s) N.O.T. Govt

Advocate for Applicant(s) Mr. B.C. Das, S. Dutta, Mrs U. Dutta

Advocate for Respondent(s) K.V. S.

Notes of the Registry	Date	Order of the Tribunal
<p>This is application in form C.P. for Rs. 50/- deposited v/c 10/11/01 20-E55743/1 Dated 28.12.2001</p> <p>Dy. Registrar <i>[Signature]</i></p> <p>25/1/02 21/1/02</p>	3.1.02	<p>Heard Mr. S. Dutta, learned counsel for the applicant.</p> <p>The application is admitted. Call for the records.</p> <p>Issue notice as to why inquadrated transfer order F.No.11-6/99-KVS(Estt-1) dated 13-11-2000 reiterated by order No. F.6-25/94-KVS(Estt.) dated 4.12.2001 shall not be suspended. Returnable by three weeks.</p> <p>Mr. S. Sarma, learned counsel accepts notice on behalf of respondents. In the meantime, operation of the orders of transfer shall remain suspended and the applicant shall continue in working at Regional Office, Silchar.</p> <p>List on 25.1.2002 for order.</p> <p><i>[Signature]</i></p>
<p>Notice for Respondent No 1 to 3 Received by S. Sarma. Adv. along with addl. add. 3/02</p> <p>Received 1.6.01 along with order of Sarpanch for K. J. S 4/1/02</p>		<p>Member</p>

w/s ds been filed on behalf
of the respondents No. 2, 3 & 4^{mb}
at P- 67-57-

[Signature]
6/1/02

Vice-Chairman

(2)

10.1.02 List the matter for hearing
on 15.2.2002.

Written Statement
has been filed.

2/2
14.2.02.

KC (Shan)

Member

Vice-Chairman

mb

15.2.02 Prayer has been made by Sri U.K. Nair appearing on behalf of Sri S.Sarma, learned counsel for the respondents for adjournment of the case. Prayer is allowed. List on 25.2.2002 for hearing.

KC (Shan)

Member

Vice-Chairman

mb

25.2. Heard Mr S. Datta, learned Counsel for the applicant
Mr S. Sarma, learned Counsel
for the respondent.
Hearing Concluded.
Judgment reserved.

*By
A. K. Ray
25/2*

1.3.02 Judgment delivered in open Court,
kept in separate sheets. The application
is allowed in terms of the order. No order
as to costs.

KC (Shan)

Member

Vice-Chairman

mb

*Received
14.2.02
for 15.2.02*

22.3.2002
Copy of the Judgment
has been sent to the
Office for issuing the
same to the applicant
as well as to the L/Os
for the Respondents

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 487 of 2001

Date of Decision. 13, 2002

T.K.Chakraborty

Petitioner(s)

Mr.B.C.Das, Mr.S.Dutta, Mrs.U.Dutta

Advocate for the
Petitioner(s)

- Versus -

Union of India & Ors.

Respondent(s)

Mr. S. Sarma, K.V.S.

Advocate for the
Respondent(s)

THE HON'BLE MR.JUSTICE D.N.CHOUDHURY, 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 ?

Judgment delivered by Hon'ble : K.K.SHARMA, MEMBER(ADMN)

[Signature]

5

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.487 of 2001

Date of Order: This the 1st Day of March, 2002

HON'BLE MR.JUSTICE D.N.CHOWDHURY, VICE-CHAIRMAN
HON'BLE MR.K.K.SHARMA, ADMINISTRATIVE MEMBER

1. - Sri Tapan Kumar Chakraborty
Son of Late Motilal Chakraborty
Resident of Kanakpur Part-II
Silchar-788005. ... Applicant

By Advocate Mr.B.C.Das, Mr.S.Dutta, Mrs.U.Das

-Vs-

1. The Union of India,
Represented by the Secretary to the
Government of India
Department of Education
New Delhi-110001.

2. The Commissioner,
Kendriya Vidyalaya Sangathan
18, institutional Area
Sahid Jeet Singh Marg
New Delhi-110016

3. The Joint Commissioner(Admn).
Kendriya Vidyalaya Sangathan
18, institutional Area
Sahid Jeet Singh Marg
New Delhi-110016

4. The Assistant Commissioner
Kendriya Vidyalaya Sangathan
Silchar Regional Office,
Hospital Road,
Silchar-788005.
Assam Respondents.

By Advocate Mr.S.Sarma, for the Respondents.

O R D E R.

K.K.SHARMA MEMBER(ADMN):

In this Application under Section 19 of the
Administrative Tribunals Act the applicant has challenged
'transfér'
the Order No.11-6/99-KVS(Estt-1) dated 13.11.2000 (Annexure 3)
and Order No.F.6-25/94-KVS(Estt) dated 4th December, 2001

lc Usha

contd/-

(Annexure 7) whereby the Respondents have rejected the representation of the applicant for his choice posting. The applicant has been transferred from Regional office Silchar to Regional office New Delhi. The applicant is working as Assistant in the KVS Regional office Silchar. The order has been challenged on the ground that the applicant, having completed more than five years service in the N.E. Region had acquired right for his choice posting at Kolkata in conformity with the transfer and posting guidelines. The Respondents have not followed the direction of this Tribunal in O.A. No. 423 of 2000 dated 5th June 2001 directing the Respondents to consider the case of the applicant for his choice posting.

2. Mr. S. Dutta learned counsel appearing on behalf of the applicant submitted that the applicant had challenged the transfer order dated 13.11.2000 in O.A. No. 423 of 2000. In the proceedings before this Tribunal the Respondents had stated that the case of the applicant for transfer to Kolkata could not be considered because of pendency of disciplinary proceedings. Considering the fact that the applicant had completed his tenure in N.E. Region, this Bench by order dated 5th June 2001 in the aforementioned O.A. directed the Respondents to re-consider the case of the applicant for re-posting to Kolkata without being influenced by the pendency of the departmental proceeding. The learned counsel for the applicant referring to the impugned order dated 4th December 2001 and the written statement filed by the respondents stated that the respondents have now changed their stand. It is the stand of the Respondents that the transfer guidelines are applicable only to teaching and non-teaching staff of the Kendriya Vidyalaya and the officers and staff working in the

LC Ushan

contd/-

Regional office are not covered by the transfer guidelines. It is also stated that the applicant was posted in Calcutta Regional office from 1984 to 1995 except for a short period when he was posted at Patna. The request of the Regional office staff are taken into account only if they are compatible with the interest of the Organisation. The learned counsel argued that Respondents cannot change the said ground after the matter had been adjudicated before this Tribunal. He also referred to the transfer guideline circulated under reference No.F-1/99(KVS(Estt.III) dated 25.1.2000(Annexure 1)and submitted that as per para 19 of the Guideline, the guidelines are applicable to the non-teaching staff also. He argued that the rejection of the applicant's representation on the ground that the same is not covered by the guidelines is arbitrary and discriminatory. The Respondents have arbitrarily rejected the claim of the applicant for his choice posting in violation of the direction of this Tribunal in O.A.No.423 of 2000. Mr.S.Sarma learned counsel for the Respondents relied on the written statement filed by the Respondents and submitted that the applicant had not given any option for choice posting and specifically referred to the para 4.6 of the application. He argued that the applicant has referred to the representations dated 8.9.98, 14.12.98 , 19.12.98, dated 19.12.98 without annexing the copies of the same. Mr.Sharma strongly argued that the transfer guidelines are not applicable to the Regional office.

3. The facts are not indispute. The impugned order of transfer dated 13.11.2000 has been subject matter of adjudication before this Tribunal. The direction was given to the respondents to consider the case of the applicant for choice posting. The submission made by the Respondents

IC Usha

that the applicant has not made any application for choice posting can not be accepted, because the applicant had come before this Tribunal for consideration of choice posting. No material has been placed on behalf of the respondents to show that the transfer guidelines issued by the respondents vide their letter dated 25.1.2000 are not applicable to the applicant. In Para 1 of the transfer guidelines is reproduced below:-

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

Thereafter in para 2 the Sangathan has been described as reproduced below:-

"Sangathan" means the Kendriya Vidyalaya Sangathan."

As mentioned above it is stated in para 19 of the guidelines that the guidelines apply to non-teaching staff also to the extent applicable. Reference to the guidelines does not show that the staff working in Regional office is outside the purview of transfer guidelines. The submission of the Respondents on the material before us cannot be sustained. The rejection of the claim of the applicant in the impugned order dated 4.12.2001 is not considered justified, as the same is not based on any material. Normally the transfer orders are not interfered by the Tribunal unless the orders are found to be arbitrary, malafide or without jurisdiction. The applicant had come before this Tribunal earlier. The Respondents were directed to reconsider his request. Again his request was turned down taking a new stand. The rejection of applicants representation could not be supported by any material. The impugned order dated 4th December 2001

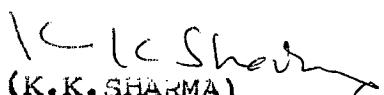
AC Chawla

contd/-

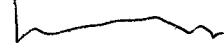
is found to be arbitrary.

4. The impugned order dated 4th December 2001 is accordingly set aside. The Respondents are directed to consider the case of the applicant for transfer to his choice posting at Calcutta as per guidelines dated 25.1.2000 and to accommodate the applicant at Calcutta existing against/available vacancy. The Respondents are directed to complete the process within a month of the receipt of this order. The interim order dated 3.1.02 shall continue to operate till the completion of the exercise.

Application is allowed as indicated above. There shall however, no order as to costs.


(K.K. SHARMA)

ADMINISTRATIVE MEMBER


(D.N. CHOUDHURY)

VICE-CHAIRMAN

LM

KENDRIYA VIDYALAYA SANGATHAN

ESTT-III Section

18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi - 110016

1-1/2002-2003/KVS(Estt-III)

Dated: 14/8/2001

The Principals

All Kendriya Vidyalayas

Sub: Annual request transfer, in respect of teaching and non-teaching staff of Kendriya Vidyalayas for the year 2002-2003 - applications regarding

Sir/Madam

It has been decided to invite fresh applications from teaching and non-teaching staff of Vidyalayas (excluding Principals and Vice-Principals) for effecting request transfers during the year 2002-2003. All are eligible to apply except those covered by clause '18(d)' of the existing transfer guidelines. Application format has been modified now and accordingly instructions have been revised to that extent. Hence those employees who preferred applications for their request transfer in response to KVS(HQ) circular No. F. 1-1/2001-KVS(E.III) dated 12.1.2001 are also directed to apply afresh in the new format as the earlier application does not conform to the present requirements and they will not be considered.

1. PUBLICITY

There have been general complaints that the instructions accompanying application form are not made available to the applicants. It is made clear that the awareness of the instructions in proper perspective is necessary to fill up the application form without mistake and in the correct code(s) wherever necessary. Therefore, a set of three copies of this letter is being sent along with the application form and instructions. One copy is meant for official use, another for library for reference of prospective applicants and the rest for display on the Vidyalaya Notice Board.

2. HOW TO APPLY

Eligible employees desirous of seeking transfer are permitted to prefer only one application (in quadruplicate) in the enclosed format (either for intra-station or for inter-station). Instructions available at Serial No. 9 of application may be referred to in this regard. Other instructions may also be read carefully before filling up the application. Indicating wrong station code may either lead to transfer to unwanted place, which cannot be changed later on and hence utmost care may be taken to fill up correct codes, and all instructions may be read carefully. Overwriting must be avoided.

3. CODE OF CONDUCT REGARDING CANVASSING OF NON-OFFICIAL /OUTSIDE INFLUENCE

Attention of all concerned is drawn to the provision of Article 55 (27) of Education code and Rule 20 of CCS (Conduct) Rules. The employee concerned be informed that any violation of the code shall render them liable for disciplinary action. Canvassing in any form, Overt or Covert, direct or indirect will automatically disqualify teacher from being considered for transfer and his/her name will be removed from the priority list of transfer and disciplinary action will be taken against the teacher as per CCA (CCA) Rule 1965.

4. FORMATS AND ENCLOSURES

The application, when reproduced, must conform to the given format both in form and content. No enclosures are allowed with the application. Medical certificate in support of request on medical grounds and or declaration regarding employment of spouse are part of the application. They should be obtained / recorded on the body of the form itself to avoid detachment.

6. ENDORSEMENT

(i) The application and declaration wherever necessary must be signed by the employee himself/herself. Applications endorsed by spouse, parents etc for and on behalf of the employee is not acceptable and hence should not be forwarded. Medical Certificate must have the signature of Civil Surgeon/Chief Medical Officer.

(ii) The forwarding note must be endorsed by the Principal after satisfying himself / herself personally of the correctness of the entries made by the applicant. It has been observed that the details furnished by the applicants are not subjected to proper verification before endorsing the forwarding note. Therefore the Principals are requested to bestow their personal attention to ensure correctness of the entries, so that wrong information does not affect prioritization. Failure in this aspect on the part of the signing authority will be dealt in a stern manner by initiating disciplinary proceedings against all those responsible for these lapses.

7. SUBMISSION OF APPLICATION

Application of staff may be collected in quadruplicate by 01/10/2001. These may be arranged as intra-station and inter-station requests and forwarded in duplicate (in two lots with separate lists) to reach the Asstt. Commissioner of the Region concerned not later than 10/10/2001. One copy of the application may be retained in the Vidyalaya the second copy containing principals endorsement may be returned to the employee for reference & record. Application of the employees who are not eligible to be considered for transfer in terms of clause 18(d) of the transfer guidelines should not be forwarded. Advance copy of application or applications forwarded directly by the Principals will not be entertained in the Head Quarter. No request for cancellation of transfer, once effected, will be entertained. Since the cadres in the non-teaching category have been merged (school cadre & office cadre), the staff of regional office/ KVS (HQ) are also eligible to apply for request transfer.

