

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No. 240/02

Misc Petition No.

Contempt Petition No.

Review Application No.

Applicants. Namita Pandey

-Vs-

Respondant(s) H.O.I. Govt

Advocate for the Applicant(s) M. Chanda, G.N. Chakrabarty

Advocate for the Respondant(s) K.V.S.

Notes of the Registry	Date	Order of the Tribunal
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16.8.02

Mr.M.Chanda learned counsel for the applicant states that this is a major penalty case. This matter should be heard by Division Bench. List on 26.8.02 before Division Bench.

1m

26.8.02

Heard Mr. M.Chanda, learned counsel for the applicant and also Mr. M.K.Mazumdar, learned counsel for the Respondents.

The application is admitted. Call for the records.

Pendency of this application shall not be a bar to dispose of the appeal.

List on 24.9.2002 for

Member

Vice-

79 576 572
20.7.02
He. 20/7/02
Steps taken on 12-9-02 and
Notice prepared and
Sent to D. Section for
issuing of the same
to the respondents
through Regd. post with
A.D.
Vide D.No.
Dtd-

24.9.02

List on 7.11.02 to enable the respondents to file written statement.

Written Statement
has been filed.

Member

Vice-Chairman

lm

6.11.02

7.11.02

Heard Mr.H.Dutta learned counsel for the applicant and Mr.M.K. Mazumdar learned counsel for the Respondents. Mr. Mazumdar has stated that the order of punishment is modified. The appellate authority has passed an order to that extent. In view of the subsequent event the application need to be amended, Three weeks time is granted to amend the application. List on 28.11.02 for orders.

Member

Vice-Chairman

lm

7.11.02

Heard Mr.H.Dutta learned counsel for the applicant and Mr.N.K.Mazumdar learned counsel for the Respondents. Mr.Mazumdar has stated that the order of punishment is modified. The appellate authority has passed an order to the extent. In view of the subsequent event the applicant need to be amended, submitted Mr.Dutta. Three weeks time granted to amend the application. List on 28.11.02 for orders.

Expendent No 6 No Fee
Plurid due to address
found.

Member

Vice-Chairman

lm

28.11.02

It has been stated by learned counsel for the applicant that the application for amendment has already filed. Office to pu up the matter for orders. List on 3.12.02 for orders.

Vice-Chairman

lm

O.A.240/2002

Notes of the Registry	Date	Order of the Tribunal
	3.12.2002	<p>Heard Mr.M.Chanda, learned counsel for the applicant. List the case in presence of Mr.M.K.Mazumdar, learned counsel for the respondents.</p> <p>List the case on 16.12.2002.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>30/12/02</p> <p>Consolidated application has been filed by the applicant as per court's order dated 28/11/02.</p> <p><i>[Signature]</i> 30/12/02</p>	bh	<p>16.12.02</p> <p>List on 7.1.2003 for further orders.</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>7.1.03</p> <p>No written statement has been filed.</p> <p><i>[Signature]</i> 30/12/02</p>	mb	<p>7.1.03</p> <p>Written statement has not been filed. It be filed within four weeks.</p> <p>List on 5.2.03 for order.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Chairman</p>
<p>5.2.2003</p> <p>No written statement has been filed.</p> <p><i>[Signature]</i> 4.2.03.</p>	PJ	<p>5.2.2003</p> <p>Mr. M.K. Mazumdar, learned standing counsel for the respondents stated that he is filing written statement in course of the day. He also stated that a copy of the written statement has already served to the learned counsel for the applicant.</p>
<p>7.2.03</p> <p>W/S submitted by the Respondent.</p> <p><i>[Signature]</i></p>		<p>Since pleadings are complete, the case may now be listed for hearing on 5.3.2003. The applicant may file rejoinder within two weeks from today.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>Respondent No 5 answered due to "short" abolition as made by respondent.</p> <p>27/2/03.</p> <p>No...</p>	mb	<p>5.3.2003</p> <p>Court did not sit today. The case is adjourned to 24/4/2003.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p> <p>Case adjourned to 24/4/2003.</p>

Note of the Registry	Date	Order of the Tribunal
19.5.03 Rejoinder submitted by the applicant. The case is ready for hearing. 21.7.03	19.5.03 9.6.2003 17.6.2003 22.7.2003	<p>Division Bench did not sit today, The case is adjourned to 9.6.2003. Mto A.R.</p> <p>Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman. The Hon'ble Mr. R.K. Upadhyaya, Member (A).</p> <p>List again on 17.6.2003 for hearing as agreed by the parties.</p> <p>Member Vice-Chairman</p> <p>Mr. M. Chanda, learned counsel for the applicant prayed for adjournment of the case. Prayer is allowed. The case is accordingly adjourned.</p> <p>List again on 22.7.2003 for hearing.</p> <p>Member Vice-Chairman</p> <p>Prayer has been made on behalf of Mr. M.K. Mazumdar, learned counsel for the respondents for adjournment of the case on personal ground. The case is accordingly adjourned. Put up again on 29.7.2003 for hearing.</p> <p>Member Vice-Chairman</p>

mb


mb

mb

29.7.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.
The Hon'ble Mr. N.D. Dayal, Administrative Member.

Heard Mr. S. Das, learned counsel on behalf of Mr. M.K. Mazumdar, learned standing counsel for the KVS. and prayed for little accommodation on the score that Mr. Mazumdar is away from the station on medical ground. The case is thus adjourned. List again on 21.8.2003 for hearing.


Member


Vice-Chairman


mb

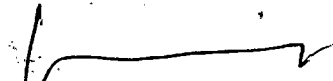
21.8.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.
The Hon'ble Mr. K.V. Prahaladan, Administrative Member.

~~Mr. A. Deb Roy, learned Sr. C.G. S.C. stated that this case is entrusted by Mr. A.K. Chaudhury, learned Addl. C.G.S.C. who is indisposed today and prayed for time. Prayer is allowed. List again on~~

21.8.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.
The Hon'ble Mr. K.V. Prahaladan, Member (A).

On the prayer of Mr. M. Chanda, learned counsel for the applicant the case is adjourned. List on 15.9.2003 for hearing.

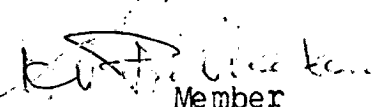

Member


Vice-Chairman

mb

15.9.2003 No Division & Bench is sitting.
List again on 29.10.2003 for hearing.

mb

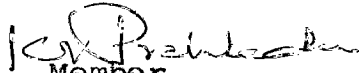

Member

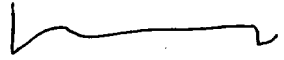
O.A. 240/2002

29.10.03

Heard counsel for the parties.
Hearing concluded. Judgment delivered
in open Court, kept in separate sheets

The application is allowed in
terms of the order. No order as to
costs.


Member


Vice-Chairman

pg

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / R.A. No. 240 of 2002.

DATE OF DECISION 29-10-2003

Smt. Namita Pandey. APPLICANT(S).

Sri M.Chanda ADVOCATE FOR THE
APPLICANT(S).

- VERSUS -

Union of India & Ors. RESPONDENT(S).


Sri M.K.Mazumdar, Standing counsel ,K.V.S. ADVOCATE FOR THE
RESPONDENT(S).

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

THE HON'BLE MR K.V.PRAHLADAN, 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 Ho'ble Vice-Chairman



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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 240 of 2002.

Date of Order : This the 29th Day of October, 2003.

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

The Hon'ble Mr K.V.Prahladan, Administrative Member.

Mrs Namita Pandey,
Primary Teacher,
Kendriya Vidyalaya,
Duliajan.

... Applicant

By Advocate Sri M.Chanda.

- Versus -

1. Union of India,
(Through the Secretary to the
Govt. of India, Ministry of
Human Resource Development,
Sastri Bhawan, New Delhi-1.)
2. The Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi-110016.
3. The Asstt. Commissioner,
K.V.S, Regional Office,
Hospital Road,
Silchar-788001.
4. Shri P.R.L.Gupta,
Education Officer,
(the then officiating A.C),
Kendriya Vidyalaya Sangathan,
Regional Office,
Silchar.
5. Shri R.C.Katiyar,
Ex-Principal,
Kendriya Vidyalaya,
Umranghu.
6. Shri K.Rajendran,
(Presenting Officer),
Principal, Kendriya Vidyalaya,
Tinsukia.
6. Shri M.Subramaniam,
(Enquiry Officer),
Principal, Kendriya Vidyalaya,
Silchar.

... Respondents

By Advocate Sri M.K.Mazumdar, standing counsel, K.V.S.

O R D E R (ORAL)

CHOWDHURY J.(V.C)

This application under Section 19 of the
Administrative Tribunals Act 1985 has arisen and is directed

against the order dated 19/25.6.2001 imposing a penalty against the applicant by the Assistant Commissioner by way of reduction of pay by two lower stages in the time scale of pay of Rs.4500-7000/- for a period of two years with cumulative effect as well as the order passed by the appellate authority vide order No.9-69 2001-KVS(Vig) dated 8.10.2002 in the following circumstances.

2. The applicant was serving as a primary teacher (PRT) at Kendriya Vidyalaya, Umrangshu. While she was serving as such a preliminary enquiry proceeding was initiated vide Memo dated 20.4.99 which culminated in a disciplinary proceeding and a charge memo was issued on the applicant vide memo dated 30.1.2000 containing two article of charges which reads as under :

ARTICLE-I: Mrs Namita Pandey, while working as a Primary teacher at KV Umrangshu arranged to issue fake transfer order No.F.33-18/98-KVS (Estt-III) dated 12.10.1998 for posting to Kendriya Vidyalaya, CCI, Gandhi Nagar, Ranchi in her favour.

Mrs Namita Pandey, Primary Teacher has therefore done fraudulent manipulation in violation of item 34 of Code of conduct for teacher envisaged in Chapter VI of the Education Code and thereby contravened Rule 3(I) (II) of CCS(Conduct) Rules, 1964. She has therefore rendered herself liable to disciplinary action under CCS(CCA) Rules, 1965 as extended to KVS employee.

ARTICLE-II: Mrs Namita Pandey, while working as Primary Teacher at Kendriya Vidyalaya, Umrangshu unauthorisedly took occupation forcefully by breaking the lock of the residential accommodation of the said Kendriya Vidyalaya on 25.07-97. Mrs Namita Pandey, Primary Teacher has thus failed to exercise devotion and reasonable care in the discharge of her official duty and has violated item 22 of the Education Code and she has thereby contravened Rule 3(I) (II) of the CCS(Conduct) Rules, 1964 and therefore rendered herself liable to disciplinary action under CCS(CCA) Rules 1965 as extended to KVS employees.

The applicant submitted her written statement denying and disputing the allegations. The Principal, K.V.Silchar was

appointed Enquiry Officer and on conclusion of the enquiry he submitted his report dated 28.7.2000 holding the applicant guilty of charge No.1. The Enquiry Officer in his finding also found that charge mentioned at Article-II was not established. The disciplinary authority i.e. the Assistant Commissioner by memo dated 30.3.2000/17.4.2001 forwarded the report of the Enquiry Officer informing her about the provisional outcome of the decision. In the said memo it was indicated that the disciplinary authority proposed to impose on her a penalty of reduction to lower stages on the time scale of pay Rs.4500-7000/- with cumulative effect. The applicant submitted representation and thereafter by the impugned order dated 19/25.6.2001 the disciplinary authority imposed her a penalty by reducing her pay by two stages in the time scale of pay Rs.4500-125-7000/- for a period of two years with cumulative effect and would not earn any increments of pay during that period. The applicant preferred an appeal. The appellate authority on considering the facts situation reduced the penalty imposed by the disciplinary authority for reduction of pay by one stage from Rs.5000/- to 4875/- in the time scale of Rs.4500-7000/- for a period of two years with effect from 19.6.2001 with cumulative effect. It was also ordered that she will not earn increments during the period of two years. Hence this application assailing the legitimacy of the order as arbitrary and discriminatory.

3. The respondents contested the case and contended that the applicant was given reasonable opportunity to defend her case. A fair enquiry was conducted. The Enquiry Officer on consideration of materials on record and on assessment of evidence found her guilty of Charge No.1 and accordingly

imposed the punishment which was also confirmed by the appellate authority. No injustice as such was ^{done to the applicant} ~~called for~~.

4. We have heard Mr M.Chanda, learned counsel for the applicant and also Mr M.K.Mazumdar, learned standing counsel for K.V.S at length. While considering the materials on records it appears to us that the Enquiry Officer submitted his report on 28.7.2000 on completion of the enquiry and whereas the enquiry was yet to be completed. Sri R.C.Katiyar, PGT cross examined the witnesses, namely, the Principal-in-Charge made the following reply in answering to the questions put by the applicant :

"What has prompted to reach such conclusion that I have arranged to issue the fraudulent transfer order ?

Sir, I have not prompted to reach such conclusion that she has arranged to issue the fraudulent transfer order. A.C Sir told me that it might be fraudulent transfer.

Is that any evidence or materials available with you to establish that the fraudulent letter was issued by me ?

Sir, No, I have not any evidence or materials available with me to establish that the fraudulent letter was issued by Mrs Namita Pandey (PRT)."

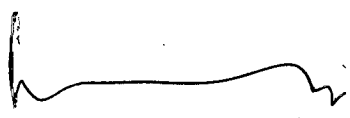
The Enquiry Officer who submitted report prior to conclusion of the enquiry apparently missed this aspect of the matter. The evidence on record as we pointed out earlier itself nullified the involvement of the applicant in the alleged misconduct. The enquiry in that regard was incomplete and has still submitted its report held guilty of charge No.II. The disciplinary authority did not apply its mind to those aspects and mechanically accepted the report of the Enquiry Officer holding the applicant guilty of charge No.I. The Enquiry Officer himself exonerated the applicant from the charge No.II. This aspect of the matter was wrongly attended by the appellate authority and in fact appellate authority observed that full proof effort were not made to establish the charge

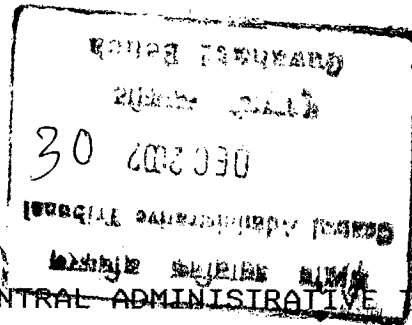
against the applicant. While addressing this aspect of the matter the appellate authority avoided this fact that there was no evidence before the enquiry officer and the disciplinary authority that the applicant as a Primary Teacher could arrange to issue fake transfer order. The finding holding the applicant guilty of charge No.I therefore is seemingly perverse. The appellate authority has also missed those important aspect of the matter. As mentioned earlier that from the own showing of the respondents the charge No.II was not established and there was no justification for imposing the penalty on the applicant. The order of the disciplinary authority based on the findings of the Enquiry Officer is accordingly set aside and quashed. The order of the appellate authority also set aside for the infirmities cited above.