8. LATE APPLICATION

Application received late will not be considered. The employees and Principals should, therefore, strictly adhere to the target dates specified in para 7 above.

Yours faithfully,

M.K. RAO
M.K. RAO
(M.K. RAO)
Dy. Commissioner (Admin.)

Copy forwarded for information and necessary action to

1. Asstt. Commissioner, All Regional Offices, KVS. He/She is requested to go through each set of application, indicate the entitlement points of performance as well as total thereof in Sl.No. 9 therein and send one set thereof to KVS(HQ) duly completed in all respects, as under, so as to reach by 31/10/2001.

- A. PGT, TGT & HM: As one bundle to Estt.III Section
- B. PRT, Misc. Categories & Non-Teaching Staff: As one bundle to Estt.IV Section

Instructions given vide KVS (HQ) circular No. F.11/95-KVS (Estt.III) dated 6.9.95 may also be followed, wherever required. The instructions available at clause 2(ii)(b) of transfer guidelines may be followed scrupulously in the case of non-availability of ACR for any of the year indicated at serial No. 9 of application form.

2. All Officers and Sections of KVS(HQ)

Dy. Commissioner (Admin.)

APPLICATION FOR TRANSFER OR REQUEST OF STAFF OF REGIONAL OFFICE

1. Name of Applicant : Debbar Kumar Bhattacharya
 2. Designation : Associate Officer
 3. Whether working on adhoc basis or regular (if on adhoc basis indicate the permanent/regular cadre) : Regular
 4. Seniority No. if allotted : 79
 5. Date of joining the Sangathan : 04.5.78.
 6. Date of joining the present office in the present post : 30.10.95.
 7. Particulars of transfer since joining the Sangathan

Sl. No.	Name of Office	Post held	Period of stay		Nature of each transfer i.e., request/ public interest	Other relevant information if any.
			From	To		
1.	KVS. B.B. Block (4th year)	L.D.C.	1.5.78	31.7.84	Public Interest	NIL.
2.	KVS. RO. Calcutta	4.D.C.	1.8.84	29.9.95	Public Interest	NIL.
3.	KVS. RO. Patna	4.D.C.	30.9.95	29.10.95	Public Interest	NIL.
4.	KVS. RO. Silchar	Asstt.	30.10.95	continuing	Public Interest	NIL.

8. Particulars of the town

Name of Town	District/Taluka	State	Distance from office	Other relevant information by Rail/ Road etc. if any
Agartala	North 24 Pgs.	West Bengal	1400 Km.	NIL.
Calcutta - 100057		Bengal (Cal)		

9. Specific reasons for seeking transfers : Stated herein below.

In case an employee is seeking transfer on medical grounds documentary evidence in support of the illness, duly signed by the M.D. Medical Officer should be attached with the 1st copy of the application.

10. If applied for transfer in the post, Yes - 1995, 1996, 1997, indicate year and result thereof : Yielded no result

(i) Completed 2 yrs in N.C.C. (Promotion discontinued for posting in Kaliachia) (ii) Vacancy existed for 6 months (iii) No written confirmation of 6 yrs in Kaliachia, S. As. (iv) None

(i) The existing in Sikkim has

cont.....2

(i) Disrupts the family (ii) Disrupts the child education
 (iii) Disrupts the environment, being unable to maintain feasible educational needs in Calcutta & Sikkim. (iv) forced not to discharge official duties to family. (v) forced to render financial loss
 (vi) forced to sufferings mentally, physically, socially, financially thereby rendering the individual irresponsible, unproductive
 (vii)

11. Details of Employment of the spouse (if applicable)

Name	Place and name of the Post held by the spouse in the K.V./organisation/ Institution where employed.	Period of Employment From _____ to _____
------	--	---

Note :- In case the spouse is employed, a certificate from the employer should be attached.

12. Particulars of stations (not more than three) requested for transfer in order of preference (choice of stations should be specific and not vague, as anywhere in such and such state. In case an employee has only the choice of one station he/she may not fill up second and third choice.)

(1) CALCUTTA (2) KVS(H.S.) (3) KATRA

Note : 1. Disciplinary action will be taken against employee submitting wrong information.

2. Stations of choice, once given, will not be allowed to be altered.

Certificate : I certify that the particulars given above are correct.

Place : Sikar Date : 05.01.98 Signature of the applicant

(FOR USE IN REGIONAL OFFICE)

1. Shri/Smt. T.K. Chakrabarty, Asstt. was never transferred on administrative grounds on account of misconduct, indiscipline, indulging in tuition work etc.

2. Shri/Smt. _____ was transferred from _____ to _____ on administrative grounds (give detailed reasons).

3. No disciplinary case is pending or contemplated against Shri/Smt. _____

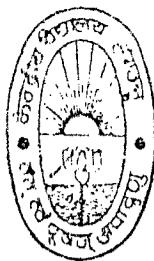
Place : CCWV, New Delhi Signature of Asstt. Commissioner

Date : _____ Signature of Asstt. Commissioner with seal

Note : To be filled in duplicate. One copy to be retained in the Regional Office and second copy sent to the Headquarters Office.

Stamp sheet: Transfer in any hypothetical ground is being contemplated at some time in future or not can be before the issue of notice of transfer, if any such transfer is to be made, then a copy of the same will be sent to the concerned office. Transfer in any hypothetical ground is being contemplated for the period of three months or within a period of one month from the date of issue of notice of transfer or any other period of time as per the order of service and will be applicable to Non-Teaching Staff as per orders of service and of the concerned High Court or the wide Appeal No. 153 of 1996 arising out of Civil Rule No. 832 of 1950. See the Clause of Section 1, Reg. 1, V. 1973 & 65.

T.K. Chakrabarty
Signature



केन्द्रीय विद्यालय संगठन
KENDRIYA VIDYALAYA SANGATHAN

दूरभाष 34009 (AC) with FAX
Phone 34339 (AC) Resi
34154 (AO)
45737 (EO)

धर्मपाल विद्यालय
असमाल गंड
सिलचर ৭৮৮ ০০১

Regional Office
Hospital Road,
Silchar 788 001

पत्रांक
F No 2 -19/2002/KVS(SR)/

दिनांक
Dated 19.10.2001

To

Special Post.

*The Deputy Commissioner(Admn)
Kendriya Vidyalaya Sangathan
New Delhi-16.*

Sub: Annual request transfer in respect of employees of KVS, RO,
Silchar- forwarding thereof-

Sir,

I am forwarding herewith the applications for transfer in
respect of the following employees of this office for consideration.

1. Sri G. Rabha, Admn. Officer.
2. Sri A. Bhattacharjee, Supdt(Admn.).
3. Sri A. K. Sharma, Supdt(Accounts).
4. Sri T. K. Chakraborty, Assistant.
5. Sri R. S. Sharma, Assistant.
6. B. S. Rawat, Accounts Clerk.
7. Sri R. Nath, L.D.C.

In this connection this is to state that clarifications on
10.1 and 10.2 of application form sought for vide this office
letter of even no. dated-01.10.01 have since not been received
from KVS(Hqrs), forms filled in and submitted may be accepted.
Changes, if any, required may be informed for taking further action
at this end or resubmission after clarification.

Copy of letter dated-01.10.01 is enclosed.

Yours faithfully,

Enclo: As stated.

(R.V. SINGH.)
EDUCATION OFFICER
OFFG. ASSTT. COMMISSIONER.

2-19/2002/KVS(SR)/ 985

28-9-2001

Tjpo.
FAX/Speed Post

To : The Deputy Commissioner(Admn.)
Kendriya Vidyalaya Sangathan
New Delhi-16.

Sub: Annual request transfer in respect of teaching & non-teaching
staff of KVs for 2002-2003: Clarifications thereof.

Sir,

It may please be clarified-

- 1) Whether an employee of KV seeking transfer for intra station should fill up KV Code as well as station code meant for the KV or only KV Code under 10.1 of application form.
- 2) Whether an employee of KV seeking transfer for Inter-station should fill up station code only or KV Code as well as station code meant for that ~~office~~ under 10.2.
- 3) Whether an employee of R.O seeking Inter-station transfer should fill up only station code or office code as well as station code meant for that office under 10.2.

It is requested to send the clarification through FAX at the earliest.

Yours faithfully,

Bauri
(S.P.BAURI.)
ASSISTANT COMMISSIONER.

KENDRIYA VIDYALAYA SANGATHAN

Application for Transfer on Request 2002-2003

Note: 1) Read the instructions carefully before filling up.
 2) Submit only ONE application in Quadruplicate

18	439	998	N T S	A S T T
Present Region Code	Present Station Code	Present K.V. Code/Office Code	Post Held & Subject (Alphabets)	

1. Name **T K CHAKRA BORTY**

2. Whether Male/Female **M**

3. Date of Birth **28 10 1956**

4. Date of joining in the Present Post

a) In the Present Vidyalaya **30 10 1995**

b) In the Present Station **30 10 1995**

5. Details of last transfer

Reason	Year	From	
		Stn. Code	Regn. K.V. Code
4	1995	133	06

6. Grounds For Transfer

a) (i) Death of Spouse within a period of 2 years preceding the Date of Application Y/N

N

(ii) If Yes, Date of Demise

b) Medical Grounds (See Instructions) Y/N

N

c) Others (See instructions for following codes)

CATEGORY CODE

DIVISION CODE
FOR GROUNDS

ENTITLEMENT POINTS

N E H

04

20

S P S

13

04

TOTAL 'A'

7. Completion of 3 years continuous stay in NE and hard stations or 5 years elsewhere as on 31/03/2002 excluding the period of absence(Y/N)

8. Only for those who are in their present posting on deployment of surplus adjustment or closure of Vidyalaya or closure of stream.

Details of Posting

a) Present Posting

K.V	Station	From	To	Period of absence in days	Reason for transfer
<input type="text"/>	<input type="text"/>				
<input type="text"/>	<input type="text"/>				

b) Earlier transfer(s) within the last 5 years

K.V	Station	From	To	Period of absence in days	Reason for transfer
<input type="text"/>	<input type="text"/>				
<input type="text"/>	<input type="text"/>				
<input type="text"/>	<input type="text"/>				
<input type="text"/>	<input type="text"/>				
<input type="text"/>	<input type="text"/>				

9. For Office Use Only. (Confidential) To be filled in by Regional Office
Entitlement Points of Performance during the last 3 years

1998-1999

1999-2000

2000-2001

Grand Total of

Entitlement Points 'A'+ 'B'
(Total of 6 (c) + above)

Total 'B'

Grand Total (A+B)

Signature of Assistant Commissioner

10. Choice Vidyalaya(s) or Station(s)

Instructions: Employees are eligible to apply either for Intra Station transfer (Sl.No. 10.1) or Inter Station transfer (10.2). Applications filled in for both types of transfer i.e. Sl. No. 10.1 & 10.2 will be summarily rejected.

10.1 For Intra Station transfer – Choice Vidyalayas
(Please see instructions)

K.V. / OFFICE
CODE

--	--	--

--	--	--

--	--	--

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10.2 For Inter Station transfer – Choice Stations
(Please see instructions)

STATION CODE OFFICE CODE

1	3	3	→	9	8	6
---	---	---	---	---	---	---

--	--	--

--	--	--

--	--	--

--	--	--

11. Category of place where spouse is working

--	--

12. Have you given the declaration regarding the employment and place of posting of spouse (Y/N)

N

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

N

14. Type of disease certified in the MC overleaf

--	--

Please fill up code

15. Relationship of the patient with the applicant

--	--

Please fill up code

I, Sh. Tapas Kumar T.K. Chakrabarty..... do hereby affirm that the information given in Sl.No 01 to 15 excepting Sl.No 9 of this application are correct and that the Medical Certificate (M.C.)/ declaration given is/are bona fide and I understand that wrong/suppressed information shall render me liable for disciplinary action.

Place: K.V.S. RO. Seelchow

Signature

Tapas Kumar Chakrabarty

Date: 19.09.2001.

Name Tapas Kumar Chakrabarty
Assistant.

N.B. :- Hon'ble CAT Seelchow has passed orders on 03.6.2001 for my transfer to RO. Calcutta. The vacancy at RO. Calcutta has been reserved under orders of CAT. Orders have not yet been complied with.

MEDICAL CERTIFICATE

(To avoid disqualification, please do NOT use abbreviation. Fill in CAPITAL LETTERS only.
Please do not attach any enclosure)

14

Name of Patient:

Address:

Date:

I, Dr. with Medical Council Registration No.
hereby certify that Sh/Smt/Ms Aged Sex
Son/daughter of Shri/Smt. is suffering from the disease/diseases with the
details as follows and that treatment of this disease is not at all available at this station or its
vicinity :

A) In case of Carcinoma:

1. Name of Carcinoma with site affected:
2. Date when it was detected first:
3. Brief Histo-Pathological report with reference No. & Dates:
4. T.N.M Classification (if applicable):
5. Evidences in support of uncontrolled growth:
6. Evidence in support of Metastasis:
7. Condition of neighboring or surrounding structures:
8. Treatment being continued in brief:
9. Full name of surgery/surgeries in connection with dates:

B. In case of Renal Failure:

1. Name of the disease causing Renal failure:
2. Evidences in support of Chronic Irreversible changes:
3. Number of Dialysis done with dates:
4. Single or both Kidneys are involved:
5. Any surgery including renal transplantation done or not:

C. In case of Loss of Muscle Power:

1. How many extremities are affected:
2. Grading of Muscle Power at present:
3. Grading of Muscle Power at the onset of disease:
4. Duration of loss of muscle power:
5. Any recovery after the onset till date:
6. Most direct cause of loss of Muscle Power:

D. In case of Heart Diseases:

1. Name of the disease:
2. Date of first detection:
3. Coronary artery By-Pass Grafting surgery done or not:
If yes, please mention.
 - a) Date
 - b) Name of Doctor/Surgeon
 - c) Name of the Hospital

E. Other Diseases:

1. Name of disease:
2. Date of first detection:
3. Any surgery due or done:
4. Brief description of treatment continued:

(Signature of the competent authority)

Name:

Name of the Department:

Name of Hospital:

Place:

Date:

Seal

Name & Signature of patient

DECLARATION

(Kindly fill the information in capital letters. Strike out whichever is not applicable) 20

I solemnly declare that my spouse is presently employed at/under orders of transfer to.....(Place) as.....(Designation)in (Dept./unit/branch) since(Date) His/her full office address with name & designation of immediate superior/detail of self-employment is/are as follows

Name and Office/Registered Business or Professional Address of spouse

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

.....
.....
.....

.....
.....
.....

Signature of the employee
Name
Designation

For office use only in Kendriya Vidyalaya

(Strike out whichever is not applicable)

1. Disciplinary case is pending/contemplated/not pending/not contemplated against Shri/Smt/Kum *T. K. Chakrabarty, Asstt.*
2. The Medical Certificate/Declaration given in the application itself is from the competent authority.
3. Certified that the details including entitlement points furnished by the applicant have been verified from the service records and found correct.
4. She/he was on leave/absent/ absent without pay during and is still away/not away from duties.

X N.A.
Date:

Signature *R.W.*

18/10/01

Name of the Principal *Asstt. Commissioner*

JKS (E.O.)

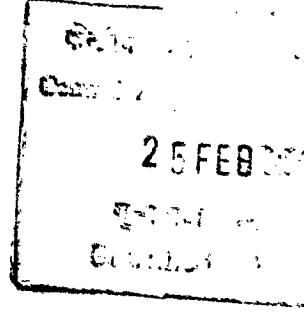
Office Seal

Note:

1. Sl No. 1 to 8 and 10 to 15 have to be checked and verified by the Principal from the service records. They should take personal interest/care and ensure that the entries made by the applicant are correct before countersigning. Any wrong information filled in by the applicant and duly countersigned by the Principal will attract disciplinary action against the individual as well as countersigning authority.
2. Assistant Commissioners have to ensure that the correct points are given in the Sl.No. 9 and implement the note 1 above in letter and spirit with respect to entries to be checked by the respective Principals within their region.

-7-

N.B.:- Disc. proceedings being untenable was stayed by The Hon'ble High Court, Gauhati on 17.8.98.



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Filed by: /
Surajit Datta
Advocate
15.02.00

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

O.A. No. 487 / 2001

Shri Tapan Kumar Chakraborty

.....Applicant

-VS-

Union of India and others

.....Respondents

IN THE MATTER OF :

Rejoinder of the applicant to the Written statement submitted by the respondent nos. 2, 3 and 4;

The applicant above named -

MOST RESPECTFULLY BEGS TO STATE:

1. That the applicant has received a copy of the written statement filed by the respondents above named. He has gone through the same and having understood the contents thereof, begs to submit his reply as hereunder contained.
2. That the contents of the written statement are generally denied save and except what have been specifically admitted in this rejoinder.
3. That with regard to the statements made in paragraphs 1 and 2 of the written statement, the applicant have no comment to offer.
4. That with regard to the contentions made in paragraph 3 of the written statement, the applicant begs to state that the respondents have deliberately mad a false statement with regard to his transfer from R.O., Calcutta to Patna. It is stated by an order-dated 05.01.1990, the applicant was sought to be transferred to R.O., Patna in violation of the then existing Rules. The said

Tapan Kumar Chakraborty

transfer order was challenged in the Hon'ble Calcutta High Court in C.O. No. 2687(W)/1990 whereupon the transfer order was stayed, however, the case was disposed of on 15.03.1990 with a direction that the applicant would file representations before the respondents and the same would be disposed of by a reasoned order and until such disposal, the transfer order would remain stayed. But, the respondents acted in utter violation of the stay order and as such a contempt proceeding was initiated. However, on 30.04.1990 the said contempt petition was wrongly disposed of by the High Court but subsequently on being pointed out by the applicant on 10.08.1990, the High Court recalled its earlier orders, revived the earlier writ petition in C.O. No. 2687(W)/1990 granting stay of the transfer order dated 05.01.1990 till further orders and initiated a fresh contempt vide order dated 10.08.1990. Nevertheless, on 12.07.1995 the Calcutta High Court disposed of the said contempt petition without entering into the merit of the case. As such, the said stay order was still in force on 13.07.1995 but the respondents misinterpreted the said order and quite illegally relieved the applicant from Calcutta w.e.f. 13.07.1995 in pursuance of the transfer order issued on 05.01.1990, which was under challenge before the High Court in the above, mentioned writ proceeding. However, the applicant continued at Calcutta and subsequently the Joint Commissioner (Admn) issued offer of promotion on 15.09.1995 to the post of Assistant and posted the applicant to R.O., Silchar from R.O., Calcutta.

The applicant craves leave of the Hon'ble Tribunal to rely upon the said orders dated 12.07.1995 and 15.09.1995 at the time of hearing, if need be.

5. That with regard to the statements made in paragraphs 4, 5, 6, 7, 8, 9 and 10 of the written statement, the applicant begs to state that the respondents have furnished baseless and false statements to mislead this Hon'ble Tribunal. It is stated that the respondents vide memorandum dated 29.01.2001 (Annexure-4 to the O.A.) took the stand that the case of the applicant for posting to Calcutta could not be considered in view of clause 18(d) of the Transfer Guidelines meaning thereby that the said transfer could have been considered but for the clause 18(d) of the Transfer Guidelines. This Hon'ble Tribunal in its judgment

dated 05.06.01 in O.A. No. 423/2000 has also held that the Transfer Guidelines are applicable to the applicant and in view of his completion of tenure in the NE Region he was entitled to choice station posting as contemplated under the Transfer Guidelines. It is further stated that the following employees were transferred from Calcutta to other places but subsequently were again transferred back to their choice of place in terms of the transfer guidelines:

- a) Sri P. Sen - UDC of R.O., Calcutta was transferred to R.O., BBSR on promotion to the post of Audit Asstt. in the year 1995-96 and transferred back to R.O., Calcutta in the year 2001.
- b) Sri D. K. Tandon - Asstt. of R.O., Lucknow on promotion during February 1997 and was transferred back to R.O., Calcutta in the year 1998-99.

From what have been stated above, there is no reason for not transferring the applicant to R.O., Calcutta, even after successful completion of tenure in NE Region. Be stated that the contention of the respondents with regard to the applicability of the provision under Appendix 24 of the Accounts Code is baseless and flimsy. When all the provisions of the said Code are applicable to all employees of the Sangathan, there cannot be any reasonable ground in not equally applying the provisions of tenure/choice posting etc. to all the employees. It, thus, clearly appears that the contention of the respondents as made in the paragraph under reply is nothing but dictatorial perception without any basis and such contention amounts to sitting over the judgment of the Hon'ble Tribunal passed in O.A. No. 423/2000 on 05.06.01 declaring the entitlement of the applicant. It is stated that the action of the respondents suffers from Wednessbury Unreasonableness and the same is vindictive.

6. That with regard to the statements made in paragraphs 11, 12, 13, 14, 15, 16 and 17 of the written statement, the applicant begs to state that instead of complying with the direction of the Hon'ble Tribunal in true spirit as passed in the order dated 05.06.01 in O.A. No. 423/2000, the respondents rather sat over the judgment of the Hon'ble Tribunal and went beyond the categorical findings of this Hon'ble Tribunal (with regard to the entitlement of the applicant) in issuing the impugned order of transfer dated 04.12.2001. The action of the respondents in

so doing is *prima facie* contemptuous and the same is nothing but the exhibition of their vindictive and arbitrary attitude towards the applicant. From the facts of the case narrated in the original application, it clearly appears that the respondents are acting according to their executive whims and fancy and hell bent upon their stand so to deny the applicant his rights. Such action of the respondents cuts at the throat of the provisions of Article 14 and 16 of the Constitution of India and the same are liable to be set aside.

7. That with regard to the statements made in paragraphs 18, 19, 20, 21 and 22 of the written statement, the applicant begs to state that the decision of this Hon'ble Tribunal dated 05.06.01 in O.A. No. 423/2000 has vested in him a right for consideration of his choice station posting in terms of the direction contained therein against the vacant post of Assistant at Calcutta. It is stated the post of Assistant has been kept vacant in terms of the direction of this Hon'ble Tribunal above mentioned and the said post requires to be filled in the better organisational interest in compliance of the direction of this Hon'ble Tribunal. It is stated that the applicant being the only claimant for posting to Calcutta should have been reasonably considered and posted against the existing vacancy but the same has been refused to him on the frivolous plea of organisational needs and administrative exigency. The contention of the respondents in the paragraphs under reply are without any basis and liable to be rejected.

8. That with regard to the statements made in paragraphs 23 of the written statement, the applicant begs to state that the actions of the respondents as evident from the paragraph under reply clearly establishes their vindictive attitude. It is denied that the applicant left the office without any intimation rather the respondents did not accept the intimation of the applicant regarding his illness and in such circumstance the applicant had to leave the intimation in the office mailbox. It is stated that the applicant had no knowledge of the relieve order dated 31.12.01 till the respondents moved an application for vacating the stay order dated 03.01.02 annexing a copy of the same.

The copy of the letters dated 31.12.01 intimating illness and where about of the applicant are annexed herewith as Annexure-R1.

Tapas Kr. Chakraborty

9. That with regard to the statements made in paragraphs 25, 26, 27, 28, 29, 30 and 31 of the written statement, the applicant begs to state that the contentions of the respondents have no force, much less any legal force, in it and the same are liable to be rejected.
10. That the applicant begs to state that he is a low paid employee having five dependent members in his family including his octogenarian mother and minor son and he is the only person to look them after. He has been away from home since last six years and has been subjected to undue harassment by the arbitrary, whimsical, vindictive and malafide action of the respondents. Considering the attending facts and circumstances of the case as mentioned in the original application as well as in this rejoinder, the Hon'ble Tribunal be pleased to reject the contentions of the respondents as made in the written statement and grant him the relief as prayed for in the instant case.
11. That the statements made in this rejoinder are true to my knowledge and the same is filed bona fide and in the interest of justice.

..... Verification

Tapas Kumar Chakrabarty

VERIFICATION

I, Sri Tapan Kumar Chakraborty, Son of Late Motilal Chakraborty, aged about 46 years, resident of Kanakpur, Part II, Silchar, District-Cachar, Assam do hereby verify that the statements made in the accompanying rejoinder to be true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 12th day of February, 2002.

Tapan Kumar Chakraborty

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Annexure-R1

Dt. 01.01.2002

Under Certificate of Posting

To,

The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Hospital Road,
Silchar -788001.

Sub : Illness Information thereof.

Sir,

In continuation to my letter dated 31-12-2001 this is to inform you that the doctor has advised me rest. Medical Certificate of illness and fitness will be submitted at the time of joining duty after leave.

A copy of my letter dated 31-12-2001 already submitted in the office is enclosed for reference.

I, therefore, request you to grant me commuted leave for the period of absence from 31-12-2001.

Yours faithfully,

Enclo: Copy of letter
dt.31-12-2001.

Tapan Kr. Chakraborty
Assistant, K.V.S.
R.O. Silchar.

Address :-
C/o. Smt. C. Das
Station Road,
Tarapur, Silchar.

UNDER CERTIFICATE OF POSTING



To

The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office, Silchar-1
Hospital Road, -788001.

Dated, 01.01.02

① *SW One* *Post Officer*
Certified to be true copy

S. Datta
Advocate

Copy

To,

The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Hospital Road, Silchar-788001

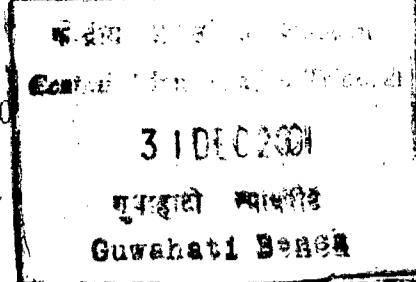
Sir,

Due to severe chest pain I am unable to
sit in the office and therefore, leaving the office at
11.20 hrs. This is for your kind information please.

Yours faithfully,

Dt. 31-12-01.

Sd/- Illegible
Assistant
K.V.S. R.O. Silchar.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

Title of the case : O.A. No. 487/2001

Sri Tapan Kumar Chakraborty : Applicant

- Versus -

Union of India & Others : Respondents.

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Filed by

S. Chakraborty
Advocate

Date : 28.12.2001

Tapan K. Chakraborty

31

Filed by : -
 The Applicant
 Through : -
 Swapnil Datta
 Advocate
 28.12.2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

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

O.A. No. 487/2001

BETWEEN

Sri Tapan Kumar Chakraborty
 Son of late Motilal Chakraborty
 Resident of Kanakpur Part -II
 Silchar-788005.....Applicant

-AND-

1. The Union of India,
 Represented by the Secretary to the
 Government of India,
 Department of Education
 New Delhi-110001
2. The Commissioner,
 Kendriya Vidyalaya Sangathan
 18, Institutional Area
 Sahid Jeet Singh Marg
 New Delhi-110016.

Tapan K. Chakraborty

3. The Joint commissioner (Admn.)

Kendriya Vidyalaya Sangathan
 18, Institutional Area
 Sahid Jeet Singh Marg
 New Delhi-110016.

4. The Assistant commissioner

Kendriya Vidyalaya Sangathan
 Silchar Regional Office,
 Hospital Road,
 Silchar-788005
 Assam.