5. For all these reasons the impugned order of penalty imposed on the applicant dated 19/25.6.2001 (Annexure-VI) as well as the appellate order dated 8.10.2002 (Annexure-X) are accordingly set aside and quashed. The respondents are directed to give all consequential benefits to the applicant.

The application is allowed to the extent indicated. There shall, however, be no order as to costs.


(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER


(D.N.CHOWDHURY)
VICE CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

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

CONSOLIDATED APPLICATION

Title of the case : O.A. No. 240/2002

Smti Namita Pandey : Applicant

- Versus -

Union of India & Others : Respondents.

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Date : 12.2002

Filed by
Sujit Ghosh
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

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

O.A. No. /2002

BETWEEN

Mrs. Namita Pandey,
Primary Teacher,
Kendriya Vidyalaya,
Duliajan

.....Applicant

-AND-

1. The Union of India;
(Through the Secretary to the
Govt. of India, Ministry of
Human Resource Development,
Sastri Bhawan, New Delhi-1.)
2. The Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi-110016
3. The Asstt. Commissioner,
K. V.S., Regional Office,
Hospital Road,
Silchar-788001.

15
Filed by:-
Mrs Namita Pandey
Through:- applicant
Sugilashree Acharya
30.12

Namita Pandey

4. Shri P.R.L. Gupta,
Education Officer,
(the then Officiating A.C.),
Kendriya Vidyalaya Sangathan,
Regional Office,
Silchar.
5. Shri R. C. Katiyar,
Ex-Principal,
Kendriya Vidyalaya,
Umrangshu.
6. Shri K. Rjendran,
(Presenting Officer),
Principal, Kendriya Vidyalaya,
Tinsukia.
7. Shri M. Subramaniam,
(Enquiry Officer),
Principal, Kendriya Vidyalaya,
Silchar.

..... Respondents.

DETAILS OF THE APPLICATION

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

This application is made against the impugned order No.3-4/99-2000/KVS(SR)4126-28 dated 19/25.6.2001 issued by the Respondent No.3 imposing punishment on the

Handy
(Namita Pandey)

applicant by way of reduction of pay by two lower stages in the time scale of pay of Rs. 4500-7000/- for a period of two years with cumulative effect and ordering further that the applicant will not earn increments of pay during the period of reduction, in an arbitrary manner and non disposal of appeal dated 11.7.2001 in spite of the order of the Hon'ble Tribunal dated 20.7.2001 passed in O.A. No. 267 of 2001.

2. Jurisdiction of the Tribunal.

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

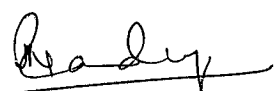
3. Limitation.

The applicant further declares that the application has been filed within the prescribed time limit under the Administrative Tribunals Act, 1985.

4. Facts of the case.

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

4.2 That the applicant entered into the service under the Kendriya Vidyalaya Sangathan(KVS) as Primary Teacher (PRT) and joined at Kendriya Vidyalaya, Umrangshu on


(Namita Pandey)

07.04.97 where she worked as PRT till 09.04.99. Thereafter she was transferred to Kendriya Vidyalaya, Duliajan and has been continuing there till the time of filing of this application.

- 4.3 That while serving in Kendriya Vidyalaya, Umrangshu, the KVS authorities instituted a concocted enquiry against the applicant resting on a transfer order issued in favour of the applicant vide one order No.F.33-18/98-KVS/(Estt-III) dated 12.10.1998 transferring her to Kendriya Vidyalaya, CCI, Gandhinagar, Ranchi. It was alleged that the said transfer order was fake and that it was the applicant herself who got the order issued by fraudulent manipulation. Accordingly a prima facie inquiry was conducted on 08.12.98 which was sought to be established on the basis of one impugned written statement submitted by Shri R. C. Katiyar (Respondent No.5), the then in charge Principal, Kendriya Vidyalaya, Umrangshu making the aforesaid allegation.
- 4.4 That on the basis of the fact finding inquiry conducted on 08.12.98 at Kendriya Vidyalaya, Umrangshu by Shri P.C. Parashar, Principal, Kendriya Vidyalaya, Panchgram and Shri M. Ravi Kumar, Principal, Kendriya Vidyalaya, Masimpur, the Respondent No.3 vide his letter No.3-4/98-KVS(SR)/11451 dated 20.04.99 addressed to the applicant wanted certain clarifications against which para wise reply was submitted by the applicant vide application dated 30.04.99 sent through proper channel

R. Pandey
R. Pandey

followed by another continuation letter sent under Regd. Receipt No. 396 & 397 dated 15.06.99. The applicant craves leave of the Hon'ble Tribunal to produce the copy of the letter dated 30.4.1999 at the time of hearing.

Copy of letter dated 20.04.99 is annexed hereto as

Annexure-I.

4.5 That eventually, the KVS authorities, in spite of having no substantial material in support of their allegation of fake/fraudulent transfer order, proposed to hold a formal inquiry against the applicant and served a memorandum of charge sheet upon the applicant vide letter bearing No.F.3-3/98-KVS(SR)16774-75 dated 31.01.2000 under rule 14 of the CCS (CCA) Rules, 1965.

Surprisingly, where the fact finding inquiry conducted on 08.12.98 against the applicant contained only one charge i.e. the charge of fake/fraudulent transfer order, the respondents while issuing the aforesaid memorandum of charge sheet dated 31.01.2000 labelled two nos. of charges, thus incorporating a new charge with the sole purpose of accentuating the gravity of charges, making their intention clear that they are determined to harass the applicant by any means. It is relevant to mention here that the second charge relates to occupation of residential accommodation which was already investigated and disposed of long back. The memorandum of charge sheet

Namita Pandey

dated 31.01.2000 contained two charges and the article of charges are quoted below :-

"Article-I

arranged
Mrs. Namita Pandey, while working as a Primary Teacher at Kendriya Vidyalaya, Umrangshu arranged to issue fake transfer order No.F.33-18/98-KVS(Estt-III) dated 12.10.1998 for posting to Kendriya Vidyalaya, CCI, Gandhinagar, Ranchi in her favour.

Mrs. Namita Pandey, Primary Teacher has therefore done fraudulent manipulation in violation of item 34 of code of conduct for teacher envisaged in chapter VI of the Education Code and thereby contravened Rule 3(I)(II) of CCS (Conduct) Rules, 1964. She has therefore rendered herself liable to disciplinary action under CCS(CCA) Rules, 1965 as extended to KVS employee.

Article-II

Mrs. Namita Pandey, while working as Primary Teacher at Kendriya Vidyalaya, Umrangshu unauthorisedly took occupation forcefully by breaking the lock of the residential accommodation of the said Kendriya Vidyalaya on 25.07.97. Mrs. Namita Pandey, PRT has thus failed to exercise devotion and reasonable care in the discharge

Namita Pandey

of her official duty and has violated item 22 of the Education Code and she has thereby contravened Rule 3(I)(II) of the CCS (Conduct) Rules, 1964 and therefore rendered herself liable to disciplinary action under CCS(CCA) Rules 1965 as extended to KVS employees".

Copy of Memorandum of charge sheet dated 31.01.2000 is annexed hereto as **Annexure-II**.

4.6 That the applicant replied against the aforesaid charges and submitted her reply vide application dated 22.02.2000. Subsequently a preliminary inquiry was conducted on 26.04.2000 and 12.07.2000 by Shri M. Subramaniam (Respondent No.7), Principal, Kendriya Vidyalaya, Silchar as Enquiry Officer and Shri Rajendran Katiyal (Respondent No.6), Principal, Kendriya Vidyalaya, Tinsukia as Presenting Officer. But surprisingly, in spite of all efforts of the applicant, the report of Preliminary inquiry was not given to the applicant and none of the charges could be substantiated in the inquiry.

The applicant craves leave of the Hon'ble Tribunal to produce the application dated 22.2.2000 before the Hon'ble Tribunal at the time of hearing.

Nomita Pandey

4.7 That the final hearing of the inquiry was held on 24.02.2001 at Kendriya Vidyalaya, Lunding with cross-examinations and the proceedings were recorded with detailed evidential statements. But the Enquiry Officer submitted his inquiry report vide his letter No.3-1(conf)/KV-SIL/2000 dated 28.07.2000 even before the cross examination dated 24.02.2001 to the Respondent No.3 a copy of which was forwarded to the applicant vide No.3-4/94-IVS(SR)/647-49 dated 30.03.2000/17.04.2001. The applicant submitted a detailed representation dated 26.4.2001 against the Memorandum dated 30.3.2000/17.4.2001.

Copy of Inquiry Report dated 28.07.2000, forwarding letter dated 30.3.2001/17.04.2001 and representation dated 26.4.2001 are annexed hereto as Annexure-III, IV and V respectively.

4.8 That on receipt of the inquiry report dated 28.07.2000 vide letter dated 17.04.2001 the applicant submitted representation dated 26.04.2001 to the Respondent No.3 assailing the inquiry report which was not in conformity with the evidences (oral and documentary) recorded at the time of inquiry. It is pertinent to state that the imputation of allegations and the statements made in the cross examination are inconsistent to each other but the Enquiry Officer, without taking due cognizance of the evidential statements/records, framed the Enquiry report

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arbitrarily with mala fide findings although none of the charges could be established at the inquiry.

- 4.9 That pursuant to the biased and arbitrary inquiry report dated 28.7.2000, the respondent No.3 imposed punishment upon the applicant vide his impugned order No.3-4/99-2000/KVS(SR)/4126-28 dated 19/25.06.2001 in a planned and pre-determined manner ignoring all representations of the applicant and factual positions as revealed during the hearing/cross examination.

Copy of the impugned order dated 19/25.06.2001 is annexed hereto as **Annexure-VI**.

- 4.10 That on receipt of the order of punishment dated 19/25.06.2001, the applicant submitted an appeal vide application dated 11/12.07.2001 to the Appellate authority of the KVS i.e. the Commissioner, KVS, New Delhi (Respondent No.2) detailing all facts and circumstances and praying for setting aside of the impugned order dated 19/25.06.2001 and for exonerating her from the alleged charges after examining the records of the inquiry proceeding.

Copy of the representation of appeal dated 11/12.07.2001 is annexed hereto as **Annexure-VII**.

- 4.11 That the applicant begs to state that the entire inquiry as stated above was conducted in a biased manner and without any application of mind. Whereas the charge brought through Article-I was sought to be

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established on the basis of a statement dated 8.12.98 made by Sri R.C. Katiyar, the then Principal in charge, Umrangshu, the same was fully inconsistent with the subsequent statements made by Sri Katiyar during the cross examination held on 24.2.2001. Further the written statement of Sri N. Shankar, TGT (Bio) although shown as listed document in the Memorandum of Charge Sheet dated 31.1.2001 was not annexed to the memorandum of charge sheet and none of the listed documents were examined in the inquiry proceeding as was required under the relevant rule of CCS (CCA) Rules, 1965. However the statement of Shri N. Shankar also contradicted the charge under Article-I which only supports the contention of the applicant. None of the vital materials were either examined at the time of inquiry or reflected in the inquiry report and as such the entire inquiry was marked by infirmities. As such, none of the charges brought against the applicant could be proved/established during the inquiry but the Enquiry officer, most arbitrarily and with mala fide intention prepared the inquiry report dated 28.7.2000 at his own imagination and made concocted conclusions without having any link with the factual position revealed at the time of inquiry.

Further, it is surprising that while the cross examination and ultimate inquiry proceeding was held on 24.2.2001, the inquiry officer already prepared his inquiry report as back as on 28.7.2000 i.e. about 7 months before the completion of the inquiry which

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clearly reflects not only the validity of the inquiry report but also discloses the pre-determined motive of the Enquiry Officer which is against all laws known in the arena of justice and as such the said inquiry report is void-ab-initio.

Most shockingly, the Disciplinary Authority too, behaving in the similar way, acted upon the said inquiry report dated 28.7.2000 in a pre-planned manner ignoring the serious infirmities and irregularities of the inquiry proceedings as stated above and imposed punishment upon the applicant vide his order dated 19/25.6.2001.

4.12 That the applicant states that although there is a provision of appeal against the impugned order dated 19/25.6.2001, but CCS (CCA) rules have not conferred any power in the Appellate Authority to stay the order appealed against and as such the same appellate provision is not an alternative and efficacious remedy and under such circumstances the applicant had no other way but earlier approached this Hon'ble Tribunal without waiting for any result for her appeal dated 11.07.2001 through Original Application No. 267 of 2001.

However, the Hon'ble Tribunal was pleased to dispose of the said Original Application at the admission stage with the following observations :

Namita Pandey

"We are of the opinion that since the appeal lies and the appellate authority has the full power to examine the legality of the order of penalty and is competent to assess and evaluate facts, the proper forum is the appellate authority and the said appellate authority should be provided with full opportunity to examine the legality and validity of the order. Mr. Chanda submits that since the order of penalty is already imposed an interim order need be passed by the Tribunal protecting the interest of the applicant till disposal of the appeal. We are not inclined to pass any such order. However, it would be open to the applicant to make such prayer before the appellate authority as per law. We also feel that the matter should be disposed of expeditiously and accordingly we direct the appellate authority to examine the appeal and dispose it of with utmost despatch preferably within 2 months from today.

The application stands disposed of accordingly. No order as to costs."

A copy of the Hon'ble Tribunal order dated 20.7.2001 is enclosed as **Annexure-VIII**.

4.13 That your applicant thereafter again submitted a representation/appeal on 10.8.2001 on receipt of the order of the Hon'ble Tribunal dated 20.7/2001 addressed to the Appellate Authority through proper channel

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enclosing order of the Hon'ble Tribunal order dated 20.7.2001. Surprisingly no action was initiated thereafter for disposal of the said representation/appeal of the applicant which was submitted against the impugned order of penalty dated 19/25.6.2001. As a result, impugned order of penalty has been effected by the respondents.

It is relevant to mention here that the respondent Union of India also prayed for extension of time before this Hon'ble Tribunal by way of filing Misc. Petition No. 262/2001 for implementation of the order dated 20.7.2001 passed in O.A. 267/2001. In other words the respondents sought for further time for disposal of the appeal dated 11/12.7.2001 of the applicant. But surprisingly till date the said appeal of the applicant has not yet been disposed of even after the expiry of the extended time granted by the Hon'ble Tribunal. It is pertinent to mention here that the appeal was submitted way back in the month of July, 2001 against the order of penalty and meanwhile about a year is going to be elapsed but till date the appeal of the applicant has not yet been disposed for the reasons best known to the respondents.

A copy of the order of the Hon'ble Tribunal passed in Misc. Petition No.262/2001 is annexed as **Annexure-IX.**

4.13A That during the pendency of the Original Application the Appellate Authority namely, Joint Commissioner

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(Administration) passed the impugned order bearing letter No. F. No. 9-69/2001-KVS (Vig.), Dated 08.10.2002 whereby the Appellate Authority alleged to have reduced the penalty imposed by the disciplinary authority and orders for imposition of the penalty of reduction of pay by one stage from Rs. 5000/- to Rs. 4875/- in the time scale of pay of Rs. 4500-125-7000 for a period of 2 years with effect from 19.6.2001 with cumulative effect. It is further decided by the Appellate Authority that the applicant will not earn increments of pay during the period of reduction and that on expiry of the currency of penalty the reduction will have the effect of postponing of her future increments of pay.

It is humbly submitted that the modified order of penalty passed by the Appellate Authority on 8.10.2002 is seems to be more rigorous than the order of penalty passed by the disciplinary authority in the instant case of the applicant.

The order of penalty initially passed by the disciplinary authority already came into force with effect from 19.6.2001. In the said order of penalty the pay of the applicant was reduced to a lower stage by two stages in the time scale with cumulative effect and the increments was postponed during the period of currency of penalty. But the Appellate Authority although modified the order of penalty by reducing the pay of the applicant by one stage for a period of 2

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years with effect from 19.6.2001 with cumulative effect but surprisingly it is further decided that the applicant will not earn increments of pay during the period of reduction and on expiry of said period. The applicant will earn increments of pay during the period of reduction and on expiry of this period, the reduction will have the effect of postponing her future increments of pay. Therefore, the order of penalty now imposed by the Appellate Authority is seems to be more rigorous as because the reduction of pay will have the effect on postponing her future increments of pay.

A copy of the impugned Appellate Order of penalty is annexed herewith and marked as **Annexure-X**.

4.13B That it is stated that the Appellate Authority while passing the impugned order dated 8.10.2002 fairly admitted that there are infirmities while conducting the disciplinary proceedings initiated against the appellant and further admitted by the Appellate Authority that the charge of manipulation labeled against the applicant was not established and full proof efforts have not been made to establish the charge of manipulation which would have attracted the most severe penalties. Therefore it is quite clear from a mere reading of the impugned Appellate Order that there were infirmities in the enquiry proceedings as well as the charges labeled against the applicant were not established. But, in spite of such fair admission by the Appellate Authority the order of penalty passed

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by the disciplinary authority was not set aside, rather the penalty order has been modified reducing the pay by one stage for a period of 2 years with cumulative effect and such reduction will have the effect of postponing her future increments of pay. The said modified penalty is more rigorous in nature. As such the impugned Appellate Order which is passed mechanically without application of mind is liable to be set aside and quashed.

4.13C That, the Appellate Authority while passing the impugned order did not discuss any of the grounds raised by the appellant as required under the relevant rules.

It is respectfully submitted that the enquiry report was prepared by the enquiry officer much before the completion of the enquiry proceedings, which is contrary to the procedure laid down in the CCS (CCA) Rules, 1965 and on that score alone the impugned order of penalty passed by the Appellate Authority is liable to be set aside and quashed.

4.14 That finding no other alternative, the applicant is again approaching this Hon'ble Tribunal for protection of her legitimate rights and it is a fit case for the Hon'ble Tribunal to interfere with and to protect the interests of the applicant by setting aside the impugned order dated 19/25.6.2001 which have been

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issued arbitrarily, capriciously and with a pre-planned motive.

4.15 That this application is made bona fide and for the cause of justice.

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

5.1 For that none of the charges labelled against the applicant having been substantiated in the inquiry proceedings, the Disciplinary Authority erred in imposing punishment upon the applicant vide the impugned order dated 19/25.6.2001 and as such the same is liable to be set aside and quashed.

5.2 For that the inquiry authority conducted the inquiry with a pre-determined action plan and made his conclusions out of his sheer imagination and not based on facts and evidences revealed in the inquiry.

5.3 For that the inquiry authority prepared his report of inquiry on 28.7.2000 making all conclusions whereas the cross examination and the ultimate proceeding was held on 24.2.2001 and as such the whole inquiry proceeding is void-ab-initio.

5.4 For that the Disciplinary Authority acted illegally, arbitrarily, mala fide and in violation of the principles of natural justice as well as in violation of rule 14 of the CCS (CCA) Rules and as

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such the impugned order dated 19/25.6.2001 is liable to be set aside and quashed.

5.5 For that the applicant being an innocent person did not having committed the charge or any other misconduct, the impugned order is liable to be set aside and quashed.

5.6 For that the appeal of the applicant is still pending before the Appellate Authority and the same has not yet been disposed of in spite of the specific direction of the Hon'ble Tribunal dated

5.7 For that the Appellate Authority fairly admitted the infirmities committed in enquiry proceedings and further admitted that the charges were not established against the appellant but in spite the said admission, modified the order of penalty by imposing a rigorous penalty, therefore, the order of Appellate Authority dated 8.10.2002 is liable to set aside and quashed.

5.8 For that, there is no discussion on the grounds raised by the applicant in the impugned Appellate Order as required under the rule. As such the Appellate Order is liable to set aside and quashed.

5.9 For that, the Appellate order has been passed mechanically without application of mind and the

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same is not in conformity with the relevant procedure laid down CCS(CCA) Rules, 1965.

6. Details of remedies exhausted.

That the applicant preferred an appeal on 12.7.2001 against the impugned order of penalty dated 19/25.6.2001 but since there is no power vested with the Appellate Authority to stay the operation of the penalty order, in such compelling circumstances, the applicant approaching this Hon'ble Tribunal with a prayer to stay the impugned order of penalty dated 19/25.6.2001 during the pendency of this appeal as an interim measure.

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

The applicant further declares that she had previously filed an Original application No. 267/2001 and the same was disposed of by this Hon'ble Tribunal on 20.7.2001. The applicant further declares that no such writ petition, or suit regarding the matter in respect of which this application has been made, 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

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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 dated 19/25.6.2001, (Annexure-VI) imposing punishment upon the applicant be set aside and quashed.

8.1A That the impugned Appellate Order bearing letter No. F. No. 9- 69/2001-KVS (Vig) dated 08.10.2002(Annexure-X) be set aside and quashed.

8.2 Costs of the application.

8.3 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 reliefs :-

9.1 That the Hon'ble Tribunal be pleased to direct the respondents that the operation of the impugned order dated 19/25.6.2001 be stayed till this application is disposed of.

9.2 That the respondents be directed to dispose of the Appeal dated 12.7.2001 preferred by the applicant

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against impugned order of penalty dated
19/25/6/2001 at the earliest.

10.
This application is filed through Advocate.

11. Particulars of the I.P.O.

i)	I.P.O. No.	:	
ii)	Date of issue	:	
iii)	Issued from	:	G.P.O., Guwahati.
iv)	Payable at	:	G.P.O., Guwahati.

12. List of enclosures.

As stated in the index.

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VERIFICATION

I, Smti Namita Pandey, wife of Sri Shekhar Kumar Pandey, Presently working as Primary Teacher, Kendriya Vidyalaya, Duliajan, 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 theday of July,

2002.

Namita Pandey
(Namita Pandey)

ANNEXURE-I

KENDRIYA VIDYALAYA SANGATHAN

Regional Office
Hospital Road
Silchar-788001

File No. 3-4/98-KVS(SR)/1145

Dated : 20.4.99
Registered Post
Confidential

MEMORANDUM

Whereas a fake transfer order transferring Smt. Namita Pandey, Ex.-PRT, KV, Umarangsho now posted to Kendriya Vidyalaya, Duliajan under forged signature of Shri V.K.Tupta was issued in favour of the above mentioned teacher.

Whereas a fact finding enquiry was conducted on 8.12.98 at KV, Umrangsho by Shri P.C. Parashar, Principal, KV, Panchgram and Shri M. Ravi Kumar, Principal, K.V. Masimpur.

Whereas the fact finding enquiry report did not rule out the involvement of Mrs. N. Pandey, PRT in securing fake transfer order as mentioned above in her favour.

Now therefore, the undersigned directs Smt. Namita Pandey, to clarify the following points :-

a) Mrs. Namita Pandey, PRT during the course of Fact Finding enquiry submitted that she had been receiving anonymous letters for quite sometime past. If the situation was such whether she had informed the matter either to police or her higher authority. If not the reason should be clarified. She is required to clarify the point with the proof of having received the anonymous letter earlier.

b) She confessed during the course of Fact Finding Enquiry that she had not applied for transfer. On the other hand she asked the Principal I/c repeatedly to relieve her by showing

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a copy of the transfer order marked to AC Patna. She is therefore, required to clarify as to how she received the copy of the transfer order marked to Assistant Commissioner, Patna Region.

c) When Mrs. N. Pandey, PRT had admitted that she did not apply for her transfer, the reason for pressuring the Principal I/c by herself as well as by her husband for relieving from KV, Umrangsho should be clarified.

d) The fake transfer order was issued on request although Mrs. Namita Pandey, PRT did not apply for request transfer. The reason of not bringing this fact to her higher authorities need to be clarified. Moreover, knowing the above fact that transfer order was received by her for which she did not apply, without, bringing the matter to the higher authority she put pressure on Principal I/c as well as on this office for her relief. The reason should be clarified.

e) As per statement given by Mrs. Namita Pandey that she made a telephone call to her husband on 31.10.98 regarding the receipt of her transfer order and her husband arrived at Umrangshu on 3.11.98.

As per eye witness her husband was at KV, Umrangshu even before 3.11.98. Smt. Namita Pandey, PRT is therefore required clarify the position.

f) It has also been revealed that the fake transfer order was posted from Sonpur, Bihar and not from New Delhi. It is an established fact that the order relating to Inter regional transfer order are issued from KVS (Hqrs.), New Delhi. As such the fact should have been brought to the higher authorities by her. The reason should be clarified.

Her clarification must reach this office within 10 days from the date of receipt of this memorandum.

Namita Pandey

To

Mrs. Namita Pandey
Primary Teacher
KV, Duliajan.

Sd/-
(S.P. BAURI)
Assistant Commissioner

Copy to :

Principal, KV, Duliajan for information. He is requested to get the clarification as above from the teacher concerned and send to this office.

Assistant
Commissioner

Namita Pandey

Annexure-II

KENDRIYA VIDYALAYA SANGATHAN
REGIONAL OFFICE : SILCHAR-1
HOSPITAL ROAD : SILDHAR-788001

F. No. 3-3/98-KVS(SR)/16474-75

Date : 31.01.2000

MEMORANDUM

The undersigned proposes to hold an inquiry against Smt. Namita Pandey Primary Teacher, Kendriya, Vidyalaya, Duliajan, under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965, as extended to the employees of Kendriya Vidyalaya Sangathan. The substances of the imputations of misconduct of misbehaviors in respect of which the inquiry is proposed to be held is set out in the enclosed statement of Articles of charges (Annexure-I). A statement of the imputations of misconduct or misbehavior in support of each article of charge is enclosed (Annexure-II). A list of documents by which, a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure-III and IV).

2. Smt. Namita Pandey, Primary Teacher, Umrangsho now at Kendriya Vidyalaya Duliajan is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to State whether she desires to be heard in person.

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

4. Smt. Namita Pandey, Primary Teacher is further informed that if she does not submit her written statement or defence on or before the date specified in para, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rules 14 of the

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CCS. (CCA) rules, 1965 or the orders/directions issued in pursuance of the said Rule, the Inquiring authority may hold the inquiry against her ex-parte.

5. Attention of Smt. Namita Pandey Primary Teacher is invited to Rule 20 of the Central Civil Services (Conduct) rules, 1964 under which no Govt. Servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to her service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed that Smt. Namita Pandey, Primary Teacher is aware of such is representation and that it has been made her instance and action will be taken against her for violation of Rule 20 of CCS (CONDUCT) Rules, 1964.

6. The receipt of this Memorandum may be acknowledged.

To

Smt. Namita Pandey,
Primary Teacher
Formerly at Kendriya Vidyalaya,
Duliajan.

Sd/-

(S.P.BAURI)
Asstt. Commissioner

Annexure-II (Contd.)

Statement of Article of Charges framed against Smt Namita Pande, Primary Teacher, Kendriya Vidyalaya, Duliajan formerly at Kendriya Vidyalaya, Umrangshu,

arranged to issue fake order
ARTICLE -I

Mrs. Nomita Pandey, while working as a Primary Teacher at KV Umrangshu arranged to issue fake transfer order No. F. 33-18/98-KVS (Estt-III) dated 12.10.1998 for posting to Kendriya Vidyalaya, CCI, Gandhi Nagar, Ranchi in her favour.

Mrs. Namita Pandey, Primary Teacher has therefore done fraudulent manipulation in violation of item 34 of Code of conduct for teacher envisaged in Chapter VI of the Education Code and thereby contravened Rule 3(I) (II) of CCS(Conduct) Rules, 1964. She has therefore rendered herself liable to disciplinary action under CCS(CCA) Rules, 1965 as extended to KVS employee.

Article-II

Mrs. Namita Pandey, while working as Primary Teacher at Kendriya Vidyalaya, Umrangshu unauthorisedly took occupation forcefully by breaking the lock of the residential accommodation of the said Kendriya Vidyalaya on 25.07.97. Mrs. Nomita Pandey, Primary Teacher has thus failed to exercise devotion and reasonable care in the discharge of her official duty and has violated item 22 of the Education Code and she has thereby contravened Rule 3(I) (II) of the CCS(Conduct) Rules, 1964 and therefore rendered herself liable to disciplinary action under CCS(CCA) Rules 1965 as extended to KVS employees."

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Annexure -II (Contd.)

Statement of imputation of misconduct or misbehavior in support of the articles of Charge I framed against Smt. Namita Pandey, Primary Teacher formerly at Kendriya Vidyalaya, Umrangshu, now at Kendriya Vidyalaya, Duliajan.

A fake request transfer order No. 06/98 vide letter No. F. 33-18/98-KVS(Estt.III) dated 12.10.98 under the forged signature of Shri V.K. Gupta, Assistant Commissioner (Admn.), Kendriya Vidyalaya Sangathan, New Delhi was issued in favour of Smt. Namita Pandey, Primary Teacher formerly at Kendriya Vidyalaya, Umrangshu now at Kendriya Vidyalaya, Duliajan. In the aforesaid transfer order Smt. Namita Pandey, Primary Teacher was the lone beneficiary for which she did not apply earlier. As per statement of Smt. Namita Pandey, Primary Teacher her husband applied for her transfer but in support of her statement she failed to submit any documentary evidence.

Moreover, Smt. Namita Pandey, Primary Teacher submitted a copy of the transfer order marked to Asstt. Commissioner, KVS, R.O., Patna to the Principal, KV Umrangshu on 28.10.98 requesting him to relieve her although she received the fake transfer order on 30.10.98 without revealing the fact that she did not apply earlier for transfer to her choice place.

Later on, on query, Smt. Namita Pandey, Primary Teacher submitted that she had been receiving anonymous letters for quite sometime past. Smt. Namita Pandey, Primary Teacher never brought this fact to the notice of any authority and she was surprised to receive the transfer order. Her statement indicates that the fake transfer order was not issued by any authority of the KVS and in spite of knowing this fact she insisted the Principal on 28.10.98 and 5.11.98 for her relieving. Such act.... and act to get relieved speaks of her involvement in the fraudulent

manipulation of procuring the fake transfer order in her favour.