.....Respondents.

DETAILS OF THE APPLICATION

1. Particulars of order against which this application is made.

This application is made against (i) the order dated 13.11.2000 issued by the respondent no.2 transferring the applicant from Silchar to Delhi in total violation of the existing transfer and posting guidelines of the Kendriya Vidyalaya Sangathan without considering his case for posting at his place of choice (i.e. at Calcutta) upon completion of tenure of 3 years in N.E. States and (ii) the order dated 04.12.01 issued by the respondent no.2 rejecting the representation dated 17.4.2000 field by the applicant seeking choice station posting and directing him to join at Delhi in pursuance of the order dated 13.11.2000.

2. Jurisdiction of the Tribunal.

The applicant declares that the subject matter of this application is well within the jurisdiction of this Hon'ble Tribunal.

3. Limitation.

The applicant further declares that this application is filed within the limitation prescribed under section-21 of the Administrative Tribunals Act, 1985.

4. Facts of the case.

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

4.2 That the applicant initially joined in the Kendriya Vidyalaya Sangathan (for short, Sangathan) as a Lower Division Clerk and was posted under Calcutta Regional Office. Thereafter, he was appointed as Upper Division Clerk on his selection through Departmental Examination and was posted at Calcutta Regional Office. It was in pursuance of an order issued under Memorandum No. F.2-17/95-KVS(Estt.I) dated 15.9.1995 that the applicant was promoted to the post of Assistant and was transferred to Silchar Regional Office. Accordingly, the applicant joined at Silchar on 31.10.1995 in compliance of the said order and has been working thereat since then.

4.3 That the applicant states that the services of the employees of the Sangathan (teaching and non-teaching) are governed by the

Education Code and Accounts Code of the Sangathan apart from various guidelines/circulars. The Sangathan has been issuing various transfer guidelines from time to time every year on adopting policy regarding transfer and posting of its employees. Although the transfer guidelines are sometimes issued in respect of the teaching staff but they are also made applicable to the non-teaching staff and therefore there is no separate guideline regulating transfer and posting of the non-teaching staff.

4.4 That the applicant states that as per the transfer and posting guidelines of the year 1995-96, a person completing one year's stay at the same station was eligible to apply for transfer. Similar condition was also incorporated in the transfer-posting guidelines of the year 1996-97 and 1997-98. In the transfer and posting guidelines of the year 1998-99 it was stipulated that the person applying for transfer should have completed minimum one year's service at the present place of posting. It was however, provided in all the aforesaid guidelines that a person having completed three years tenure in North Eastern Region would be entitled to transfer to a place of his choice.

The applicant does not annex herewith the copies of the above circulars for the sake of brevity. He, however, craves leave of the Hon'ble Tribunal to refer to rely upon and produce the same at the time of hearing of this application if need be.

4.5 That in the above background, the applicant, on completion of one year's stay at Silchar with effect from 30.10.1995, applied to

the respondents seeking his transfer to Calcutta Regional Office. It may be stated that at the relevant time there were vacancies at Calcutta Regional Office, where he could have been accommodated without any impediment. But surprisingly his prayer for transfer was not considered without any cogent reason. However, the applicant continued to press on the matter through representations. It may be pertinent to mention here that earlier there was no tenure fixed for the Group C employees posted to serve in N.E. Region. Moreover, the employees upto the level of *C were usually appointed in the same place upon their Group promotion/selection.* In this view of the matter, there was no impediment on the part of the respondents to transfer and post the applicant (who is basically recruited at Calcutta) to Calcutta Regional Office. But, nothing favourable was done and his representations remained unattended without any reason.

- 4.6 That as stated above, all the transfer guidelines issued by the respondents contained a provision permitting transfer of the employees to a place of his choice on completion of tenure of 3 years service in N.E. Region. In this view of the matter, the applicant finding no other alternative, represented to the respondents vide his representations dated 8.9.1998, 14.12.1998, and 23.12.1998 seeking his transfer to Calcutta Regional Office on completion of 3 years tenure on 30.10.1998. But the prayer of the applicant fell into deaf ears of the respondents and consequently nothing was done.
- 4.7 That the applicants states that the Accounts Code of the Sangathan specifically provides under its Appendix 24 that on completion of

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term of 3 years of service the persons would be posted to the places of their choice. The provisions of the Accounts Code of Kendriya Vidyalaya Sangathan and the rules of the Sangathan and thus for the benefit of this applicant to the benefits given under the said Accounts Code, the applicant again represented to the respondent Sangathan for his right to get transfer to his place of choice in terms of the provisions so provided under the Accounts Code as well as the rules of the Sangathan. The respondents for the year 1999-2000 were however, taken by surprise of the applicant, his representations dated 6.7.1999 and 30.7.1999, amongst others, remained unanswered and consequently his prayer for transfer to Calcutta Regional Office was not considered favourably in spite of the fact that there were vacancies available.

4.8 That on 25.1.2000, the respondent Sangathan had issued a fresh transfer guidelines in respect of Kendriya Vidyalaya Employees for the year 2000-2001. The instant guidelines had been issued in supersession of the earlier guidelines/orders on the subject. The said guideline contains various provisions regulating transfer and posting of the employees of the Sangathan. The para 10 of the said guidelines provides that where a person seeks his transfer to a place of his choice under the provisions of the instant guidelines on having completed 3 year's continuous stay at N.E.Region, his case should be considered and if there is no vacancy at such place, vacancies shall be created by moving out the person having longest period of stay.

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A copy of the aforementioned transfer guidelines is annexed herewith as Annexure-1.

4.9 That immediately after coming of the above mentioned guidelines, the applicant submitted representations to the respondents authorities seeking transfer to Calcutta in the light of the provisions contained in the transfer guidelines for the year 2000-2001. But, like the earlier occasions, this time too, no favourable action came his way. In such a situation, the applicant submitted a representation on 10.7.2000 to the department of Personnel & Training under the Ministry of Personnel, Public Grievances and Pensions, government of India, who in turn took up the matter vide letter dated 26.7.2000 with the respondent no.2 requesting the latter to take appropriate action in the matter. But even thereafter nothing was done. In such a circumstance, the applicant ~~had~~^{lastly} filed a representation on 26.9.2000 to the respondent no.... seeking his intervention in the matter and praying for favourable consideration of his case in the light of the existing guidelines/circulars etc. governing transfer and posting of the employees of the Sangathan.

4.10 That the applicant states that suddenly thereafter the Senior Administrative Officer has issued an order vide No. F.N. 11-6/99-KVS(Estt.I) dated 13.11.2000 and thereby transferred the applicant amongst others from Silchar to Delhi. The applicant received the same order on 15.11.2000 and immediately after receipt of the same represented to the Commissioner, Kendriya Vidyalaya

—Tapan K. Chakraborty

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Sangathan as well as Vice-Chairman, KVS vide his representations dated 17.11.2000 and 21.11.2000 respectively. While representing ^{he} against the impugned order of transfer, specifically made a prayer seeking his transfer to Calcutta Regional Office in terms of the guidelines of the transfer and posting policy of the respondents for the year 2000-20001. The ~~said~~ representations ~~have~~ not yet been disposed of by the respondents till filing of this application and consequently the applicant has not been relieved from Silchar Regional Office in pursuance of the impugned order dated 13.11.2000.

Copies of the representation dated 17.4.2000 and the order dated 13.11.2000 are annexed herewith and marked as **Annexures 2 and 3** respectively.

- 4.11 That at this stage, being aggrieved by issuance of the order dated 13.11.2000, the applicant had approached this Hon'ble Tribunal in O.A. No. 423/2000 whereupon the Hon'ble tribunal had been pleased to admit the petition and by order dated 7.12.2000 suspended the operation of the transfer order dated 13.11.2000. The Tribunal also observed that pendency of the said O.A. No. 423/2000 would not be a bar for the respondents to consider and dispose of the representation submitted by the applicant.
- 4.12 That thereafter on 29.1.01, the Deputy Commissioner (Finance) disposed of the representation dated 21.11.2000 filed by the applicant to the Vice-Chairman of the Sangathan praying, inter alia, for modification of the transfer order dated 13.11.2000. In the said

disposal dated 20.01.01, it was contended that the request of the applicant for modification of his transfer from KVS, R.O., Delhi to KVS, R.O., Calcutta could not be acceded to in view of para 18(d) of the transfer guidelines.

A copy of the said Memorandum dated 29.01.01 is annexed herewith and marked as Annexure-4.

4.13 That the respondents ultimately filed their written statement in the said O.A. No.423/2000 and contended that as per the existing transfer guidelines, the applicant qualified for his transfer from R.O., Silchar. However, his case for transfer to R.O., Calcutta could not be considered in view of para 18(d) of the transfer guidelines because of the disciplinary proceedings initiated against him as far back as on 17.9.1997.

4.14 That the said O.A. 423/2000 was finally heard by this Hon'ble Tribunal and upon considering the materials on record, the Tribunal came to the finding that the applicant had completed his tenure in North Eastern States and therefore, ^{was entitled to a choice station posting} in terms of the transfer guidelines and para 18(d) of the transfer guidelines could not stand on the way of the respondents to consider the case of the applicant for a choice posting in as much as the plea of pendency of disciplinary proceeding could not be a valid reason for not considering the case of the applicant for choice posting at Calcutta. In that circumstance, the Hon'ble Tribunal directed the respondents to reconsider the case of the applicant for his posting at Calcutta on the basis of the representations so far filed by him in

Tapan K. Chakrabarty

the year 1999-2000 and as per the policy guidelines without being influenced by the pendency of the departmental proceeding mentioned in the written statement. The Tribunal further directed that the interim order dated 7.12.2000 and 25.4.2001 would remain operative till completion of the above exercise for posting the applicant against the vacant post at Calcutta.

A copy of the said order dated 05.06.2001 is annexed herewith as Annexure-5.

4.15 That even after passing of the aforesaid order, the respondents did not care to obey and implement the same and sat over the matter without any action. In that circumstance, the applicant finding no other alternative again approached this Hon'ble Tribunal in Contempt Petition No. 55/2001 whereupon notices were issued to the alleged contemners (Respondent Nos. 2 and 3 in this application) on 18.10.2001. Thereupon, the respondents in an attempt to avoid the order of this Hon'ble Tribunal approached the Hon'ble High Court in W.P.(C) No. 8124/2001 challenging the order dated 5.6.2001 passed in O.A. No. 423/2000. The said petition, filed by the respondents, stood for admission before the Hon'ble High Court on 03.12.2001 whereupon the Hon'ble High Court dismissed the same vide order dated 03.12.2001.

A copy of the said order dated 03.12.2001 passed by the Hon'ble High Court in W.P(C) No. 8124/2001 is annexed herewith and marked as Annexure-6.

4.16 That immediately after dismissal of the writ petition as stated above, the respondent no.2 issued the impugned order dated 4.12.2001 and thereby disposed of the representation dated 17.4.2000 filed by the applicant. In his said order dated 4.12.01, the respondent no.2 contended inter alia, that (i) the posting of the applicant at Silchar was not a tenure posting; (ii) the transfer guidelines are meant for teaching and non-teaching staff of Kendriya Vidyalayas and the staff of KVS HQ and Regional Office is excluded from this exercise and therefore the relief claimed by the applicant is not due to him under this transfer guidelines and (iii) since the applicant remained posted in KVS, R.O., Calcutta from August 1984 until he joined at KVS, R.O., Silchar, he could not be considered for posting in Calcutta again. The applicant was, therefore, directed to join at KVS, R.O., Delhi in compliance of the transfer order dated 13.11.2000.

A copy of the said order dated 4.12.2001 is annexed herewith as Annexure-7.

4.17 That the applicant states that the above act of the respondent No.2 is in deliberate violation of the order of this Hon'ble Tribunal passed in O.A. No.423/2000 on 5.6.2001 and therefore the same amounts to contempt of Court. It is stated that the respondent no.2 has given a complete go-bye to the directions of this Hon'ble Tribunal and substituting the has gone further to the extent of finding of this Tribunal - regarding entitlement of the applicant for choice station posting - by his own

finding. He has therefore, made himself liable to be proceeded against as per law.

4.18 That the applicant states that the action of the respondent no.2 has rendered the impugned order dated 4.12.2001 ex-facie illegal and bad in law and therefore the same is liable to be set aside.

4.19 That the applicant begs to state that in view of exercise of his choice in accordance with the existing guidelines of the Sangathan after serving in the N.E. Region for more than the tenure period, he is entitled as of right to be considered and transferred to his place of choice at Calcutta in terms of the transfer and posting guidelines. The Respondents are required to scrupulously observe the guidelines while ordering transfer and posting. But the Respondents appear to have given a complete go-bye to the guidelines and arbitrarily transferred and posted the applicant to Delhi. Not only that, the post at Calcutta is also sought to be filled up by another person. The entire action of the Respondents is ⁱⁿ infraction of the guidelines, arbitrary and mala fide. The impugned orders, therefore, are liable to be struck down.

4.20 That ^{from} what have been narrated above, it is apparent that the respondents have meted out differential treatment to the applicant without any justifiable reason or objective criteria. In view of the fact that the applicant has been continuously making his request seeking ~~to~~ transfer to Calcutta Regional Office in terms of the existing guidelines of the Sangathan, there was no earthly reason on the part of the respondents to reject the claim of the applicant.

The respondents are therefore duty bound to justify the reason before the Hon'ble Tribunal in this application.