As per statement of Mrs. Namita Pandey, Primary Teacher, she made telephone call to her husband on 31.10.98 on receipt of her transfer order and her husband came to Umrangshu on 3.11.98. Her statement contradicts with the statement of witness she has provided to the effect that her husband was at Umrangsu even before 03.11.98. More so in spite of receiving the fake transfer order on 28.10.98 by Smt. Namita Pandey, Primary Teacher she made the telephone call to her husband only on 31.10.1998 at 7.30 P.M. whereas she was asking Principal since 28.10.98 to relieve her and also she started disposing off her house hold good. Her fabricated statement speaks of her involvement in procuring the forged transfer order.

Smt. Namita Pandey made a confession that the fake transfer order under forged signature of Shri V.K. Gupta, Assistant Commissioner (Admn.) was posted from a place i.e. "SON" and obviously not posted from New Delhi. She was also surprised to receive the fake transfer order. In spite of realising the facts, her repeated insistence on the principal to relieve her gives a clear indication of her involvement in fraudulent manipulation to procure fake transfer order dated 5/12.10.98 under forged signature in her favour with mala fide intention.

Smt. Namita Pandey, Primary Teacher has thus involved herself in fraudulent manipulation for procuring fake transfer order under forged signature in her favour with mala fide intention which is violative to item 43 of the code of conduct for teacher as envisaged in the Education Code.

Smt. Namita Pandey, Primary Teacher has thereby contravened Rule 3(I) (II) of the CCS (Conduct) Rules, 1964 and thus rendered herself liable to Disciplinary Action under CCS (CCA) Rules, 1965 as extended to employees of Kendriya Vidyalaya Sangathan.

Annexure-II(Contd.)

Statement of imputation of Misconduct or misbehaviour in support of Article of Charge II framed against Smt. Namita Pandey.

The residential accommodation of Kendriya Vidyalaya, Umrangshu was locked on 16.7.1997 after vacating by another teacher. Mrs. Namita Pandey, Primary Teacher forcibly took accommodation of the said quarter by breaking the lock of the quarter on 26.7.97. Such an unauthorised occupation is violative of item 22 and 34 of the Code of Conduct for teachers as envisaged in the Chapter VI of the Education Code.

Mrs. Namita Pandey has thus contravened Rule 3(I) (II) of the CCS (Conduct) Rules, 1954 and rendered herself liable to disciplinary action under CCS (CCA) Rules 1965 as extended to employees of Kendriya Vidyalaya Sangathan.

Annexure-III

List of Documents by which articles of charge framed against Mrs. Namita Pandey, Primary Teacher are proposed to be sustained.

1. Forged transfer order No. 06/98-99 vide KVS (HQ) letter No. F. 33-18/98-KVS(Estt-III) dated 5/12-10-98.
2. Written statement dated 8.12.98 of the Principal, KV, Umrangshu, and Shri W. Shankar, TGT (BIO).
3. Letter No. F.1/PF NP(KVJ)97-98/357 dated 26.7.97.

Annexure-IV

List of witness by whom the articles of charges framed against Mrs. Namita Pandey, Primary Teacher formerly at KV Umrangshu now at KV Duliajan.

1. Shri Ramesh Chandra Katiyar, PGT, (Hindi),
2. Shri K. Shankar, TGT (Bio)

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F-II/PP.NP

/97-98/357

Date 28.7.98

To

Mrs. Namita Pandey, PRT,
KV Umrangsho.

Sub : **Unauthorised Occupation of quarter No. E-40-A and
explanation thereof.**

The Vidyalaya has locked the quarter on 16.7.97 on vacation by Mrs. Nanda Upadhaya, PRT. As per your statement and on verification you have entered in to the quarter by breaking the lock of the quarter on 25.7.97.

You are therefore, asked to explain how you have broken the lock of the Govt. quarter and How you have entered into the quarter, it a clear cut violation of rule of discipline Explain the fact. Further it is ordered to vacate the quarter within 2 days. Otherwise it will a clear insubordination and disobedience and case will be referred to the Asstt. Commissioner and other higher authorities for further necessary action.

Sd/-
(S.L.Jain)
Principal

ANNEXURE-III

KENDRIYA VIDYALAYA Silchar

Dist. Cachar, Assam (Opposite to Doordarshan Kendra,
Silchar)
Pin - 788 003

Date 28.7.2000

No. 3-1(Conf)/KV-SIL/2000

To

The Assistant Commissioner
Kendriya Vidyalaya Sangathan,
Silchar Region, Silchar-1.

Sub Departmental enquiry against Smt. Namita
Pandey, PRT, KV,
Duliajan.

Sir,

I submit the detail account of above case to your kind notice and necessary action.

I. INTRODUCTION: The Assistant Commissioner, Silchar Region, Silchar appointed me as the Inquiry Officer vide office order No. F.3-3/99-2000/KVS(SR) dated 2000, under rule 14 of CCS (CCA) Rules, 1965, to hold an Inquiry against Mrs. Namita Pandey, Primary Teacher, K.V. Umrangso, at present at K.V. Duliajan. In the same order Shri Rajendran Kamaul, Principal, K.V. Tinsukia is nominated as Presenting Officer (P.O.) to present the case in support of the charges.

The Preliminary hearing was held on 26th April, 2000, at K.V. Silchar duly attended by the Charged Officer (C.O.) and the Presenting Officer. The Inspection of documents was completed on the same day. The Presenting Officer presented the related documents during Inquiry. At the close of enquiry the Charged Office requested for time to submit the evidences against the charges and 12th July, 2000 was fixed as the date of final hearing at K.V. Lumding, convenient to both C.O. and P.O. attended the enquiry. The briefs received both in preliminary and final hearing have been placed in folder below :

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II. CHARGES FRAMED AND INQUIRED INTO : The imputation of Namita Pandey involved herself in fraudulent manipulation for procuring fake transfer order under the forged signature of Shri V.K. Gupta, Asstt. Commissioner (Admn.) KVS, New Delhi in her favour with mala fide intention, and forceful occupation of K.V. accommodation by Mrs. Namita Pandey by breaking the lock on 16.7.97. The charges framed against Mrs. Namita Pandey vide Annexure-I & II to the charge sheet memorandum are enclosed with this report.

III. FACTS AND DOCUMENTS ADMITTED : The broad facts of the case relating to manipulation of fake transfer order to get relieved from K.V. Umrangshu by C.O. and forceful occupation of K.V. accommodation by breaking the lock had not been admitted by Charged Officer both in preliminary enquiry and final enquiry. The copies of the enquiry proceedings in both cases have been enclosed.

IV. THE CASE OF DISCIPLINARY AUTHORITY : The Presenting Officer presented the documents in support of charges made against Charged Officer and also cross examined the case in support of charges. The briefs received from Presenting Officer have been placed in folder No.2. The arguments drawn by P.O. thoroughly established evidence in support of charges of contravention of Rule 3 (i) (ii) of CCS (Conduct) Rules.

V. DEFENCE ARGUMENTS OF THE CHARGED OFFICER : The charged Officer Mrs. Namita Pandey submitted her defence against two articles of charges through written briefs placed in the relevant folder (No.3). The defence plea is briefly summarised in the following paragraphs.

The Charged Officer suspects the role of I/C Principal, K.V., Umrangshu, Shri Katiyar behind the

birth fake transfer order and later on story due to her bad personal relations with him.

The Charged Officer also argues that once settled another quarter dispute by regular Principal Shri S.C. Jain was reopened by Shri Khatiyar to trouble her.

The Charged Officer submitted xerox copies of fee receipt in support of Shri Khatiyar misdeeds - which is absolutely irrelevant to present case.

VI. ASSESSMENT OF THE EVIDENCE, BOTH ORAL AND DOCUMENTARY AND THE INQUIRY OFFICER'S FINDINGS ON THE POINTS REGARDING DETERMINATION :

From the assessment of the evidence, both documentary and oral, the following points emerge :

1. The Charged Officer confuses herself to stand on the statements given in preliminary enquiry in final hearing.
2. She admits her husband applied for her transfer but fails to produce a copy of it (or) its through proper channel copy of her husband office or her office. To apply for spouse transfer without following official formalities and not keeping a personal copy by both educated and employed couple is doubtful. Her argument of her innocence is doubtful.
3. She failed to produce evidence the way she get the copy of transfer order marked to Asstt. Commissioner, Patna Region. But she get it and requested the Principal to relieve.
4. The Charged Officer argues that I/C Principal pressurised her to get relieve. But fails to produce any oral or written evidence in support of it.

Her application to Principal to relieve her is presented by Presenting Officer which indicates she

brought Official pressure upon Principal to relieve her.

5. The Charged Officer argues that threatening letters received by her are destroyed by I/C. Principal - She failed to produce any evidence during enquiry to such grave act.
6. The written documents produced by her in support of her arguments of non-selling of her house hold articles to neighbours are irrelevant. She failed to submit any relevant document. The evidence in support of charge are produced by the Presenting Officer.
7. The Charged Officer admits that she visited the Regional office with her husband to talk with Asstt. Commissioner only about the I/C. Principal's plan to get rid off her by relieving.

~~The purpose of her visit to R.O. Silchar and her discussion with the Asstt. Commissioner or any matter were not recorded. Hence her argument of accusing the I/C Principal in the foul play is only known to them Offg. Asstt. Commissioner Shri P.R.L. Gupta. Statement from Shri P.R.L. Gupta is required in this connection of her argument.~~

8. The charged officer failed to convene the Inquiry Officer or Presenting Officer with the evidence as her husband was not at Umrangshu on or before 03.11.98. Records shown by Presenting Officer established the fact her husband's presence.
9. The Charged Officer tries to blame the I/C, Principal for all of her charges and submitted a brief report/complaint to Inquiry Officer on 12.7.2000, without any evidences related to charges.

At the end, Inquiry Officer concludes that all charges framed in Articles I though denied by the Charged

Officer, enquiry fails to grab any evidence from C.O. in support of her argument of innocence.

ARTICLE OF CHARGES - II : Forceful occupation of K.V. accommodation by Charged Officer. The article of charges did not stand any value because the Charged Officer was warned and given chance not to repeat such act in future by regular Principal Shri S.L. Jain, letter 3/KV(N)U/97-98/440 dated 12.8.97 in response of C.O. response to Memo issued by In charge Principal dated 26.7.97.

VII. FINDING OF THE INQUIRY OFFICER ON THE CHARGE FRAMED AGAINST THE C.O.

In the light of the assessment of the evidence and determination of the points made in the previous paragraph, my finding are that :-

1. The charged officer failed to provide any kind of evidence in support of her argument of her innocence, result all charges mentioned in Article I in seven paragraphs have been established.
2. The charge mentioned in Article-II has not been established since it is unwise to open the closed file on this charge.

Yours faithfully,

Sd/-

(M. SUBRAHMANIUM)
Inquiry Officer
Principal, KV, Silchar.

28/7/00

REPORT OF CROSS EXAMINATION OF WITNESS BY ACCUSED OFFICER -
MRS. NOMITA PANDEY, PRT.

Cross examination of witness, Shri R.C. Katiyar, PGT, K.V. No. 3 Guwalior and once In charge Principal of K.V. Umrangshu by the accused officer Mrs. Namita Panedy, PRT is summarised below :

PROCEEDINGS :

Cross examination was conducted at K.V. Lumding on 24.2.01 from 11.30 A.M. The prosecuting officer of the case, Sri K. Rajendran, Principal, K.V. Tinsukia, Shri R.C. Katiyar witness and Mrs. Nomita Pandey the accused officer attended the proceedings.

The accused officer cross examined the witness by means of a questionnaire prepared by her (hand written copy is enclosed; annexure-I two pages), and submitted to Enquiry Officer to lead the process. The Enquiry Officer wrote the same questions on separate papers to give scope to witness to answer. The witness answered the questions and they in turn had gone through the presenting officer and accused officer. The cross examination process is enclosed in annexure-II (3 pages).

The cross examination was concluded after the accused officer and presenting officer expressed their satisfaction by going through the answers given by witness and acknowledged the same. This is noted in daily order sheet - Annexure-III.

CONCLUSIONS :

The accused officer failed to prove any kind of charges made against the in charge Principal, Sri R.C. Katiyar in connection with suspicious transfer order - The in charge Principal need not be doubted in this incident. He simply discharged the duties of Principal.

The In charge Principal received the office copy of Mrs. N. Pandey transfer only on 2.11.1998. But she submitted the copy to Principal on 28.10.98 and requested him to relieve her. This is revealed in cross examination and accepted by accused officer, contrary to her earlier statement as the In charge Principal only pressurised her to get relieve.

Regarding the Camp of Mrs. N. Pandey husband at Unrangshu prior to 31.10.98 is established in the cross examinations (contradictory to her version in enquiry). The accused officer herself revealed her husband's arrival to In charge.

It is also established that she disposed some of her house hold articles prior to relieve, which was accepted by accused officer in the cross examination.

The In charge Principal acted as per the instructions of Regional Office to operate the transfer order. The cross examination did not reveal any evidence to stand the allegations of accused officer as In charge Principal harassed her or pressurised her to relieve.

The cross examination did not substantiate any allegations made by accused officer to prove her innocence in getting and operating the transfer order, which was suspected as fraud at Regional Office level.

Thus the accused officer failed to defend the charges made against her and established sufficient ground of master plan behind the transfer order.

Sd/-

(M. SUBRAHMANIUM)
ENQUIRY OFFICER

Annexure-IV

KENDRIYA VIDYALAYA SANGATHAN

Regional Office
Hospital Road
Silchar-788001

F. No. 3-4/94-KVS(SR)/647-49

Dated 30.03.2001/17.4.01

Regd/Confidential

MEMORANDUM

Whereas on careful consideration of the Inquiry Report (Copy enclosed) the undersigned has provisionally come to the conclusion that the gravity of the charge is such as to warrant the imposition of major penalty on Smt. Namita Pandey, Primary Teacher, Kendriya Vidyalaya, Duliajan and accordingly the undersigned proposes to impose on her penalty of reduction to lower stage (s) on the time scale of pay Rs. 4500-7000 with cumulative effect.

NOW, THEREFORE, Smt. Namita Pandey Ex-primary teacher, KV Umrangshu now working as Primary teacher at KV Duliajan is hereby given an opportunity of making representation on the penalty proposed above. Any representation which she may wish to make against the penalty proposed will be considered by the undersigned. Such representation if any should be made in writing and submitted so as to reach the undersigned not later than 15 (fifteen) days from the date of the receipt of this memorandum by Smt. Namita Pandey, Primary Teacher, KV Duliajan.

The receipt of this memorandum should be acknowledged.

Sd/-

(S.P. Bauri)
Assistant Commissioner

Enclo :-

Enquiry report in 07 pages

Annexure-V

To,
The Assistant Commissioner (Disciplinary authority),
Kendriya Vidyalaya Sangathan,
Regional Office,
Hospital Road,
Silchar - 788001

Sub : Submission of Representation against the memorandum bearing letter No.3-4/94-KVS(SR)/647-49 dated 30.03.2001/17.04.2001 against the proposed imposition penalty of reduction to lower stage (s) on the time scale of pay Rs.4500-7000 with cumulative effect.

Ref : Your memorandum issued under letter No.3-4/94-KVS(SR)/647-49 dated 30.03.2001/17.04.2000.