4.21 That the applicant begs to state that since 30.10.1995 he has been working at Regional Office, Silchar with full satisfaction to his officers at all levels. During last five years, his ACRs were reportedly very good for three years and excellent for two years. He has been applying for his transfer from 1996 in every year for posting to Regional Office, Calcutta and considering the genuineness of his case and the sufferings undergone by him all the Assistant Commissioners recommended his case for transfer to Regional office, Calcutta. As per the transfer and posting guidelines from 1989-90 and 1990-99, on completion of period for one year many employees of Group C and D category were transferred and posted to their choice place. But the transfer of the applicant to Regional Office, Calcutta against clear vacancy was denied. The applicant has submitted various representations since 6.11.1995 to 26.9.2000 to the authorities concerned seeking favourable consideration but to no result. The impugned orders, therefore, suffer from malice in law and malice in fact.

4.22 That during the year 1995-2000 as many as 500 persons had been transferred to their place of choice in terms of transfer and posting guidelines for the year 2000-2001 but the case of the applicant has surprisingly been singled out and not considered. It is stated that in terms of Article 10(1) and 10(3) of transfer guidelines for 2000, thousand of employees who have completed three year tenure in

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NER have been transferred to their choice place on request even by creating vacancies at the places of their choice. During the period of 1991-1999 the following employees of Regional Office, Silchar were transferred from N.E.R. to their choice place on request.

Sl. No	Name & Designation	Posted at NER w.e.f.	Transferred to Choice Station in the year
1	Sri D.Babu, A/Asstt.	31.7.84	BBSR 30.9.98
2	Sri R.M.Sharma -do-	17.11.86	Jaipur, 8.2.99
3	Sri V.K.Pandey -do-	3.9.85	Ahemadabed 15.5.92
4	Sri S.Raju, -do-	24.4.90	-do-, 27.8.93
5	Sri Balaji Rao, Supdt (Admn.)	26.6.91	BBSR, 27.8.93
6	Sri S.B.Chaturvedi, A.C.	27.2.92	Jabalpur, 05.95
7	Sri Prem Kumar A/Asstt.	12.4.94	Guwahati, 23.2.96
8	Sri G.D.Sharma, A.C.	07.95	Bhopal, 4.4.96
9	Sri S.S.Sharma, A.O.	14.2.94	Ahemadabad, 3.11.98
10	Sri Monoranjan Kar, L.D.C.	7.3.94	Patna, 9.6.99

4.23 That the applicant states that from the actions of the respondents it is evident that they have resorted to avoid and defy the order of this Hon'ble Tribunal by devising out new and newer means and ways. It is also clear that the respondents are acting in a most arbitrary and fanciful manner only to harass the applicant. Such action of

Tapas K. Chakraborty

the respondents cannot admit tolerance of Article 14 and 16 of the Constitution of India. The actions of the respondents are liable to be declared illegal and the impugned orders are liable to be set aside.

4.24 That the applicant states that till date he has not been relieved from Silchar in pursuance of the order dated 4.12.2001 and as such if the respondents are not restrained from giving effect to the impugned order, he would suffer irreparable loss and injury. It is also stated that at present there is a vacancy available at Calcutta Regional Office where he can suitably be accommodated but the respondents are not considering his case in an arbitrary manner and therefore they have made themselves liable for appropriate direction by this Hon'ble Tribunal.

4.25 That the applicant states that it was never the case of the respondents before this Hon'ble Tribunal in O.A. No. 423/2000 or before the High Court in W.P(C) No. 8124/2001 that the transfer guidelines were not applicable to him. But now they ^{have} ~~are~~ surprisingly taken a new plea to deny the rightful claim of the applicant by going beyond the finding of this Hon'ble tribunal to the effect that the applicant is ^{not} entitled to a choice posting in terms of the transfer guidelines. Such action of the respondents are ex-facie illegal and the same has been undertaken with a mala fide intention. The impugned orders are therefore, liable to be set aside.

4.26 That it is a fit case for the Hon'ble Tribunal to interfere with the impugned order of transfer and posting dated 13.11.2000 and the order

dated 4.12.2001 in protecting the rights and interests of the applicant and to restrain the respondents from giving effect to the impugned orders till the case of the applicant for transfer is considered to his choice place i.e. at Calcutta.

5. Grounds for relief(s) with legal provisions.

- 5.1 For that the impugned order of transfer and posting dated 13.11.2000 and the order dated 4.12.2001 are illegal and liable to be set aside.
- 5.2 For that the applicant having completed more than five years service in N.E. Region i.e. more than the tenure period has acquired a valuable right for his choice posting at Calcutta in conformity with the transfer and posting guidelines.
- 5.3 For that in view of the clear finding of this Tribunal in O.A. No. 423/2000 to the effect that the applicant is entitled to a choice station posting in terms of the transfer and posting guidelines, the respondents are duty bound to observe the same scrupulously and consider the case of the applicant for his choice posting at Calcutta but that having been violated, it has rendered the impugned order bad in law and therefore liable to be set aside.
- 5.4 For that the impugned order dated 4.12.2001 has been issued in complete disregard to the direction of this Hon'ble Tribunal in O.A.

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No. 423/2000 and the provisions laid down in the transfer and posting guidelines of the Sangathan for the employees for the year 2000-2001 and as such the impugned order is liable to be struck down.

- 5.5 For that the impugned orders have been issued with an ulterior motive and mala fide intention to harass the applicant with a view to deny his bona fide claim of choice station posting at Calcutta.
- 5.6 For that the applicant having duly exercised his option seeking posting at Calcutta since long back i.e. from 1996, is entitled to be posted at this place of choice in terms of the transfer and posting guidelines on completion of fixed tenure in N.E. Region.
- 5.7 For that the respondents have meted out a hostile discrimination to the applicant in not considering the case for posting at his place of choice while instances are at galore where similarly situated persons were favourably considered.
- 5.8 For that in any view of the matter, the impugned order dated 13.11.2000 and 04.12.2001 are bad in law and therefore liable to be set aside and quashed.

6. Details of remedies exhausted.

That the applicant further declares that he has no other alternative and other efficacious remedy than to file this application.

Representations through proper channel were submitted by the

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applicant but no favourable action has yet been taken by the respondents.

7. Matters not previously filed or pending with any other court.

The applicant further declares that he had not previously filed any application, Writ Petition or Suit regarding the matter in respect of which this application has been made before any court or any other authority or any other Bench of the Tribunal nor any such application, Writ Petition or Suit is pending before any of them.

8. Reliefs sought for :

Under the facts and circumstances stated above, the applicant humbly prays that your Lordships be pleased to issue notice to the respondents to show cause as to why the reliefs sought for by the applicant shall not be granted, call for the records of the case and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following reliefs :

8.1 That the impugned order of transfer issued under letter No. F.No.II-6/99-KVS(Estt.I) dated 13.11.2000 (Annexure- 3) transferring the applicant from Regional Office, Silchar to Regional Office, Delhi, and the subsequent order issued under No. F.6-25/94-KVS(Estt) dated 4.12.2001 be set aside and quashed.

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8.2 That the respondents be directed to transfer and post the applicant to Regional Office, Gauhati in view of the transfer and posting guidelines and considering the option exercised by him seeking choice station posting.

8.3 Costs of the application.

8.4 Any other relief or reliefs to which the applicant is entitled to, as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

During pendency of this application, the applicant prays for the following relief :-

9.1 That the operation of the impugned order dated 4.12.2001 be suspended/stayed till disposal of this application.

9.2 That the respondents be restrained from filling up the existing vacancy available at Calcutta, Regional Office by any other person other than the applicant.

9.3 That the respondents be directed ^{not} to disturb the applicant from his present place of posting i.e. at Regional Office, Silchar till disposal of this application or the case of the applicant for transfer to his choice place is considered.

Tapas K. Rakhrabarty

10.

This application is filed through Advocate.

11. Particulars of the I.P.O.

- i) I.P.O. No. : 27 E 557431 - 557435
- ii) Date of issue : 22.12.2001
- iii) Issued from : G.P.O., Guwahati.
- iv) Payable at : G.P.O., Guwahati.

12. List of enclosures.

As stated in the index.

Tapas K. Chakraborty

VERIFICATION

I, Sri Tapan Kumar Chakraborty, Son of Late Motilal Chakraborty, aged about 45 years, resident of Kanakpur, Part II, Silchar, District-Cachar, Assam do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 28th day of December, 2001.

Tapan Kumar Chakraborty

KENDRIYA VIDYALAYA SANGATHAN
18, INSTITUTIONAL AREA
CHARGED JEWEL SINGH MARG,
NEW DELHI-110016.

No. F.1-1/99-KVS (ESTT.III)

Dated: 25-1-2000

To,

The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
All Regional Office.

Sub:- Annual Transfer applications in respect of Kendriya
Vidyalaya employees for 2000-2001.

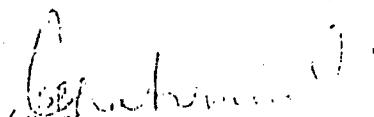
Sir/Madam,

In continuation to the zerox copied Draft Annual
Request Transfer application (2000-2001) set already sent to
you, I am to forward herewith 2 sets of printed application
sets for information and necessary action.

All the vidyalayas have been supplied with 3sets of
transfer application sets without transfer guidelines. You
are requested to send zerox copies of Transfer Guidelines sets
to all the Kendriya Vidyalayas for wider publicity during the
start.

It may kindly ensured that the filled in forms are
forwarded to Kendriya Vidyalaya Sangathan (K.V.S.), New Delhi by
29.2.2000.

Yours faithfully,


(S.B. CHATURVEDI
DEPUTY COMMISSIONER (ACAD.)

F.2-41/1/2000 (2000)

Dated :- 07.02.00.

All Principals, Kendriya Vidyalayas (Sikhiya Sangathan)
Sir/Radiant
Subject:- Forwarding Transfer Guidelines.

A copy of transfer guidelines is enclosed herewith
for your information, guidance & necessary action.

Encl:- As stated.

Yours faithfully,


S.B. CHATURVEDI
DEPUTY COMMISSIONER (ACAD.)

TRANSFER GUIDELINES

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

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

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

Unless the context otherwise indicates:

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

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

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

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

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

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

- i. Organisational reasons, administrative grounds and cases covered by para 5;
- ii. Transfers on account of death of spouse or serious illness when it is not practicable to defer the transfer till next year without causing serious danger to the life of the teacher, his/her spouse and son/daughter.

iii. Mutual transfers as provided in para 12.

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

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

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

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

20

(b) Performance:

RATING OF PERFORMANCE

ENTITLEMENT POINTS

Outstanding

10 for each year

Very Good

6 for each year

Good

4 for each year

Average

0 for each year

Unsatisfactory

(-)10 for each year

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

S No REASONS/GROUND

ENTITLEMENT POINTS

A Blind and orthopaedically handicapped persons. The standards of physical handicap will be the same as prescribed by the Govt. of India for sanction of Conveyance allowance.

15

B SPOUSE CASES

(i) Where spouse is a Sangathan employee

20

26	50
-22-	
(ii) Where spouse is a Central Government employee	18
(iii) Where spouse is an employee of autonomous body or PSU under Central Government.	15
(iv) Where spouse is an employee of State Government or its autonomous body or PSU	12
(v) Other spouse cases	10

Note for 'Spouse Cases' :

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

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

OR

Teachers who have less than 2 years to retire. 20

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18. Notwithstanding anything contained in these guidelines,

- (a) a teacher or an employee is liable to be transferred to any Kendriya Vidyalaya or office of the Sangathan at any time on short notice on grounds mentioned in clause 5 and 6 (i) of these guidelines;
- (b) the Commissioner will be competent to make such departure from the guidelines as he may consider necessary with the prior approval of the Chairman;
- (c) the request of a teacher may be considered for transfer to a station in respect of which no other person has made a claim or request even if such teacher has not submitted the application in the prescribed proforma at the time of annual transfer or within the time limit prescribed for the purpose;
- (d) Following cases will not be considered for transfer:
 - (i) cases of Education Officers/Assistant Commissioners for transfer without completing three years' stay at the place to which they were posted upon promotion.
 - (ii) cases where a teacher, Education Officer, or Assistant Commissioner was transferred on grounds mentioned in paras 5(i), 6 and 7 of these guidelines will not be considered for transfer without completing 5 years' stay at the station to which they were so posted.

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

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

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

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

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

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

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

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

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

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

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

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

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

To

The Commissioner,
Kandriya Vidyalaya Sangathan, HQ,
New Delhi-16.

(Through proper channel)

Sub:- Transfer of Shri Tapan Kr. Chakraborty, Asstt., from KVS, R.O.,
Sylchar to R.O., Calcutta on Completion of NER &
Surplus Ground.

Sir.

On Selection through departmental examination held in 1992 I was posted as Asstt. at R.O., Sylchar which was not of my choice, from R.O., Patha. I joined R.O., Sylchar on 30-10-93 (FN).

I have completed three years Tenure in NER successfully on 30-10-98. Fifth year of my stay in NER is running.

KV, OCI, Dukajan and Doyang have been closed w.e.f. 01-04-2000 & 11-01-2000 respectively. As a result of closure of two KVs one post of Asstt. is surplus in Sylchar Region. As per norms, for KVs upto 39 there will be one post of Asstt. and for KVs 40 and above, there will be two posts of Asstt. in each R.O..

In terms of KVS rules, an employee with longest stay in station will be declared surplus and transferred to his choice place. Accordingly, having senior merit I am due for transfer to my choice place/Hometown at R.O., Calcutta.

As per clause 10(1) (of transfer guidelines) and special facilities for employees posted in NER as enumerated in A/cs, Code, on completion of Tenure in NER, to accommodate the employee working in NER to his choice place, vacancy is to be created by posting out of an employee working for more than five years. Shri Subrata Chakraborty, Asstt., has been working continuously at R.O., Calcutta from 01-08-84 as VDC and from 15-2-93 as Asstt.

My performance points stand as 48 as per criteria adopted in KVS.