Respected Sir,

Most humbly and respectfully I beg to state that the aforesaid memorandum proposing imposition of Penalty of reduction to lower stage(s) on the time scale of pay Rs.4500-7000 with cumulative effect, the aforesaid memorandum is duly received by the undersigned only on 20.04.2001 and I have carefully gone through the same, and understood the contents thereof.

I therefore like to draw your kind attention to the following fact for your kind attention to the following fact for your kind consideration before taking any adverse decision as proposed in the memorandum dated 30.3.2001/17.4.2001.

That Sir, the memorandum of charge sheet served upon the undersigned vide your letter bearing No. F. 3-3/98-KVS (SR)16774-75 dated 31.1.2000 under rule 14 of the CCS(CCA) Rules 1965 with the following article of charges quoted below :-

"Article -I

Mrs. Namita Pandey, while working as a Primary Teacher at KV Umrangshu arranged to issue fake transfer order No. F. 33-18/98-KVS (Estt-III) dated 12.10.1998 for posting to Kendriya Vidyalaya, CCI, Gandhi Nagar, Ranchi in her favour.

Mrs. Namita Pandey, Primary Teacher has therefore done fraudulent manipulation in violation of item 34 of Code of conduct for teacher envisaged in Chapter VI of the Education Code and thereby contravened Rule 3(I) (II) of CCS(Conduct) Rules, 1964. She has therefore rendered herself liable to disciplinary action under CCS(CCA) Rules, 1965 as extended to KVS employee.

Article-II

Mrs. Namita Pandey, while working as Primary Teacher at Kendriya Vidyalaya, Umrangshu unauthorisedly took occupation forcefully by breaking the lock of the residential accommodation of the said Kendriya Vidyalaya on 25.07.97. Mrs. Namita Pandey, Primary Teacher has thus failed to exercise devotion and reasonable care in the discharge of her official duty and has violated item 22 of the Education Code and she has thereby contravened Rule 3(I) (II) of the CCS(Conduct) Rules, 1964 and therefore rendered herself liable to disciplinary action under CCS(CCA) Rules 1965 as extended to KVS employees."

That the charges brought against me through article-I with the allegation that the undersigned has arranged to issue fake transfer order No. F. 33-18/98-KVS (Estt-III) dated 12.10.98 for posting to Kendriya Vidyalaya, CCI, Gandhi Nagar, Ranchi in my favour and it is further alleged that due to

this act of fraudulent manipulation in violation of item 34 of Code of Conduct for teacher envisaged in chapter VI of the education Code and thereby contravened Rule 3(I) (II) of CCS (Conduct) Rules, 1964 and the aforesaid misconduct of misbehaviour is sought to be sustained/established on the basis of a statement made by Sri R.C. Katiyar the then in-charge Principal, Umrangshu which is made at the time of prima facie inquiry conducted on 8.12.98 by the authority. The said statement made by the then Principal on 8.12.98 and the other written statement of Sri N. Shankar, TGT (Bio) but the statement of Sri N. Shankar although shown as listed document in the memorandum of charge sheet dated 31.1.2001 but the same was not annexed in the aforesaid memorandum of charges. Moreover, none of the listed documents were examined in the enquiry proceeding as was required under the relevant rule of CCS(CCA) Rules 1965. It is further categorically submitted even the sole listed document relating to article to charge No.I, has not been examined. It is relevant to mention here that the written statement of the then Principal, Umrangshu which is relied in the memorandum of charge sheet in order to sustain the article of charge No. I now the said statement of Sri R.C. Katiyar went contrary to his own statement made during the cross-examination in the enquiry proceeding held on 24.2.2001 wherein in a reply to a question Sri R.C. Katiyar stated as follows, the relevant portion of the proceeding dated 24.2.2001 is quoted below :

"CROSS EXAMINATION OF THE NAMITA PANDEY AT K.V. LUMDING AT 11.30 A.M. ON 24.2.2001.

Questions given by Mrs. Namita Pandey Vs. Answers
by Sri R.C. Katiyar.

1. When and how you have received this fraudulent order (a) transfer and posting of me ?

Sir, Madam N. Pandey Ex. (PRT) of K.V Umrangshu showed me her transfer copy on 28.10.98 and requested me to relieve her but I refused to relieve because I (As a Principal) did not receive her transfer order. I received transfer order on 02.11.98 on the next day I order U.D.C. to prepare L.P.C. & relieving order."

2. How did you come to know that the order of transfer dated 5/12.10.98 is fraudulent ?

Sir, I got telephonic message from the Education Officer (Officiating A.C.) on 03.11.98 that he had doubts about this transfer order. He (Sh. P.R.L. Gupta, Sir) called me at Silchar Regional Office along with the documents. He told me that he was making enquiry of this transfer orders.

3. After receipt of the transfer order what steps you have taken?

Sir, after receipt of transfer order of Mrs. N. Pandey I ordered U.D.C. to prepare L.P.C. & relieving order but after getting telephonic message from Hon'ble A.C. (Officiating) Sir I stopped it.

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4. How did and when did it strike to your mind that I have arranged to issue the fraudulent order of transfer?

Sir, it did not strike me that she has arranged her transfer order. I came to know the doubt when A.C. Sir told me that it might be the fraudulent transfer.

5. How did you come to know that my husband has reached Umrangshu prior to 31.10.1998 and what was your reliable source on that ?

Sir, I came to know that the husband of Mrs. Nomita Pandey arrived prior to 31.10.1998 through Mrs. Pandey two ad-hoc lady teachers.

6. What was the distance of your quarter from the quarter of me at Umrangshu ?

Sir, it is Approx 2500 meters.

7. How did you know that I have disposed of my house hold articles and what was the source of your information ?

Sir, I came to know from two ad-hoc teachers.

8. What has prompted to reach such conclusion that I have arranged to issue the fraudulent transfer order ?

Sir, I have not prompted to reach such conclusion that she has arranged to issue the fraudulent transfer order. A.C. Sir told me that it might be fraudulent transfer.

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9. Is that any evidence or materials available with you to establish that the fraudulent letter was issued by me ?

Sir, No, I have not any evidence or materials available with me to establish that the fraudulent letter was issued by Mrs. Nomita Pandey (PRT).

10. Do you believe this certificate of leave dated 03.06.1999 issued by the employer of my husband regarding leave of absence from his office ?

Sir, I do not know.

11. Is there any private accommodation available within the NEEPCO campus of Umrangshu for private hire accommodation ?

Sir, I do not know.

Sd/- Illegible	Sd/- Illegible	Sd/- Illegible
24.02.2000	24.02.2000	14.02.2000
(R. C. Katiyar)	(K. Rajendran) H.	

Subramanian)

P.O. E.O.

In view of the above statement of Sri R.C. Katiyar the then Principal of KV Umrangshu stated in the enquiry proceeding held on 24.2.2001 is contrary with the written statement dated 8.12.1998 as such the written statement dated 08.12.1998 cannot sustain the charges brought against me under article of charge no. I.

It is further submitted that the statement of Sri N. Shankar which is not annexed with the memorandum of charge sheet dated 31.01.2000 but supplied to me by the enquiry officer does not support the charges brought against me under article No.I. The statement of Sri N. Shankar dated 08.12.1998 also support the contention of the undersigned. The statement of Sri N. Shankar is quoted below :-

It is quite clear from the above statement of Sri N. Shankar that the husband of the undersigned came to Umrangshu after receipt of the order of transfer dated 12.10.1998, therefore the above statement also establishes that the written statement of Sri R. C. Katiyar dated 08.12.1998 is contradictory with the written statement of Sri N. Shankar.

That Sir, it is further stated that the written statement of Sri R. C. Katiyar is also contrary to the certificate of leave issued by the District Treasury Office, Dumka (Bihar) which establishes the correctness of the fact that my husband Sri Shekhar Kumar Pandey, Assistant Accountant, Dumka treasury was on leave with effect from 02.11.1998 to 15.11.1998 therefore statement of Sri R. C. Katiyar that my husband came to Umrangshu earlier to 03.11.1998 is false and misleading as because my husband under took journey by Rail from Dumka and he reached at Umrangshu only on 03.11.1998 at about 11 a.m. My husband started his journey with effect from 01.11.1998 (Sunday) via Bhagalpur. But the certificate dated 03.06.1999 which was produced by the undersigned before the inquiry proceeding and the same was also got examined by

the undersigned while cross examining Sri R. C. Katiyar the than Principal Umrangshu in the hearing proceeding held on 24.02.2001 and on reply which would be evident from the order sheet of cross examination dated 24.02.2001 quoted above, has not been denied by Sri R. C. Katiyar, as such it is categorically submitted that in the so called inquiry proceeding which is initiated in pursuance of the memorandum dated 31.01.2000 nothing could be proved against the undersigned regarding the charges leveled against me through article No.I as well as no evidence could be made available before the Enquiry Officer either by the presenting officer or by the witness Sri R. C. Katiyar who was examined in the enquiry proceeding as was relied upon in the memorandum of charge sheet dated 31.01.2000. It is further submitted that Sri N. Shankar TGT (BIO) listed witness relied upon in the aforesaid memorandum of charges also not examined before the enquiry proceeding by the departmental side as required under the rule and the written statement of Sri N. Shankar, categorically support the contention of the undersigned as stated above.

Therefore no evidence or statement of witnesses supported the charges brought against me under article I of the memorandum of charge sheet dated 31.01.2000.

It is further submitted that the undersigned submitted documentary evidences before the inquiry proceeding and also during the cross-examination such as certificate issued by the employees of NEEPCO Ltd. Regarding non disposal of household articles dated 10.12.98 and Pass issued in NEEPCO Gate dated 11.4.99 issued by Security Manager NEEPCO Ltd. Umrangshu dated 11.4.1999 and

the certificate of Truck Owner dated 11.4.1999 carrying the Household articles from Umrangshu to Duliajan after my transfer and leave certificate dated 3.6.99 was also sent by Regd. Post to the Assistant Commissioner (Disciplinary Authority) as was promised by the undersigned on 15.6.99 against the reply submitted by me in terms of the memorandum issued under letter No. 3-4/98-KVS(SR)/11451 dated 20.4.99, but surprisingly none of the documentary evidence taken into consideration by the enquiry officer as required under the rules.

That the enquiry report bearing letter No. 3-1(CONF)/KV-SIL/2000 dated 28.7.2000 served upon me along with the memorandum dated 31.3.2001/17.4.2001. A bare perusal of the enquiry report, it would be evident that the same has been prepared in a most arbitrary and unfair and illegal manner without taking into consideration the factual position of the enquiry proceeding. There is no discussion at all made by the enquiry officer of the recorded statement of Sri R.C. Katiyar the then Principal in-charge, Umrangshu Kendriya Vidyalaya when Sri R.C. Katiyar categorically denied that there is no evidence or material available with him regarding issuance of fake letter by me but surprisingly in the enquiry report it is state by the enquiry officer in the conclusion part that the cross-examination does not substantiate any allegation made by the accused officer to prove her innocence in getting and operating the transfer order which was suspected as framed at Regional Office level and thus the accused officer failed to defend the charges made against her and established sufficient ground of Master Plan behind the transfer order.

It is further stated the enquiry officer in his enquiry report in concluding paragraph that " It is also established that she disposed some of her household articles prior to relieve, which was accepted accused officer in the cross examination."

The above conclusion of the enquiry officer is totally false and misleading. In this connection the undersigned beg to rely upon the daily order sheet of the proceeding and enquiry officer is put to strictest proof of the fact that the charged officer has accepted the household articles prior to relieve rather documentary evidence submitted by me regarding non-disposal of household articles not considered at all by the enquiry officer but the same has been rejected in a very arbitrary and unfair manner without any discussion on the aforesaid evidences produced by me, which would be evident in paragraph 6 of the assessment of evidence in the enquiry report, wherein it is held by the enquiry officer that those documents arguments are irrelevant and it is further held that the undersigned is failed to submit any relevant document. Surprisingly it is further held that the evidence in support of charges are produced by the Presenting Officer but in reality not a single document or evidence neither produced by the Presenting Officer nor examined before the Enquiry Proceeding by the Presenting Officer. As such entire finding of the Enquiry Officer is highly arbitrary and unfair and a mere reading of the finding and conclusion of the enquiry report. It would be evident that the Enquiry Officer has prepared, the enquiry report in total violation of Sub-section (i) and

Sub-section (ii) of Sub rule 23 of rule 14 of the CCS (CCA) Rules, 1965.

It is categorically submitted that the enquiry report has been prepared without taking into consideration the defence put forwarded by the undersigned in respect of article of charges. It would further be evident that no assessment of the evidence is made in respect of the article of charges and particularly findings as well as the conclusion reached by the enquiry officer in respect of article of charge no. I is totally irrelevant and contrary to the records of the enquiry proceeding. No discussion on evidence particularly relating to the crucial hearing which took place on 24.2.2001 at Lunding did not find place in the enquiry report. No discussion is made by the enquiry officer in the recorded statement of Sri R.C. Katiyar who was cross-examined by me on 24.2.001. It is relevant to mention here that Sri R.C. Katiyar the sole witness cross-examined in the enquiry proceeding who categorically denied regarding availability of any documentary evidence to sustain the charges brought under article of charge no. I. As such, the entire finding and conclusion of the enquiry officer not based on any evidence and the aforesaid enquiry report has been prepared with a pre-determined notion to impose penalty upon me although no evidence or statements of any witness relied upon by the departmental side, supported the charges brought against me, as such on that score alone the proceeding is liable to be dropped.

That Sir, it is further categorically submitted that the charges particularly the article of charge No.I has not been enquired into rather the enquiry officer, enquired into a

different charge in respect of fake transfer order. A mere reading of the paragraph-II i.e the charges framed and enquired into is altogether different than the article of charge no. I brought under memorandum dated 31.1.2000. The Enquiry Officer enquired into "the imputation of Namita Pandey involved herself in fraudulent manipulation for procuring fake transfer order under the forged signature of Sri V.K.Gupta, Assistant Commissioner (Admn), KVS, New Delhi in her favour with mala fide intention" whereas article of charge no. I is quite different as leveled against me in the memorandum dated 31.1.2001. On that score alone the entire enquiry proceeding is liable to be set aside and quashed.

In paragraph V of the enquiry report the defence arguments of the charged officer which is discussed did not reflect the actual/factual position. It is also evident that the documents of misdeeds of Sri R.C. Katiyar which was submitted by me in the enquiry proceeding has been arbitrarily rejected by the enquiry officer holding the same as irrelevant without assigning any valid reason.

It is stated that no assessment of evidence both oral and documentary is made and further no discussion is made on evidences as required under the rule.

Finding assessment of evidence conclusion of the enquiry proceeding made by the enquiry officer as evident from the enquiry report is quite contrary to the record of the proceeding, it appears that the enquiry officer acted in a very arbitrary manner in total violation of Rule 14 of CCS(CCA) Rules 1965 and further reached to the

findings and conclusion in the enquiry report in total violation of Sub-section (i) and (ii) of Sub-section -23 of Rule 14 of CCS(CCA) Rules 1965 and as such the entire enquiry proceeding which is conducted in pursuance of the memorandum dated 31.3.2001 are liable to be set aside and quashed and therefore penalty proposed under memorandum dated 31.3.2001/17.4.2001 also liable to be dropped in the interest of justice and fair play.

I, therefore like to draw your kind attention to the above stated fact for your kind consideration before taking any adverse decision as proposed in the memorandum dated 30.3.2001/17.4.2001 and further be pleased to drop the Memorandum of charges dated 31.3.2000 in view of the above stated contradictions, infirmity in the enquiry proceeding and also be pleased to revoke/cancel the Memorandum dated 30.3.2001/17.4.2001 proposing penalty under intimation to the undersigned.

Date : 26.04.2001

Place : Duliajan

Yours faithfully,
Sd/-
(NAMITA PANDEY)
PRT, KV, Duliajan

Copy to,

Principal, K.V., Duliajan, for information only.

(NAMITA PANDEY)
PRT, KV, Duliajan.

ANNEXURE-VI

To
Smt. Namita Pandey, PRT,
K.V. Duliajan.

KENDRIYA VIDYALAYA SANGATHAN

Regional Office
Hospital Road
Silchar-788001

Dated
19/25.6.2001

F. No. 3-4/99-2000/KVS(SR)/4126-28

Regd/Confidential

O R D E R

Whereas disciplinary proceedings under Rule 14 of the Central Services (Classification central and Appeal) rules, 1965 were instituted against Smt. Namita Pandey, Ex-Primary Teacher, Kendriya Vidyalaya, Umrangshu, now working at Kendriya Vidyalaya, Duliajan in regard to the charges framed against her vide Memorandum No. 3-3/98-KVS(SR)/647-75 dated 31.1.2000.

2. Whereas Shri M. Subrahmanium, Prindipal, Kendriya Vidyalaya, Silchar who was appointed as Inquiry Officer to inquire into the charges framed against the said Smt. Namita Pandey, Primary Teacher has submitted his report and was sent to said Smt. Namita Pandey, Primary Teacher vide Memo of even No. dated 17.4.2001.

3. Whereas proposal for imposing penalty was sent to Smt. Namita Pandey, Primary Teacher alongwith the enquiry report vide Memo of even No. dated 17.4.2001 giving her opportunity to make representation if any against the proposed penalty.

4. Whereas Smt. Namita Pandey, Primary Teacher made representation dated 26.4.2001 has been examined by the undersigned.

5. Whereas after taking into consideration the representation dated 26.04.2001 submitted by Smt. Namita

Pandey, PRT and the record of enquiry and having regard to all the facts and circumstances, the undersigned is satisfied that the findings of the Inquiry Officer is acceptable and that good and sufficient reasons exist for imposing penalty of reduction of two lower stages in the time scale of pay Rs. 4500-125-7000 for a period of two years with cumulative effect.

6. Now, therefore, the undersigned accordingly orders that the pay of Smt. Namita Pandey, PRT will be reduced by two lower stages in the time scale of pay Rs. 4500-125-7000 for a period of two years with cumulative effect. Smt. Namita Pandey will not earn increments of pay during the period of reduction and that on expiry of this period, the reduction will not have effect of postponing her future increments.

Sd/-

(S.P. BAURI)
ASSISTANT COMMISSIONER

To
Smt. Namita Pandey, Primary Teacher,
Kendriya Vidyalaya,
Duliajan.

Copy to :

1. The Principal, KV, Duliajan, for giving effect of the penalty order.
2. The education officer, (Vig), KVS, New Delhi - for information please.

/
Assistant Commissioner

ANNEXURE -VII

To

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

Sub : An Appeal against the order of Penalty imposed
vide order Issued under letter No. 3-4/99-
2000/KVS(SR) 4126-28 dated 19/25.6.2001.

Respected Sir,

I like to draw your kind attention on the subject cited above and further beg to state that the impugned order of penalty dated 19/25.6.2001 is duly received by the undersigned only on 28.6.2001 and thereafter carefully gone through the same and it appears that the order of reduction of pay by two lower stages and the time scale of pay Rs. 4500-125-7000 for a period of two years with cumulative effect and further ordered that the undersigned will not earn increments of pay during the period of reduction and on expiry of this period, the reduction will not have effect of postponing future increments.

That the above penalty has been imposed upon the undersigned in a very arbitrary manner in total violation of Rule 14 of CCS (CCA) Rules 1965 and further reached to the findings to the conclusion by the disciplinary authority contrary to the evidence recorded in the proceeding.

I therefore like to draw your kind attention to the following fact for your kind consideration and also urge upon you to set aside the impugned order of penalty dated 19/25.6.2001 by exercising the power conferred on you under sub-rule 2 of Rule 27 of CCS (CCA) Rules, 1965.

That Sir, the memorandum of charge sheet served upon the undersigned vide your letter bearing No. F. 3-3/98-KVS (SR)16774-75 dated 31.1.2000 under rule 14 of the CCS(CCA) Rules 1965 with the following article of charges quoted below :-

"Article -I

Mrs. Nomita Pandey, while working as a Primary Teacher at KV Umrangshu arranged to issue fake transfer order No. F. 33-18/98-KVS (Estt-III) dated 12.10.1998 for posting to Kendriya Vidyalaya, CCI, Gandhi Nagar, Ranchi in her favour.

Mrs. Namita Pandey, Primary Teacher has therefore done fraudulent manipulation in violation of item 34 of Code of conduct for teacher envisaged in Chapter VI of the Education Code and thereby contravened Rule 3(I) (II) of CCS(Conduct) Rules, 1964. She has therefore rendered herself liable to disciplinary action under CCS(CCA) Rules, 1965 as extended to KVS employee.

Article-II

Mrs. Namita Pandey, while working as Primary Teacher at Kendriya Vidyalaya, Umrangshu unauthorisedly took occupation forcefully by breaking the lock of the residential accommodation of the said Kendriya Vidyalaya on 25.07.97. Mrs. Nomita Pandey, Primary Teacher has thus failed to exercise devotion and reasonable care in the discharge of her official duty and has violated item 22 of the Education Code and she has thereby contravened Rule 3(I) (II) of the CCS(Conduct) Rules, 1964 and therefore rendered herself liable to disciplinary action under CCS(CCA) Rules 1965 as extended to KVS employees."

That the charges brought against me through article-I with the allegation that the undersigned has arranged to issue fake transfer order No. F. 33-18/98-KVS (Estt-III) dated 12.10.98 for posting to Kendriya Vidyalaya, CCI, Gandhi Nagar, Ranchi in my favour and it is further alleged that due to this act of fraudulent manipulation in violation of item 34 of Code of Conduct for teacher envisaged in chapter VI of the education Code and thereby contravened Rule 3(I) (II) of CCS (Conduct) Rules, 1964 and the aforesaid misconduct of misbehaviour is sought to be sustained/established on the basis of a statement made by Sri R.C. Katiyar the then in-charge Principal, Umrangshu which is made at the time of prima facie inquiry conducted on 8.12.98 by the authority. The said statement made by the then Principal on 8.12.98 and the other written statement of Sri N. Shankar, TGT (Bio) but the statement of Sri N. Shankar although shown as listed document in the memorandum of charge sheet dated 31.1.2001 but the same was not annexed in the aforesaid memorandum of charges. Moreover, none of the listed documents were examined in the enquiry proceeding as was required under the relevant rule of CCS(CCA) Rules 1965. It is further categorically submitted even the sole listed document relating to article to charge No.I, has not been examined. It is relevant to mention here that the written statement of the then Principal, Umrangshu which is relied in the memorandum of charge sheet in order to sustain the article of charge No. I now the said statement of Sri R.C. Katiyar went contrary to his own statement made during the cross-examination in the enquiry proceeding held on 24.2.2001 wherein in a reply to a question Sri R.C. Katiyar stated

as follows, the relevant portion of the proceeding dated 24.2.2001 is quoted below :

"CROSS EXAMINATION OF THE NAMITA PANDEY AT K.V. LUMDING AT 11.30 A.M. ON 24.2.2001.

Questions given by Mrs. Nomita Pandey Vs. Answers by Sri R.C. Katiyar.

1. When and how you have received this fraudulent order (a) transfer and posting of me ?

Sir, Madam N. Pandey Ex. (PRT) of K.V Umrangshu showed me her transfer copy on 28.10.98 and requested me to relieve her but I refused to relieve because I (As a Principal) did not receive her transfer order. I received transfer order on 02.11.98 on the next day I order U.D.C. to prepare L.P.C. & relieving order."

2. How did you come to know that the order of transfer dated 5/12.10.98 is fraudulent ?

Sir, I got telephonic message from the Education Officer (Officiating A.C.) on 03.11.98 that he had doubts about this transfer order. He (Sh. P.R.L. Gupta, Sir) called me at Silchar Regional Office along with the documents. He told me that he was making enquiry of this transfer orders.

3. After receipt of the transfer order what steps you have taken?

Sir, after receipt of transfer order of Mrs. N. Pandey I ordered U.D.C. to prepare L.P.C.

& relieving order but after getting telephonic message from Hon'ble A.C. (Officiating) Sir I stopped it.

4. How did and when did it strike to your mind that I have arranged to issue the fraudulent order of transfer?

Sir, it did not strike me that she has arranged her transfer order. I came to know the doubt when A.C. Sir told me that it might be the fraudulent transfer.

5. How did you come to know that my husband has reached Umrangshu prior to 31.10.1998 and what was your reliable source on that ?

Sir, I came to know that the husband of Mrs. Nomita Pandey arrived prior to 31.10.1998 through Mrs. Pandey two ad-hoc lady teachers.

6. What was the distance of your quarter from the quarter of me at Umrangshu ?

Sir, it is Approx 2500 meters.

7. How did you know that I have disposed of my house hold articles and what was the source of your information ?

Sir, I came to know from two ad-hoc teachers.

8. What has prompted to reach such conclusion that I have arranged to issue the fraudulent transfer order ?

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Sir, I have not prompted to reach such conclusion that she has arranged to issue the fraudulent transfer order. A.C. Sir told me that it might be fraudulent transfer.

9. Is that any evidence or materials available with you to establish that the fraudulent letter was issued by me ?

Sir, No, I have not any evidence or materials available with me to establish that the fraudulent letter was issued by Mrs. Nomita Pandey (PRT).

10. Do you believe this certificate of leave dated 03.06.1999 issued by the employer of my husband regarding leave of absence from his office ?

Sir, I do not know.

11. Is there any private accommodation available within the NEEPCO campus of Umrangshu for private hire accommodation ?

Sir, I do not know.

Sd/- Illegible	Sd/- Illegible	Sd/- Illegible
24.02.2000	24.02.2000	14.02.2000
(R.C.Katiyar)	(K. Rajendran)	H.Subramanian)
	P.O.	E.O.

In view of the above statement of Sri R.C. Katiyar the then Principal of KV Umrangshu stated in the enquiry proceeding held on 24.2.2001 is contrary with the written statement dated 8.12.1998 as such the written statement dated 08. 12 .1998 cannot sustain the charges brought against me under article of charge no. I.

It is further submitted that the statement of Sri N. Shankar which is not annexed with the memorandum of charge sheet dated 31.01.2000 but supplied to me by the enquiry officer does not support the charges brought against me under article No.I. The statement of Sri N. Shankar dated 08.12.1998 also support the contention of the undersigned. The statement of Sri N. Shankar is quoted below :-

(Hindi)

It is quite clear from the above statement of Sri N. Shankar that the husband of the undersigned came to Umrangshu after receipt of the order of transfer dated 12.10.1998, therefore the above statement also establishes that the written statement of Sri R. C. Katiyar dated 08.12.1998 is contradictory with the written statement of Sri N. Shankar.

That Sir, it is further stated that the written statement of Sri R. C. Katiyar is also contrary to the certificate of leave issued by the District Treasury Office, Dumka (Bihar) which establishes the correctness of the fact that my husband Sri Shekhar Kumar Pandey, Assistant Accountant, Dumka treasury was on leave with effect from 02.11.1998 to 15.11.1998 therefore statement of Sri R. C. Katiyar that my husband came to Umrangshu earlier to 03.11.1998 is false and misleading as because my husband under took journey by Rail from Dumka and he reached at Umrangshu only on 03.11.1998 at about 11 a.m. My husband started his journey with effect from 01.11.1998 (Sunday) via Bhagalpur. But the certificate dated 03.06.1999 which was produced by the undersigned before the inquiry proceeding and the same was also got examined by the undersigned while cross examining Sri R. C. Katiyar the than Principal Umrangshu in the hearing proceeding held on 24.02.2001 and on reply which would be evident from the order

sheet of cross examination dated 24.02.2001 quoted above, has not been denied by Sri R. C. Katiyar, as such it is categorically submitted that in the so called inquiry proceeding which is initiated in pursuance of the memorandum dated 31.01.2000 nothing could be proved against the undersigned regarding the charges leveled against me through article No.I as well as no evidence could be made available before the Enquiry Officer either by the presenting officer or by the witness Sri R. C. Katiyar who was examined in the enquiry proceeding as was relied upon in the memorandum of charge sheet dated 31.01.2000. It is further submitted that Sri N. Shankar TGT (BIO) listed witness relied upon in the aforesaid memorandum of charges also not examined before the enquiry proceeding by the departmental side as required under the rule and the written statement of Sri N. Shankar, categorically support the contention of the undersigned as stated above.

Therefore no evidence or statement of witnesses supported the charges brought against me under article I of the memorandum of charge sheet dated 31.01.2000.

It is further submitted that the undersigned submitted documentary evidences before the inquiry proceeding and also during the cross-examination such as certificate issued by the employees of NEEPCO Ltd. Regarding non disposal of household articles dated 10.12.98 and Pass issued in NEEPCO Gate dated 11.4.99 issued by Security Manager NEEPCO Ltd. Umrangshu dated 11.4.1999 and the certificate of Truck Owner dated 11.4.1999 carrying the Household articles from Umrangshu to Duliajan after my transfer and leave certificate dated 3.6.99 was also sent by Regd. Post to the Assistant Commissioner (Disciplinary Authority) as was promised by the undersigned on 15.6.99 against the reply submitted by me in terms of the memorandum issued under letter No. 3-4/98-KVS(SR)/11451 dated

20.4.99, but surprisingly none of the documentary evidence taken into consideration by the enquiry officer as required under the rules.

That the enquiry report bearing letter No. 3-1(CONF)/KV-SIL/2000 dated 28.7.2000 served upon me along with the memorandum dated 31.3.2001/17.4.2001. A bare perusal of the enquiry report, it would be evident that the same has been prepared in a most arbitrary and unfair and illegal manner without taking into consideration the factual position of the enquiry proceeding. There is no discussion at all made by the enquiry officer of the recorded statement of Sri R.C. Katiyar the then Principal in-charge, Umrangshu Kendriya Vidyalaya when Sri R.C. Katiyar categorically denied that there is no evidence or material available with him regarding issuance of fake letter by me but surprisingly in the enquiry report it is state by the enquiry officer in the conclusion part that the cross-examination does not substantiate any allegation made by the accused officer to prove her innocence in getting and operating the transfer order which was suspected as framed at Regional Office level and thus the accused officer failed to defend the charges made against her and established sufficient ground of Master Plan behind the transfer order.