From June, 1995 to Feb'2000 one post of Asstt. was lying vacant at R.O., Calcutta. On completion of Tenure in NER on 30-10-98 I was the only claimant to be transferred to Calcutta under Rules. I was denied the transfer without any cogent reason in 1998-99 & 1999-2000. This vacancy has been blocked in Feb'2000 by transferring Shri P.S. Sharma, Asstt., from Lucknow to R.O. Calcutta.

I opt for my transfer only for Calcutta from Sylchar as my presence is quint-essential at Calcutta for rendering vital services to my son studying in St. Xavier's Institution at Calcutta, and taking care of him at his adolescent stage.

In view of above, I request your honour to please do justice to me by issuing orders for my transfer from R.O., Sylchar to R.O., Calcutta without creating vacancy after transferring Shri S. Chakraborty, Asstt., or modifying transfer order of Shri P.S. Sharma from Calcutta to elsewhere in terms of transfer guidelines at the earliest.

Yours faithfully,

(TAPAN KUMAR CHAKRABORTY)
ASSISTANT
KVS, R.O., SILCHAR.

Copy to:-
The Vice-Chairman, KVS, New Delhi - with the request to look into the matter personally and issue orders for my transfer in terms of transfer guidelines at the earliest.

(TAPAN KUMAR CHAKRABORTY)
ASSTT.

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

F. NO. 11-5/99-KVS(Estt-1)

Date : 13/11/2000

OFFICE ORDER

the following Assistants in Kendriya Vidyalaya Sangathan Regional Offices are hereby transferred with immediate effect in Public Interest :-

S.No.	Name	From R.O.	To R.O.
1.	Shri R.K.Rastogi	Delhi	Calcutta
2.	Shri Subrata Chakraborty	Calcutta	Chennai
✓	Shri Tapan Kumar Chakraborty	Silchar	Delhi

They will be relieved from their respective office immediately to join their new place of posting.


(K.N. Singh)
Sr. Admin. Officer(Estt. 1)
for Commissioner

Distribution :-

1. Individual concerned.
2. The AC, KVS(RO) Delhi/Calcutta/Chennai/Silchar.
3. Personal files.
4. Gaurd file.

*Attested
Shreya
Advocate*

Annexure - A

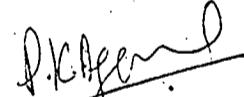
KENDRIYA VIDYALAYA SANGATHAN
18, INSTITUTIONAL AREA
SHAHID JEET SINGH NARG
NEW DELHI-110016
F. NO. 6-20/84-KVS(Estt-1)

Dated: 29.01.2001

MEMORANDUM

The representation dated 21.11.2000 regarding appeal for modification of Transfer order No. F.11-6/99-KVS(Estt-I) dated 13.11.2000 and redressal of grievances regarding / injustices done in the matter of non-payment of DHRA admissible under rules and Non-Payment of financial benefit for pay anomaly arisen due to supersession in promotion wef June 1998 of Shri Tapan Kumar Chakraborty, Assistant ,KVS, RO, Silchar has been considered sympathetically by the competent authority and the decision arrived at is communicated to him as under :

- (1) He has been transferred from KVS, RO, Silchar to KVS, RO, Delhi in consideration of his request for transfer on completion of the prescribed tenure at KVS, RO, Silchar. His request for modification of his transfer from KVS, RO, Delhi to KVS, RO, Calcutta could not be acceded to in view of the Para 18(d) of transfer guidelines.
- (2) Necessary decision regarding non-payment of DHRA has already been communicated to him vide letter number F.8-3/97-KVS/Audit/372 dated 15.7.97.
- (3) He has been extended the benefits of fixation of Pay as per rules and there is no anomaly in this case.

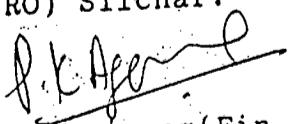

(P.K. Agarwal)

Dy. Commissioner (Fin.)

29/01/2001

Shri Tapan Kumar Chakraborty,
Assistant,
KVS, RO, Silchar.

Copy to: The Asstt. Commissioner, KVS(RO) Silchar.


(P.K. Agarwal)

Dy. Commissioner (Fin.)

O/C

29/01/2001

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 423 of 2000.

Date of Order : This the 5th Day of June, 2001.

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

Sri Tapan Kumar Chakraborty
 Son of late Motilal Chakraborty,
 Resident of Kanakpur Part-II,
 Silchar-788005, District Cachar,
 Assam. Applicant

By Advocate Sri S. Dutta.

- Versus -

Union of India & Ors. Respondents.

By Advocate Sri S. Sarma.

O R D E R

CHONDHURY J. (V.C)

By an order dated 13.11.2000 3 Assistants of the Kendriya Vidyalaya Sangathan including the applicant were transferred to different places. The applicant who was

presently serving at Silchar is transferred to Delhi.

The aforementioned order is assailed in this proceeding as arbitrary, discriminatory and contrary to the professed norms of the respondents.

2. The applicant was initially appointed as a Lower Division Clerk under the Calcutta Regional Office of the Kendriya Vidyalaya Sangathan. Thereafter on his selection through departmental examination he was appointed to the post of UDC at Calcutta Regional Office. By order dated 15.9.95, the applicant was promoted to the post of Assistant and transferred to Silchar Regional office as such. He joined at Silchar on 31.10.95. In this application it was inter alia contended that service of the employees of the

contd..2

Sangathan I.o. teaching and non teaching are governed by the Education Code and Accounts Code of the Sangathan apart from various guidelines/circulars. The Sangathan has been issuing various transfer guidelines from time to time every year on adopting policy regarding transfer and posting of the employees. As per the guidelines issued for the year 1995-96, a person completing one year's stay at the same station was eligible to apply for transfer.

Similar conditions were also incorporated in the transfer policy guidelines for the year 1996-97 and 1997-98. In the transfer guidelines for the year 1998-99 it was provided that a person applying for transfer should have completed minimum one year's service at his present place of posting.

It was also provided that a person having completed 3 years tenure in North Eastern Region would be entitled to transfer to a place of his choice. The applicant on completion of one year at Silchar sought for transfer to Calcutta Regional Office. According to the applicant though posts were available his case was not considered without any reason. The applicant however continued to press the matter and submitted representation from time to time. The applicant similarly submitted representation before the authority for his transfer to Calcutta on completion of 3 years service on 30.10.1998. The applicant also submitted representation in the year 1999. Para 10 of the Transfer Guidelines introduced by the Sangathan on 25.1.2000 is reproduced below:

"(1) Where transfer is sought by a teacher under para 8 of the guidelines after continuous stay of 3 years in NE & hard stations and 5 years elsewhere at places which were not of his choice, or by teachers falling the provision to para 7 of these Guidelines, or very hard cases involving human compassion, the vacancies shall be created to accommodate him by transferring teachers with longest period of stay

contd...3

at that station provided they have served for not less than five years at that station. Provided that principals who have been retained under para 4 to promote excellence, would not be displaced under this clause.

- 2) While transferring out such teachers, efforts will be made to accommodate lady teachers at nearby places/stations, to the extent possible and administratively desirable.
- 3) In case where a vacancy cannot be created at a station of choice of a teacher under this clause because no teacher at that station has the required length of stay, the exercise will be repeated for the station which is the next choice of the teacher seeking transfer.

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

According to applicant though he asked for such transfer after completion of his tenure his case was not considered and arbitrarily he was transferred out to Delhi which was not his choice. Hence this application assailing the aforesaid order as arbitrary and discriminatory.

3. The respondents contested the case and submitted its written statement. In the written statement the respondents have stated that his case for transfer to KVS Regional office Calcutta could not be considered because of the disciplinary proceeding initiated against the applicant as far back in 17.9.1991. The respondents also stated that his representation for modification of the transfer order was considered and same was turned down in view of the para 18(d) of Transfer Guidelines.

Diss 1997

4. I have heard Mr S.Dutta, learned counsel appearing for the applicant and Mr S.Sarma, learned counsel for the respondents respectively at length. Admittedly there is no dispute as to entitlement of a choice posting after completion of tenure in North Eastern Region. The policy

guidelines as well as the education and accounts code also speaks of the policy of giving choice posting after completion of the tenure at North East. There is also no dispute that the applicant completed his tenure at North East and there is also no dispute that there is a post at Calcutta Regional office. Mr S.Sarma further referring to the written statement contended that in view of the pendency of the departmental proceeding against the applicant his case could not be considered for posting at Regional office, Calcutta. The disciplinary proceeding initiated as far back in 1997. The applicant submitted his written statement. The records pertaining to disciplinary proceeding were requisitioned by the KVS Headquarter. The applicant in fact assailed the proceeding before the High Court in Civil Rule No. 931 of 1998. That Civil Rule is yet to be disposed of. In the aforementioned Civil Rule the High Court passed the following interim order :

"Heard learned counsel for the parties. Petitioner has approached this court for an order quashing departmental proceeding which has been initiated against him.

It appears that the petitioner was posted as U.D. Asstt. he made certain note for the benefit of perusal by his superiors. In regard to advertising certain vacancies, the said note was to be finally approved by the respondent no.6, the Assistant Commissioner. It was after his approval that the advertisement was issued and appointments were made. As per the charge, the petitioner is said to be guilty enlarging the age limit for recruitment to the post and have also enhancing the number of vacancies. If, what is said against the petitioner is correct then all the authorities including the respondents no.4 and 6 who were the relevant officers to finally approved should also have been roped in discharge. It also however appears that only the petitioner and another Class III Officer, namely, the Office Superintendent have been made answerable for illegality resulting in the illegal appointment. These alone would

contd...5

not reveal the actual role played by the officers in making illegal appointments. The respondents are therefore under obligation to hold fresh enquiry and initiate disciplinary proceeding x against all the persons concerned including the officers who were responsible for taking the final decision according terms of the advertisement.

Till it is done, the proceeding initiated against the petitioner shall remain stayed."

The aforementioned order is still continuing. It has been stated that no action so far were taken by the respondents for initiating any proceeding against those respondents.

Some of the officers involved in the case have already been retired and respondent No. 6, the then Assistant Commissioner was promoted to the post of Deputy Commissioner and thereafter to Joint Commissioner and at present he is holding the post of Joint Commissioner in the Headquarter. The

nature of the proceeding is reflected in the aforementioned order of the High Court. The materials on record did not indicate that the records of the proceeding are in Calcutta Regional office. In such a situation the plea that was

taken by the respondents for not considering the case of the applicant for a choice posting of the applicant at Calcutta cannot be a valid reason. Para 18(d) of the transfer guideline also cannot stand on the way of the respondents to consider the case of the applicant for a choice posting.

In the circumstances the impugned order dated 29.1.2001 rejecting the representation of the applicant cannot be sustained as lawful. For all the reasons stated above, the respondents are accordingly directed to re-consider the case of the applicant for his posting at Calcutta on the basis of his representation so far filed by the applicant in the year 1999-2000 and as per the policy guidelines without being influenced by the pendency of the departmental

contd. 5.

proceeding mentioned in the written statement.

The application is allowed to the extent indicated.

The interim order dated 7.12.2000 and 25.4.2001, passed by this Tribunal shall remain operative till the completion of the above exercise for posting him against the vacant post at Calcutta.

There shall, however, be no order as to costs.

SD/VICE CHAIRMAN

Bornified to be true

মন্তব্য প্রতিফলিত

15/6/2001

Section Officer

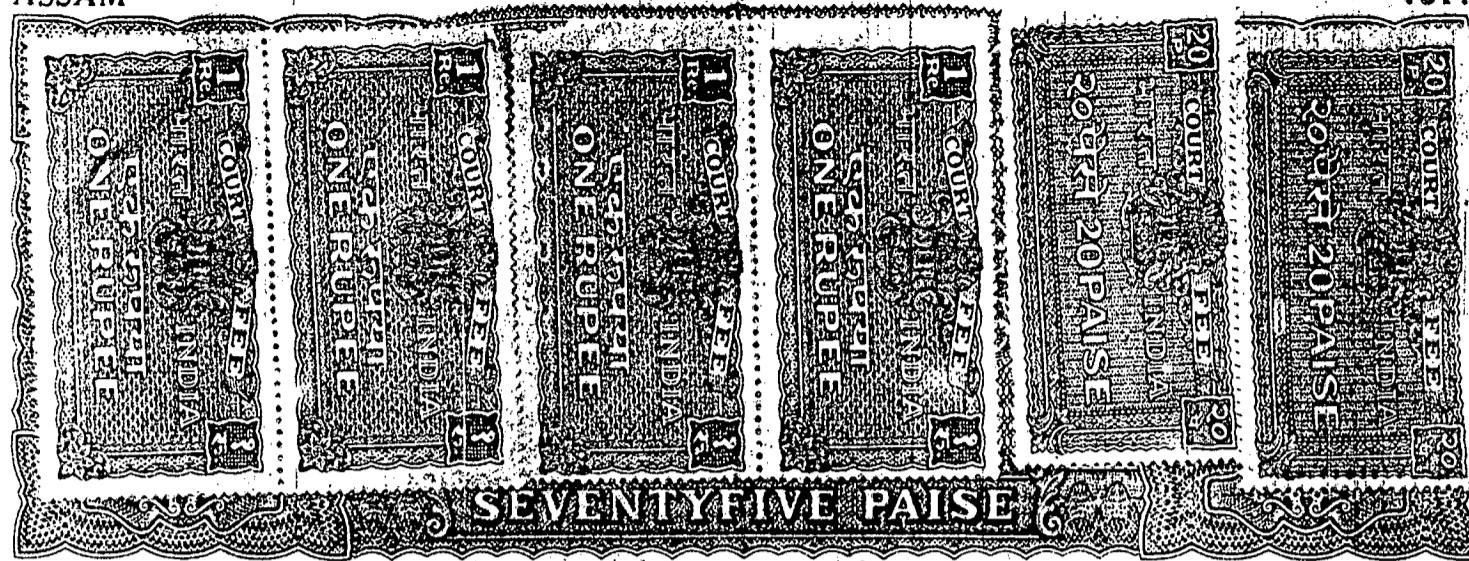
সentral Administrative Tribunal

সেন্ট্রাল ম্যানেজিমেন্ট ট্রিবুনাল

Guwahati Bench, Guwahati

সেন্ট্রাল ম্যানেজিমেন্ট ট্রিবুনাল

15/6/2001



प्रतिलिपि के लिए आवेदन की तारीख
Date of application for the copy.

स्टाप्स और फोलियो की अपेक्षित संख्या सूचित करने की तिथि
तारीख
Date fixed for notifying the requisite number of stamps and folios.

अपेक्षित स्टाप्स और फोलियो देने की तारीख
Date of delivery of the requisite stamps and folios.

तारीख, जबकि देने के लिए प्रतिलिपि कैशार थी
Date on which the copy was ready for delivery.

आवेदक को प्रतिलिपि देने की तारीख
Date of making over the copy to the applicant.

12.12.2001

13.12.2001

13.12.2001

14.12.2001

14.12.2001

IN THE GAUHATI HIGH COURT

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

W.P. (C) NO. 8124/2001

1. Kendriya Vidyalaya Sangathan, represented the Commissioner, 18 Industrial Area, Shaheed Jeet Singh Marg, New Delhi -110016.
2. The Joint Commissioner (Admn), Kendriya Vidyalaya Sangathan, 18 Industrial Area, Shaheed Jeet Singh Marg, New Delhi -110016.
3. The Chairman, Kendriya Vidyalaya Sangathan, 18, Industrial Area, Shaheed Jeet Singh Marg, New Delhi -110016.
4. The Asstt. Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Hospital Road, Silchar -788001, Cachar.

...Petitioners/Respondents

-Versus-

1. Tapan Kumar Chakraborty, Son of Ll. Motilal Chakraborty, Kanakpur-Pt. II, Silchar, Cachar.

...Respondent/Applicant.

PRESENT.

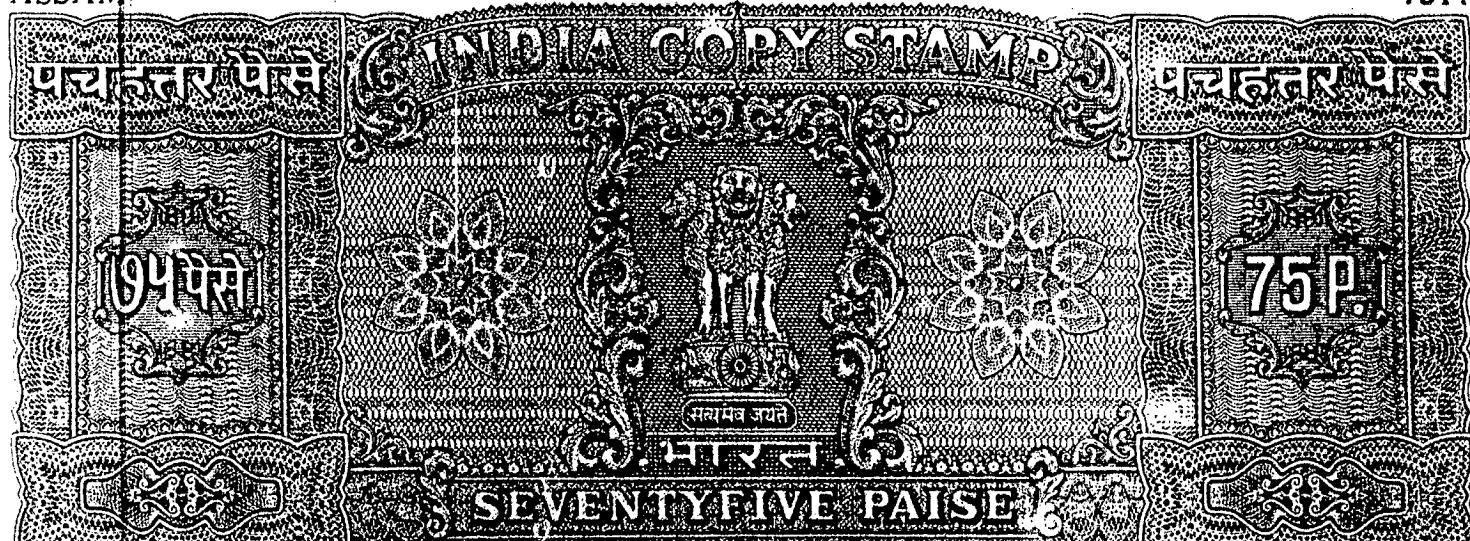
THE HON'BLE THE CHIEF JUSTICE MR RS MONGIA
THE HON'BLE MR JUSTICE AK PATNAIK
FOR THE PETITIONERS : Dr. B. P. Todi,

Miss D. Das,
Mr. D. Borthakur, Advs.

FOR THE RESPONDENT : Mr. B.C. Das,
Mr. S. Dutta,
Ms. U. Dutta, Advocates for Caveator.

ASSAM

75P.



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलिओ की आवश्यक संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलिओ देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

2.

3.12.2001

ORDER

C.A. No. 423/2000 of the original applicant before the Tribunal (now respondent) was disposed of on 5.6.2001 by giving the following directions :-

"For all the reasons stated above, the respondents are accordingly directed to re-consider the case of the applicant for his posting at Calcutta on the basis of his representation so far filed by the applicant in the year 1999-2000 and as per the policy guidelines without being influenced by the pendency of the departmental proceeding mentioned in the written statement.

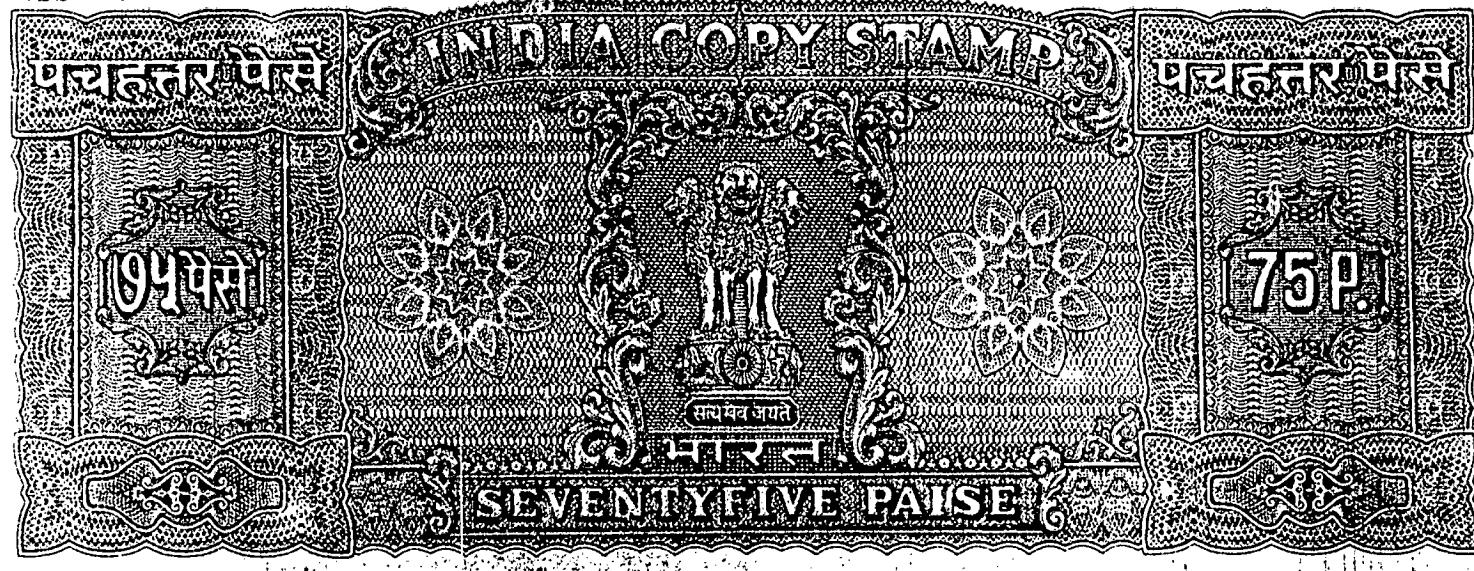
The application is allowed to the extent indicated.

The interim order dated 7.12.2000 and 25.4.2001 passed by this Tribunal shall remain operative till the completion of the above exercise for posting him against the vacant post at Calcutta".

From the aforesaid directions, we find that the writ petitioner was asked to reconsider the case of the applicant for his posting at Calcutta.

ASSAM

75 P.



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलिओ की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलिओ देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख; जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

3.

We do not find any case for interference with the direction.

The writ petition is dismissed.

Sc/-AK PATNAIK

Sd/-R. S. MONGIA

JUDGE

CHIEF JUSTICE

Registered No. of Petition.....31185
Photostate by/Type by.....*W.M. 14/12/2019*
Read by.....*W.M. 14/12/2019*
Compered by.....*W.M. 14/12/2019*

Edmund
14.12.2007

Annexure-7

KENDRIYA VIDYALAYA SANGATHAN

18, INSTITUTIONAL AREA

SAHID JEET SINGH MARG

NEW DELHI-110016

No. F.6-25/94-KVS(Estt.)

Date : 4th December, 2001

ORDER

Whereas Shri Tapan Kumar Chakravorty, Assistant, Kendriya Vidyalaya Sangathan, Regional Office, Silchar filed an O.A. No. 423/2000 in Hon'ble CAT, Guwahati against his transfer from KVS, RO, Silchar to KVS, RO, Delhi vide KVS Transfer Order No.F.11-6/99-KVS(Estt.I) dated 13.11.2000 in public interest.

2. Whereas Hon'ble CAT, Guwahati in disposal of the aforesaid OA has given the following orders on 5.6.2001 :

"..... the respondent are accordingly directed to reconsider the case of the applicant for his posting at Calcutta on the basis of his representation so far filed by the applicant in the year 1999-2000 and as per the policy guidelines without being influenced by the pendency of the departmental proceedings mentioned in the written statement."

3. Whereas Sri T.K.Chakraborty submitted his representation dated 17.04.2000 wherein he had made the following submissions.

i. that on selection through departmental examination held in 1992, he was posted as Assistant at RO, Silchar which was not of his choice from, RO, Patna. He joined RO, Silchar on 30.10.1995 (FN).

*Afester
Senia
Advocate*

- ii. that he has completed three years tenure in NER successfully on 30.10.98.
- iii. that KV, CCI, Bokajan and Doyang have been closed w.e.f. 1.4.2000 and 11.4.2000 respectively. As a result of closure of two KVs one post of Assistant is surplus in Silchar Region. As per norms, for KVs upto 39 there will be one post of Assistant and for KVS 40 and above, there will be two posts of Assistant in each R.O.
- iv. that in terms of KVS rules an employee with longest stay in station will be declared surplus and transferred to his choice place. Accordingly, being senior most he is due for transfer to this choice place/home town at RO, Calcutta;
- v. that as per clause 10(1) (of transfer guidelines) and special facilities for employees posted in NER as enumerated in A/cs Code, on completion of Tenure in NER, to accommodate the employee working in NER to his choice place, vacancy is to be created by posting out of an employee working for more than five years. Shri Subrata Chakraborty, Assistant has been working continuously at RO, Calcutta from 1.8.84 as UDC and from 15.2.93.
- vi. that his performance points stand as 48 as per criteria adopted in KVS;
- vii. that from June, 1995 to Feb, 2000 one post of Assistant was lying vacant at RO, Calcutta. On completion of tenure in NER on 30.10.1998 he was the only claimant to be transferred to Calcutta under Rules. He was denied the transfer without any cogent reason in 1998-99 & 1999-2000. The vacancy has been blocked in Feb'2000 by transferring Sh. P.S. Sharma, Assistant from Lucknow to RO, Calcutta.

viii. that he opts for his transfer only for Calcutta from Silchar as his presence is quite essential at Calcutta for rendering ~~full~~ services to his son studying in St. Xavier's Institution at Calcutta, and taking care of his at his adolescent stage;

ix. that in view of above he requested to please do justice to him by issuing orders for his transfer from RO, Silchar to RO, Calcutta either by creating vacancy after transferring Sh. S.Chakraborty, Asstt. or modifying transfer order of Sh. P.S. Sharma from Calcutta to elsewhere in terms of transfer guidelines at the earliest.

4.(i) Whereas, in consideration of the organisational need and the availability of vacancy, Sh. Tapan Kumar Chakraborty, on his selection to the post of Assistant, posted at KVS, RO, Silchar.

ii. Whereas, his placement at KVS, RO, Silchar was not a tenure posting. The officers and the staff posted in KVS HQ office and its 18 Regional Offices carry all India transfer liability and their placements and transfers are considered keeping in view the administrative exigencies and the larger interest of KVS coming under administrative jurisdiction of Regional Offices.

iii. Whereas all Regional Offices have been authorized ^{two} ~~to~~ posts of Assistant. Number of Vidyalayas in a region is not a criteria to decide the number of posts of Assistant in a Regional Office. The applicant, Sh. Tapan Kumar Chakraborty has imaginatively declared himself surplus at the strength of K.V.S., RO, Silchar.

iv. Whereas the transfer guidelines referred to by the applicant in his representation are meant for teaching and non-teaching employees serving in Kendriya Vidyalayas all over the country. The application form for transfer issued under the transfer guide lines of the Transfer Guide line are for few 2 Nov.