It is further stated the enquiry officer in his enquiry report in concluding paragraph that " It is also established that she disposed some of her household articles prior to relieve, which was accepted accused officer in the cross examination."

The above conclusion of the enquiry officer is totally false and misleading. In this connection the undersigned beg to rely upon the daily order sheet of the proceeding and enquiry officer is put to strictest proof of the fact that the charged officer has accepted the household articles prior to relieve rather

documentary evidence submitted by me regarding non-disposal of household articles not considered at all by the enquiry officer but the same has been rejected in a very arbitrary and unfair manner without any discussion on the aforesaid evidences produced by me, which would be evident in paragraph 6 of the assessment of evidence in the enquiry report, wherein it is held by the enquiry officer that those documents arguments are irrelevant and it is further held that the undersigned is failed to submit any relevant document. Surprisingly it is further held that the evidence in support of charges are produced by the Presenting Officer but in reality not a single document or evidence neither produced by the Presenting Officer nor examined before the Enquiry Proceeding by the Presenting Officer. As such entire finding of the Enquiry Officer is highly arbitrary and unfair and a mere reading of the finding and conclusion of the enquiry report. It would be evident that the Enquiry Officer has prepared, the enquiry report in total violation of Sub-section (i) and Sub-section (ii) of Sub rule 23 of rule 14 of the CCS (CCA) Rules, 1965.

It is categorically submitted that the enquiry report has been prepared without taking into consideration the defence put forwarded by the undersigned in respect of article of charges. It would further be evident that no assessment of the evidence is made in respect of the article of charges and particularly findings as well as the conclusion reached by the enquiry officer in respect of article of charge no. I is totally irrelevant and contrary to the records of the enquiry proceeding. No discussion on evidence particularly relating to the crucial hearing which took place on 24.2.2001 at Lumding did not find place in the enquiry report. No discussion is made by the enquiry officer in the recorded statement of Sri R.C. Katiyar who was cross-examined by me on 24.2.001. It is

relevant to mention here that Sri R.C. Katiyar the sole witness cross-examined in the enquiry proceeding who categorically denied regarding availability of any documentary evidence to sustain the charges brought under article of charge no. I. As such, the entire finding and conclusion of the enquiry officer not based on any evidence and the aforesaid enquiry report has been prepared with a pre-determined notion to impose penalty upon me although no evidence or statements of any witness relied upon by the departmental side, supported the charges brought against me, as such on that score alone the proceeding is liable to be dropped.

That Sir, it is further categorically submitted that the charges particularly the article of charge No.I has not been enquired into rather the enquiry officer, enquired into a different charge in respect of fake transfer order. A mere reading of the paragraph-II i.e the charges framed and enquired into is altogether different than the article of charge no. I brought under memorandum dated 31.1.2000. The Enquiry Officer enquired into " the imputation of Namita Pandey involved herself in fraudulent manipulation for procuring fake transfer order under the forged signature of Sri V.K.Gupta, Assistant Commissioner (Admn), KVS, New Delhi in her favour with mala fide intention" whereas article of charge no. I is quite different as leveled against me in the memorandum dated 31.1.2001. On that score alone the entire enquiry proceeding is liable to be set aside and quashed.

In paragraph V of the enquiry report the defence arguments of the charged officer which is discussed did not reflect the actual/factual position. It is also evident that the documents of misdeeds of Sri R.C. Katiyar which was submitted by me in the enquiry

proceeding has been arbitrarily rejected by the enquiry officer holding the same as irrelevant without assigning any valid reason.

It is stated that no assessment of evidence both oral and documentary is made and further no discussion is made on evidences as required under the rule.

Finding assessment of evidence conclusion of the enquiry proceeding made by the enquiry officer as evident from the enquiry report is quite contrary to the record of the proceeding, it appears that the enquiry officer acted in a very arbitrary manner in total violation of Rule 14 of CCS(CCA) Rules 1965 and further reached to the findings and conclusion in the enquiry report in total violation of Sub-section (i) and (ii) of Sub-section -23 of Rule 14 of CCS(CCA) Rules 1965 and as such the entire enquiry proceeding which is conducted in pursuance of the memorandum dated 31.3.2001 are liable to be set aside and quashed and therefore penalty proposed under memorandum dated 31.3.2001/17.4.2001 also liable to be dropped in the interest of justice and fair play.

It is further submitted that the enquiry report was prepared even before completion of the proceeding which would be evident from the enquiry report served upon me through letter bearing No. 3-1(Conf)/KV-SIL/2000 dated 28.7.2000, whereas cross-examination and further enquiry proceeding in fact held on 24.2.2001. But surprisingly the Disciplinary Authority acted upon the said inquiry report dated 28.7.2000 and also without considering the other infirmities and irregularities which were took place during the course of the enquiry proceeding although the same were brought to the notice of the Disciplinary Authority vide my representation dated 26.4.2001 against the enquiry report dated 28.7.2000. But in spite of all

these infirmities and irregularities and in contrary to the evidence recorded in the proceeding the Disciplinary Authority arbitrarily reached to the conclusion that the charges have been established and further imposed penalty upon the undersigned vide impugned order issued under letter dated 19/25.6.2001 whereby my pay is reduced by two lower stages in the time scale of pay of Rs 4500-125-700 for a period of two years with cumulative effect, and also further ordered that the undersigned will not earn increments of pay during the period of reduction and that on expiry of this period, the reduction will not have effect of postponing my future increments.

In the circumstances stated above and also in view of large scale infirmities and irregularities as stated above, your honour would be pleased to set aside the impugned order of penalty issued under letter dated 19/25.6.2001 and further be pleased to pass necessary order exonerating the undersigned from the Memorandum of charges brought against the undersigned vide memorandum dated 31.1.2000 and further be pleased to pass any other order or orders as deem fit and proper after examining the records of the enquiry proceeding.

INTERIM PRAYER

It is humbly prayed that during the pendency of the appeal the impugned order of penalty dated 19/25.6.2001 be stayed till final disposal of this appeal otherwise the appellant will suffer irreparable loss.

Date : 12.7.2001

Yours faithfully,

Place : Duliajan

(NOMITA PANDEY)
PRT, KV, Duliajan

Annexure-VIII

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
ORDER SHEET

Original application No. 267 of 2001.

Applicant(s) : Smti. Namita Pandey
Respondent(s) : U.O.I. & Ors.
Advocate for the Applicants(s) Mr. M.Chanda, H.Dutta, Mrs. N.D.Goswami
Advocate for Rspondents Mr. S.Sarma, K.V.S.

Notes of the Registry	Dated	Order of the Tribunal
	20.7.01	<p>Present : The Hon'ble Mr. Justice D.N.Chowdhury, Vice Chairman.</p> <p>The Hon'ble Mr. K.K.Sharma, Administrative Member.</p> <p>This is an application under Section 19 of the Administrative Tribunals Act 1985 assailing the order dated 19/25.6.2001 passed by the Assistant Commissioner imposing penalty of reduction in the time scale of the applicant for a period of two years with cumulative effect. Admittedly the order is appealable under CCS(CCA) Rules 1964. As a matter of act the applicant has already preferred an appeal before the authority as is reflected in Annexure IX of the O.A. Mr. M.Chanda, learned counsel for the applicant has however submitted that though appeal is preferred there is no bar for entertaining an application under section</p>

19 by the Tribunal when the impugned order was passed in violation of the principles of natural justice.

Upon hearing Mr.M. Chanda, learned counsel for the applicant at length and also Mr. S.Sarma, learned counsel for the respondents we are however not inclined to entertain this application at this stage solely on the ground that there is an alternative remedy provided by the statute. We are of the opinion that since the appeal lies and the appellate authority has the full power to examine the legality of the order of penalty and is competent to assess and evaluate facts, the proper forum is the appellate authority and the said appellate authority should be provided with full opportunity to examine the legality and validity of the order. Mr. Chanda submits that since the order of penalty is already imposed an interim order need be passed by the Tribunal protecting the interest of the applicant till disposal of the appeal. We are not inclined to pass any such order. However, it would be open to the applicant to make such prayer before the appellate authority as per law. We also feel that the matter should be disposed of expeditiously and accordingly we direct the appellate authority to examine the appeal and dispose it of with utmost despatch preferably within 2 months from today.

The application stands disposed of accordingly. No order as to costs.

Sd/- Vice-Chairman
Sd/- Member (Adm)

Annexure-IX

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCHORDER SHEET

Misc. Application No. 262/01

In O.A. No. 267/2001

Applicants(s) : Union of India & Ors.

-vs-

Respondent(s) : Smt. Namita Pandey

Advocate for the Applicant : Mr. S.Sarma

Advocate for the Respondent : Mr. M.Chanda, Mrs. N.D.
Goswami,, H.Dutta,
G.N.Chakraborty

Notes of the Registry	Date	Order of the Tribunal
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21.12.01 Heard Mr. S.Sarma, learned counsel for the applicant and also Mr. M.Chanda, learned counsel for the respondents.

The respondents are allowed further time up to 31.12.2001 to implement the judgment and order passed in O.A. NO. 267/2001.

The application accordingly stands disposed of.

Sd/- Vice-Chairman

Sd/- Member(Admn.)

Annexure-X

SPEED POST CONFIDENTIAL

Kendriya Vidyalaya Sangathan
18, Institutional Area
Shaheed Jeet Singh Marg
New Delhi 110016

F.No.9-69 2001-KVS(Vig)

Dated 08.10.2002

ORDER

WHEREAS the penalty of reduction to a lower stage by two stages in the time scale of pay of Rs. 4500-125-7000 for a period of two years with cumulative effect and denial of increments during the period of reduction was imposed upon Smt. Nomita Pandey, PrT, Kendriya Vidyalaya, Duliajan by the Assistant Commissioner, KVS Regional Office, Silchar, being the Disciplinary Authority, vide order no. 3-4-2000/KVS(SR)/4126-28 dated 19.6.2001.

WHEREAS Smt. Nomita Pandey has filed an O.A. in Hon'ble CAT (Guwahati Bench) and as per the order of the said Hon'ble CAT dated 20.7.2001 the Appellate Authority was to consider and dispose of the appeal preferred by Mrs. Nomita Pandey within two months.

WHEREAS the said Smt. Nomita Pandey, filed an appeal against the said order of the Disciplinary Authority to the Commissioner which was considered by the undersigned being the Appellate Authority.

AND WHEREAS based on the consideration of facts and contents of the appeal, the undersigned has come to the conclusion that some minor infirmities have been committed in following the due procedure in the Disciplinary Proceedings initiated against the appellant. Besides, it is felt that even though the transfer order causing benefit to the appellant alone, was a fake one, yet fool proof efforts have not been made to establish the charge of manipulation against the appellant which would have attracted the most severe of penalties.

NOW, THEREFORE, the undersigned in view of above, by taking a lenient view of the matter, reduces the penalty imposed by the disciplinary authority and orders for imposition of the penalty of reduction of pay by one stage from Rs. 5000/- to Rs. 4875/- in the time scale of pay 4500-7000 for a period of two years with effect from 19.6.2001 with cumulative effect. It is further decided that Smt. Nomita Pandey will not earn increments of pay during the period of reduction and that on the expiry of this period, the reduction will have the effect of postponing her future increments of pay.

Sd/- DINESH SINGH BIST
JOINT COMMISSIONER (ADMN)
& Appellate Authority

Copy for information to :

1. Smt. Nomita Pandey, PRT, Kendriya Vidyalaya, Duliajan.
2. The Assistant Commissioner, KVS Regional Office, Silchar along with Disciplinary case file and other service documents of the case forwarded vide his letter dated 21.9.01.
3. The Principal, Kendriya Vidyalaya, Duliajan.
Guard File.

Encl : As above.

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*Filed by the applicant
through Sri B. N.
Chelamangal Advocate
on 30.7.02*

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI**

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

Title of the case : O.A. No. 240/2002

Smti Namita Pandey : Applicant

- Versus -

Union of India & Others : Respondents.

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Date : 30.7.2002

Filed by

Advocate

B. N. Chelamangal

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

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

O.A. No. 240 /2002

BETWEEN

Mrs. Namita Pandey,
Primary Teacher,
Kendriya Vidyalaya,
Duliajan

.....Applicant

-AND-

1. The Union of India,
(Through the Secretary to the
Govt. of India, Ministry of
Human Resource Development,
Sastri Bhawan, New Delhi-1.)
2. The Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi-110016
3. The Asstt. Commissioner,
K. V.S., Regional Office,

Namita Pandey
(Namita Pandey)

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4. Shri P.R.L. Gupta,
Education Officer,
(the then Officiating A.C.),
Kendriya Vidyalaya Sangathan,
Regional Office,
Silchar.
5. Shri R. C. Katiyar,
Ex-Principal,
Kendriya Vidyalaya,
Umrangshu.
6. Shri K. Rjendran,
(Presenting Officer),
Principal, Kendriya Vidyalaya,
Tinsukia.
7. Shri M. Subramaniam,
(Enquiry Officer),
Principal, Kendriya Vidyalaya,
Silchar.

..... Respondents.

Namita Pandey
(Namita Pandey)

DETAILS OF THE APPLICATION

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

This application is made against the impugned order No.3-4/99-2000/KVS(SR)4126-28 dated 19/25.6.2001 issued by the Respondent No.3 imposing punishment on the applicant by way of reduction of pay by two lower stages in the time scale of pay of Rs. 4500-7000/- for a period of two years with cumulative effect and ordering further that the applicant will not earn increments of pay during the period of reduction, in an arbitrary manner and non disposal of appeal dated 11.7.2001 in spite of the order of the Hon'ble Tribunal dated 20.7.2001 passed in O.A. No. 267 of 2001.

2. Jurisdiction of the Tribunal.

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

3. Limitation.

The applicant further declares that the application has been filed within the prescribed time limit under the Administrative Tribunals Act, 1985.

4. Facts of the case.

Nomita Pandey

(Nomita Pandey)

a1

- 4.1 That the applicant is a citizen of India and as such she is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.
- 4.2 That the applicant entered into the service under the Kendriya Vidyalaya Sangathan(KVS) as Primary Teacher (PRT) and joined at Kendriya Vidyalaya, Umrangshu on 07.04.97 where she worked as PRT till 09.04.99. Thereafter she was transferred to Kendriya Vidyalaya, Duliajan and has been continuing there till the time of filing of this application.
- 4.3 That while serving in Kendriya Vidyalaya, Umrangshu, the KVS authorities instituted a concocted enquiry against the applicant resting on a transfer order issued in favour of the applicant vide one order No.F.33-18/98-KVS/(Estt-III) dated 12.10.1998 transferring her to Kendriya Vidyalaya, CCI, Gandhinagar, Ranchi. It was alleged that the said transfer order was fake and that it was the applicant herself who got the order issued by fraudulent manipulation. Accordingly a prima facie inquiry was conducted on 08.12.98 which was sought to be established on the basis of one impugned written statement submitted by Shri R. C. Katiyar (Respondent No.5), the then in charge Principal, Kendriya Vidyalaya, Umrangshu making the aforesaid allegation.