Sangathan on its first page (first para) makes it explicit that the application form for transfer is meant only for teaching and non-teaching staff of Vidyalayas excluding Principals and Vice-Principals and it makes clear that staff of KVS HQ and Regional Offices is excluded from ~~this~~ this exercise. This is the reason due to which the applicant himself also never filed up the form to apply for transfer under the transfer guidelines. Hence the relief claimed by him is not due to him under this transfer guide lines.

*KVS HQ
Reco. 92*

The rationale for keeping the KVS HQ and Regional Office staff outside the ambit of transfer guidelines is based on practical experience and administrative exigency. The KVS Headquarters and its Regional Offices play an important role in supervising the functioning of the schools. It has been observed that the people working therein tend to develop vested interests which adversely affect the functioning of the schools. Due to this reason only, care is taken normally, to ensure that nobody gets posting at same office time and again.

The posting of KVS HQ and Regional Offices staff is done by giving priority to the organisational needs and requirements and administrative exigency over and above the needs and requirements of individuals involved. The interest of the individuals is subservient to the organisational interest and is acceded only to the extent that it does not clash with organisational interest of KVS; and;

v. Whereas, the applicant Sh. Tapan Kumar Chakraborty remained posted in KVS, RO, Calcutta from August, 1984 until he joined at KVS, RO Silchar on promotion/appointment to the post of Assistant in 1995 except for a few days he served at KVS, RO, Patna in between. He cannot be considered for a posting in Calcutta again. Shri Chakraborty is wrongly referring to the transfer guidelines. As

already stated, these guidelines are only for teaching and other staff of schools. The guidelines require an application to be called in a proper format on the basis of which priority lists are prepared for each station. No such exercise is taken up for the staff of the Headquarters and the Regional Offices. Their requests are taken into account only, if they are compatible with the interests of the organisation.

- Now, therefore, the request of Sh. Tapan Kumar Chakraborty, assistant for modification of his transfer Order dated 13.11.2000 from KVS RO, Delhi to KVS, RO, Calcutta has been reconsidered in compliance with the orders of the Hon'ble CAT, in the light of the aforesaid facts and could not be acceded to. Sh. Chakraborty is thus directed to join at KVS, RO, Delhi in compliance of this office transfer order No.F.11-6/99-KVS(Estt.I) dated 13.11.2000.

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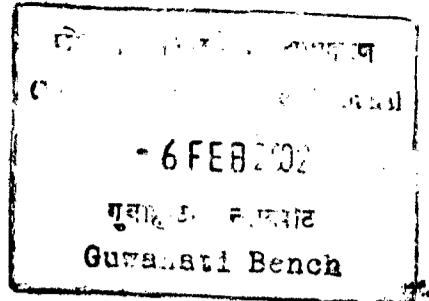
04.12.2001

(H.M.CAIRAE)

COMMISSIONER

Shri Tapan Kumar Chakraborty,
Assistant,
Kendriya Vidyalaya Sangathan,
Regional Office,
Silchar.

Tapan K. Chakraborty



Filed by ~~Commissioner~~
Assistant
Kendriya Vidyalaya Sangathan
through ~~Sangathan~~
Sipkei Advocate
5/2/2002

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH
AT GUWAHATI

Original Application No. 487/2001.

Sri Tapan Chakraborty

..... Applicant

-Versus-

Union of India & ors

..... Respondents

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

1. That all the averments made in the Original Application (hereinafter referred to in short as the application) are denied by the answering respondents save and except what has been specifically admitted herein and what appears from the records of the case.
2. That with regard to the statements made in paragraphs 1, 2, 3, & 4.1 of the application the answering respondents has no comments.
3. That with regard to the statements made in Paragraph 4.2 of the application the answering respondents begs

to submit that the applicant while working as UDC at Kendriya Vidyalaya Sangathan (hereinafter referred to as KVS), Regional office (hereinafter referred to as R.O.), Patna got the order of promotion on departmental examination to the post of Assistant and was posted to KVS, RO Silchar from KVS, RO, Patna and not from K.V.S, R.O. Calcutta as stated by the applicant.

4. That with regard to the statement made in para 4.2 of the application the answering respondents begs to submit that the transfer guideline issued by KVS is not applicable to the staff of Regional Office and the KVS Headquarters.

4. That with regard to the statements mad in paragraph 4.3 of the application the answering respondents begs to submit that the transfer guideline framed by the Kendriya Vidyalaya Sangathan is applicable to teaching and non teaching staff of Kendriya Vidyalayas. The said policy is not applicable to the staff of Regional Office and the KVS Headquarters.

5. That with regard to the statements made in paragraph 4.4 of the application the answering respondents begs to submit that since the transfer guidelines issued by KVS is not applicable to the staff of Regional Office and the KVS, Headquarters, the applicant is not entitled to any relief under the provision of the transfer guidelines.

6. That with regard to the statements made in paragraph 4.5 of the application the answering respondents begs to submit that the posting of KVS (HQ) and Regional Office staff is done by giving priority to the organisational needs and requirements and administrative exigencies over and above the needs and requirements of individual involved. The interest of the individuals is subservient to the organisational interest and is accorded only to the extent that it does not clash with organisational interest of KVS.

7. That with regard to the statements made in paragraph 4.6 of the application the answering respondents begs to reiterate what has been already stated in paragraph 5 of this Written Statement that the KVS transfer guidelines is not applicable to the staff of the Regional Office and KVS Headquarter staff.

The applicant remained posted in KVS, RO, Calcutta from August 1984 until he joined at KVS, RO, Silchar on promotion/appointment to the post of Assistant in 1995 except for a few days when he served at KVS, RO, Patna in between. He cannot be considered for a posting in Calcutta again. The applicant is wrongly interpreting the transfer guidelines. Since the transfer guidelines are only for teaching and other staff of the school, the request of the Regional Office staff are taken into account only if they are compatible with the interest of the organisation.

8. That with regard to the statements made in paragraph 4.7 of the application the answering respondents begs to submit that Appendix 24 of the Accounts Code is a general guidelines and is always subject to organisational need. As stated in the preceding paragraph the applicant has already served at Calcutta for a long period of 11 years. As such in the interest of the orgainsation the relief provided under Appendix 24 of the Accounts Code is not applicable to him in as much it initiates the principle of All India Transfer Liability.

9. That with regard to the statement made in paragraph 4.8 of the application the answering respondents begs to submit that the fresh transfer guidelines for the year 2000- 2001 as referred by the applicant is not applicable to the staff of KVS Head quarter and the Regional Office. It is only applicable to teachers and other employees of the Kendriya Vidyalaya. As such the submission of the applicant is misleading.

10. That with regard to the statements made in paragraph 4.9 of the application the answering respondents begs to reiterate what has been stated in the preceding paragraph of this Written Statement that the request of an employee of the Regional office for transfer to his choice place is always subject to organisational need over and above his personal problems. As such the applicant cannot claim to get

his request for transfer acceded to merely on the basis of his representation.

11. That with regard to the statements made in paragraph 4.10 of the application the answering respondents beg to submit that the Commissioner, Kendriya Vidyalaya Sangathan in compliance with the order dated 5.6.2001 passed by this Hon'ble Tribunal disposed of the representation dated 17.4.2000 of the applicant clearly indicating that the request of the applicant for modification of the transfer order dated 13.11.2000 from KVS, RO, Delhi to KVS, RO, Calcutta was reconsidered in the light of facts mentioned in the order No. F.6-25/94-KVS (Estt-I) dated 4.12.2001 and could not be acceded to.

12. That with regard to the statements made in paragraph 4.11 of the application the answering respondents begs to submit that the order dated 7.12.2000 passed by this Hon'ble Tribunal suspending the operation of the transfer order dated 13.11.2000 was honoured and the applicant was not relieved of his duties.

13. That with regard to the statements made in paragraph 4.12 of the application the answering respondents begs to submit that the factual position had been made amply clear by the competent authority while reconsidering and disposing of his representation vide order No. 6-25/94-KVS(Estt-I) dated 4.12.2001 (Annexure:- 7 of the Original

Application)

14. That with regard to the statements made in paragraph 4.13 & 4.14 of the application the answering respondents beg to submit that the request of the applicant was reconsidered and his representation was duly disposed off by the Commissioner, KVS vide his order dated 4th December, 2001 (Annexure 7 of the Original Application)

15. That with regard to the statements made in paragraph 4.15 of the application the answering respondents begs to submit that the order dated 5.6.2001 passed by this Hon'ble Tribunal did not specify any time limit within which the applicant's representation would have to be reconsidered. However, the Commissioner, KVS reconsidered his request and disposed off his representation dated 17.4.2000. As such, the respondents have honoured the order passed by the Hon'ble Tribunal and not avoided the order as alleged by the applicant.

16. That with regard to the statements made in paragraph 4.16 of the application the answering respondents begs to submit that ~~in~~ compliance with the order dated 5.6.2001 passed by this Hon'ble Tribunal the request made by the applicant was re-considered and his representation dated 17.4.2000 was disposed off by the competent authority.

17. That with regard to the statements made in paragraphs 4.17 and 4.18 of the application the answering respondents begs to repeat and reiterate what has been submitted in the preceding paragraphs.

18. That with regard to the statements made in paragraph 4.19 of the application the answering respondents begs to submit that it is the prerogative of the administration of the KVS to post employee of the Regional Office and KVS Headquarter to any of its offices situated in the country according to organisational need. A choice posting cannot be claimed as a matter of right. The interest of the organisation has to be secured over and above the choice of the individual.

19. That with regard to the statements made in paragraph 4.20 of the application the answering respondents begs to submit that no differential treatment is given to the applicant. The justification for not considering his posting at Calcutta is clearly stated in the order No. F. 6-25/94-KVS(Estt) dated 4.12.2001 issued by the Commissioner, KVS,

20. That with regard to the statements made in paragraph 4.21 of the application the answering respondent begs to submit that the applicant has been working in the Regional Office, Silchar only from 30.10.1995 and prior to that he already worked for 11 years in Calcutta. The ACRs referred by the applicant has no relevancy in the present case and moreover it is a confidential matter.

21. That with regard to the statements made in paragraph 4.22 of the application the answering respondents begs to submit that Article 10(1) and 10(3) of the transfer guidelines as referred by the applicant is applicable only to the teaching and

non-teaching staff of the Vidyalayas since the transfer guidelines are applicable only to the teaching and non-teaching staff of the Kendriya Vidyalayas. It is further submitted that the applicant is giving a misleading statement by citing the example of 500 persons. As regards the transfer of the staff of the regional office as cited by the applicant their requests were considered giving priority to the organisational needs and requirements and administrative exigencies ~~over~~ and above the need and requirements of the individuals involved.

22. That with regard to the statements made in paragraph 4.23 of the application the answering respondents begs to repeat and reiterate what has been stated in the preceding paragraphs of this written statement that the order passed by this Hon'ble Tribunal has been honoured and the decision regarding the applicant's transfer has been taken in the interest of the organisation. Further it is submitted that there is no violation of Article 14 and 16 of the Constitution of India

23. That with regard to the statements made in paragraph 4.24 of the application the answering respondent begs to submit that the applicant was relieved of his duties on 31.12.01 with the direction to report to the Assistant Commissioner, KVS, Delhi Region in terms of the transfer order dated 13.11.01 issued by the KVS. It is further submitted that the relieving order could not be served in person to the applicant on 31.12.01 as he left the office at about 11.20A.M. without informing/taking permission of the competent authority. The relieving order was dispatched to

the local address of the applicant by registered post and another copy of the relieving order was posted on the door of the residence of the applicant.

25. That with regard to the statements made in paragraph 4.25 of the application the answering respondents begs to submit that the transfer guidelines are issued on year to year basis and the conditions laid down in the transfer guideline for the year 2000-2001 clearly show that the transfer guidelines are applicable only to the teaching and non teaching employees serving in the Kendriya Vidyalayas.

26. That with regard to the statements made in paragraph 4.26 of the application the answering respondents begs to submit that taking into consideration the statements made in the preceding paragraphs of this written statement the present Original Application deserves to be dismissed by this Hon'ble Tribunal with costs.

27. That with regard to the statements made in paragraph 5.1 to 5.8 of the application the answering respondents beg to repeat and reiterate what has been stated in the aforesaid paragraphs and state that the grounds are baseless and contrary to law.

28. That with regard to the statements made in paragraph 6 of the application the answering respondents beg to reiterate what has already been submitted in the preceding

paragraphs that the representation dated 17.4.2000 requesting for transfer submitted by the applicant was duly considered and disposed off.

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

29. That with regard to the statements made in paragraphs 8.1 to 8.3 of the application, the answering respondents beg to state that taking into consideration the statements and submissions made by the applicant as well as various transfer guidelines and also taking into consideration the statements made by the respondents in the preceding paragraphs the present Original Application deserve to be dismissed with costs.

30. That with regard to the statements made in paragraph 9 of the application the answering respondents begs to submit that in view of the factual and legal aspects involved in the present case the interim order passed by this Hon'ble Court dated 3.1.02 deserves to be modified/vacated.

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VERIFICATION

I, Shri Ranvir Singh, son of Sri J. N. Singh aged about 40 years, presently working as the Officiating Assistant Commissioner, Kendriya Vidyalaya Sangathan, Silchar, Hospital Road, Silchar-788001, do hereby verify that the statements made in paragraph 1, 2, 5, 6, 10, 17, 18, 22^(part), 23 to 30 are true to my knowledge and those made in paragraphs 3, 4, 7, 8, 9, 11 to 16, 19 to 21, 22^(part) are based on records.

And I sign this verification on this the 5th day of February, 2002 at Guwahati.

Place : Guwahati

Date 5-2-2002

DEPONENT

(RANVIR SINGH)