Randey
R. C. Katiyar

4.4 That on the basis of the fact finding inquiry conducted on 08.12.98 at Kendriya Vidyalaya, Umrangshu by Shri P.C. Parashar, Principal, Kendriya Vidyalaya, Panchgram and Shri M. Ravi Kumar, Principal, Kendriya Vidyalaya, Masimpur, the Respondent No.3 vide his letter No.3-4/98-KVS(SR)/11451 dated 20.04.99 addressed to the applicant wanted certain clarifications against which para wise reply was submitted by the applicant vide application dated 30.04.99 sent through proper channel followed by another continuation letter sent under Regd. Receipt No. 396 & 397 dated 15.06.99. The applicant craves leave of the Hon'ble Tribunal to produce the copy of the letter dated 30.4.1999 at the time of hearing.

Copy of letter dated 20.04.99 is annexed hereto as
Annexure-I.

4.5 That eventually, the KVS authorities, in spite of having no substantial material in support of their allegation of fake/fraudulent transfer order, proposed to hold a formal inquiry against the applicant and served a memorandum of charge sheet upon the applicant vide letter bearing No.F.3-3/98-KYS(SR)16774-75 dated 31.01.2000 under rule 14 of the CCS (CCA) Rules, 1965.

Surprisingly, where the fact finding inquiry conducted on 08.12.98 against the applicant contained only one charge i.e. the charge of fake/fraudulent transfer order, the respondents while issuing the

Randey
Rander

aforesaid memorandum of charge sheet dated 31.01.2000 labelled two nos. of charges, thus incorporating a new charge with the sole purpose of accentuating the gravity of charges, making their intention clear that they are determined to harass the applicant by any means. It is relevant to mention here that the second charge relates to occupation of residential accommodation which was already investigated and disposed of long back. The memorandum of charge sheet dated 31.01.2000 contained two charges and the article of charges are quoted below :-

"Article-I

Mrs. Namita Pandey, while working as a Primary Teacher at Kendriya Vidyalaya, Umrangshu arranged to issue fake transfer order No.F.33-18/98-KVS(Estt-III) dated 12.10.1998 for posting to Kendriya Vidyalaya, CCI, Gandhinagar, Ranchi in her favour.

Mrs. Namita Pandey, Primary Teacher has therefore done fraudulent manipulation in violation of item 34 of code of conduct for teacher envisaged in chapter VI of the Education Code and thereby contravened Rule 3(I)(II) of CCS (Conduct) Rules, 1964. She has therefore rendered herself liable to disciplinary action under CCS(CCA) Rules, 1965 as extended to KVS employee.

Article-II

Namita Pandey
Namita Pandey

Mrs. Namita Pandey, while working as Primary Teacher at Kendriya Vidyalaya, Umrangshu unauthorisedly took occupation forcefully by breaking the lock of the residential accommodation of the said Kendriya Vidyalaya on 25.07.97. Mrs. Namita Pandey, PRT has thus failed to exercise devotion and reasonable care in the discharge of her official duty and has violated item 22 of the Education Code and she has thereby contravened Rule 3(I)(II) of the CCS (Conduct) Rules, 1964 and therefore rendered herself liable to disciplinary action under CCS(CCA) Rules 1965 as extended to KVS employees".

Copy of Memorandum of charge sheet dated 31.01.2000 is annexed hereto as **Annexure-II**.

- 4.6 That the applicant replied against the aforesaid charges and submitted her reply vide application dated, 22.02.2000. Subsequently a preliminary inquiry was conducted on 26.04.2000 and 12.07.2000 by Shri M. Subramaniam (Respondent No.7), Principal, Kendriya Vidyalaya, Silchar as Enquiry Officer and Shri Rajendran Katiyal (Respondent No.6), Principal, Kendriya Vidyalaya, Tinsukia as Presenting Officer. But surprisingly, in spite of all efforts of the applicant, the report of Preliminary inquiry was not given to the

Namita Pandey
Namita Pandey

applicant and none of the charges could be substantiated in the inquiry.

The applicant craves leave of the Hon'ble Tribunal to produce the application dated 22.2.2000 before the Hon'ble Tribunal at the time of hearing.

4.7 That the final hearing of the inquiry was held on 24.02.2001 at Kendriya Vidyalaya, Lunding with cross-examinations and the proceedings were recorded with detailed evidential statements. But the Enquiry Officer submitted his inquiry report vide his letter No.3-1(conf)/KV-SIL/2000 dated 28.07.2000 even before the cross examination dated 24.02.2001 to the Respondent No.3 a copy of which was forwarded to the applicant vide No.3-4/94-IVS(SR)/647-49 dated 30.03.2000/17.04.2001. The applicant submitted a detailed representation dated 26.4.2001 against the Memorandum dated 30.3.2000/17.4.2001.

Copy of Inquiry Report dated 28.07.2000, forwarding letter dated 30.3.2001/17.04.2001 and representation dated 26.4.2001 are annexed hereto as Annexure-III, IV and V respectively.

4.8 That on receipt of the inquiry report dated 28.07.2000 vide letter dated 17.04.2001 the applicant submitted representation dated 26.04.2001 to the Respondent No.3 assailing the inquiry report which was not in

[Signature]
S. Namita Pandey

conformity with the evidences (oral and documentary) recorded at the time of inquiry. It is pertinent to state that the imputation of allegations and the statements made in the cross examination are inconsistent to each other but the Enquiry Officer, without taking due cognizance of the evidential statements/records, framed the Enquiry report arbitrarily with mala fide findings although none of the charges could be established at the inquiry.

- 4.9 That pursuant to the biased and arbitrary inquiry report dated 28.7.2000, the respondent No.3 imposed punishment upon the applicant vide his impugned order No.3-4/99-2000/KVS(SR)/4126-28 dated 19/25.06.2001 in a planned and pre-determined manner ignoring all representations of the applicant and factual positions as revealed during the hearing/cross examination.

Copy of the impugned order dated 19/25.06.2001 is annexed hereto as **Annexure-VI**.

- 4.10 That on receipt of the order of punishment dated 19/25.06.2001, the applicant submitted an appeal vide application dated 11/12.07.2001 to the Appellate authority of the KVS i.e. the Commissioner, KVS, New Delhi (Respondent No.2) detailing all facts and circumstances and praying for setting aside of the impugned order dated 19/25.06.2001 and for exonerating her from the alleged charges after examining the records of the inquiry proceeding.

Namita Pandey
Namita Pandey

Copy of the representation of appeal dated 11/12.07.2001 is annexed hereto as Annexure-VII.

4.11 That the applicant begs to state that the entire inquiry as stated above was conducted in a biased manner and without any application of mind. Whereas the charge brought through Article-I was sought to be established on the basis of a statement dated 8.12.98 made by Sri R.C. Katiyar, the then Principal in charge, Umrangshu, the same was fully inconsistent with the subsequent statements made by Sri Katiyar during the cross examination held on 24.2.2001. Further the written statement of Sri N. Shankar, TGT (Bio) although shown as listed document in the Memorandum of Charge Sheet dated 31.1.2001 was not annexed to the memorandum of charge sheet and none of the listed documents were examined in the inquiry proceeding as was required under the relevant rule of CCS (CCA) Rules, 1965. However the statement of Shri N. Shankar also contradicted the charge under Article-I which only supports the contention of the applicant. None of the vital materials were either examined at the time of inquiry or reflected in the inquiry report and as such the entire inquiry was marked by infirmities. As such, none of the charges brought against the applicant could be proved/established during the inquiry but the Enquiry officer, most arbitrarily and with mala fide intention prepared the inquiry report dated 28.7.2000 at his own imagination and made concocted conclusions

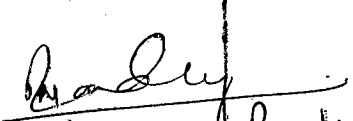
[Signature]
C. Nandita Pandey

without having any link with the factual position revealed at the time of inquiry.

Further, it is surprising that while the cross examination and ultimate inquiry proceeding was held on 24.2.2001, the inquiry officer already prepared his inquiry report as back as on 28.7.2000 i.e. about 7 months before the completion of the inquiry which clearly reflects not only the validity of the inquiry report but also discloses the pre-determined motive of the Enquiry Officer which is against all laws known in the arena of justice and as such the said inquiry report is void-ab-initio.

Most shockingly, the Disciplinary Authority too, behaving in the similar way, acted upon the said inquiry report dated 28.7.2000 in a pre-planned manner ignoring the serious infirmities and irregularities of the inquiry proceedings as stated above and imposed punishment upon the applicant vide his order dated 19/25.6.2001.

4.12 That the applicant states that although there is a provision of appeal against the impugned order dated 19/25.6.2001, but CCS (CCA) rules have not conferred any power in the Appellate Authority to stay the order appealed against and as such the same appellate provision is not an alternative and efficacious remedy and under such circumstances the applicant had no other way but earlier approached this Hon^{ble} Tribunal without waiting for any result for her appeal dated


Namita Pandey

11.07.2001 through Original Application No. 267 of 2001.

However, the Hon'ble Tribunal was pleased to dispose of the said Original Application at the admission stage with the following observations :

"We are of the opinion that since the appeal lies and the appellate authority has the full power to examine the legality of the order of penalty and is competent to assess and evaluate facts, the proper forum is the appellate authority and the said appellate authority should be provided with full opportunity to examine the legality and validity of the order. Mr. Chanda submits that since the order of penalty is already imposed an interim order need be passed by the Tribunal protecting the interest of the applicant till disposal of the appeal. We are not inclined to pass any such order. However, it would be open to the applicant to make such prayer before the appellate authority as per law. We also feel that the matter should be disposed of expeditiously and accordingly we direct the appellate authority to examine the appeal and dispose it of with utmost despatch preferably within 2 months from today.

The application stands disposed of accordingly. No order as to costs."

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(Nonita Pandey)

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A copy of the Hon'ble Tribunal order dated 20.7.2001 is enclosed as Annexure-VIII.

4.13 That your applicant thereafter again submitted a representation/appeal on 10.8.2001 on receipt of the order of the Hon'ble Tribunal dated 20.7/2001 addressed to the Appellate Authority through proper channel enclosing order of the Hon'ble Tribunal order dated 20.7.2001. Surprisingly no action was initiated thereafter for disposal of the said representation/appeal of the applicant which was submitted against the impugned order of penalty dated 19/25.6.2001. As a result, impugned order of penalty has been effected by the respondents.

It is relevant to mention here that the respondent Union of India also prayed for extension of time before this Hon'ble Tribunal by way of filing Misc. Petition No. 262/2001 for implementation of the order dated 20.7.2001 passed in O.A. 267/2001. In other words the respondents sought for further time for disposal of the appeal dated 11/12.7.2001 of the applicant. But surprisingly till date the said appeal of the applicant has not yet been disposed of even after the expiry of the extended time granted by the Hon'ble Tribunal. It is pertinent to mention here that the appeal was submitted way back in the month of July, 2001 against the order of penalty and meanwhile about a year is going to be elapsed but till date the appeal of the

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(Namita Pandey)

applicant has not yet been disposed for the reasons best known to the respondents.

A copy of the order of the Hon'ble Tribunal passed in Misc. Petition No.262/2001 is annexed as Annexure-IX.

4.14 That finding no other alternative, the applicant is again approaching this Hon'ble Tribunal for protection of her legitimate rights and it is a fit case for the Hon'ble Tribunal to interfere with and to protect the interests of the applicant by setting aside the impugned order dated 19/25.6.2001 which have been issued arbitrarily, capriciously and with a pre-planned motive.

4.15 That this application is made bona fide and for the cause of justice.

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

5.1 For that none of the charges labelled against the applicant having been substantiated in the inquiry proceedings, the Disciplinary Authority erred in imposing punishment upon the applicant vide the impugned order dated 19/25.6.2001 and as such the same is liable to be set aside and quashed.

5.2 For that the inquiry authority conducted the inquiry with a pre-determined action plan and made his conclusions out of his sheer imagination and

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not based on facts and evidences revealed in the inquiry.

5.3 For that the inquiry authority prepared his report of inquiry on 28.7.2000 making all conclusions whereas the cross examination and the ultimate proceeding was held on 24.2.2001 and as such the whole inquiry proceeding is void-ab-initio.

5.4 For that the Disciplinary Authority acted illegally, arbitrarily, mala fide and in violation of the principles of natural justice as well as in violation of rule 14 of the CCS (CCA) Rules and as such the impugned order dated 19/25.6.2001 is liable to be set aside and quashed.

5.5 For that the applicant being an innocent person did not having committed the charge or any other misconduct, the impugned order is liable to be set aside and quashed.

5.6 For that the appeal of the applicant is still pending before the Appellate Authority and the same has not yet been disposed of in spite of the specific direction of the Hon'ble Tribunal dated

6. Details of remedies exhausted.

That the applicant preferred an appeal on 12.7.2001 against the impugned order of penalty dated 19/25.6.2001 but since there is no power vested with

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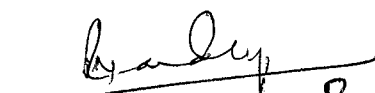
the Appellate Authority to stay the operation of the penalty order, in such compelling circumstances, the applicant approaching this Hon'ble Tribunal with a prayer to stay the impugned order of penalty dated 19/25.6.2001 during the pendency of this appeal as an interim measure.

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

The applicant further declares that she had previously filed an Original application No. 267/2001 and the same was disposed of by this Hon'ble Tribunal on 20.7.2001. The applicant further declares that no such writ petition, or suit regarding the matter in respect of which this application has been made, 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 :


(Namita Pandey)

8.1 That the impugned order dated 19/25.6.2001, (Annexure-VI) imposing punishment upon the applicant be set aside and quashed.

8.2 Costs of the application.

8.3 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 reliefs :-

9.1 That the Hon'ble Tribunal be pleased to direct the respondents that the operation of the impugned order dated 19/25.6.2001 be stayed till this application is disposed of.

9.2 That the respondents be directed to dispose of the Appeal dated 12.7.2001 preferred by the applicant against impugned order of penalty dated 19/25/6/2001 at the earliest.

10.
This application is filed through Advocate.

11. Particulars of the I.P.O.

i) I.P.O. No.	:	7G 576 555
ii) Date of issue	:	27.7.2002
iii) Issued from	:	G.P.O., Guwahati.
iv) Payable at	:	G.P.O., Guwahati.

12. List of enclosures.

As stated in the index.

Nomita Pandey
(Nomita Pandey)

VERIFICATION

I, Smti. Namita Pandey, wife of Sri Shekhar Kumar Pardey, Presently working as Primary Teacher, Kendriya Vidyalaya, Duliajan, 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 theday of ^{30th} July, 2002.

Pandey
(Namita Pandey)

ANNEXURE-I

KENDRIYA VIDYALAYA SANGATHAN

Regional Office
Hospital Road
Silchar-788001

File No. 3-4/98-KVS(SR)/1145

Dated : 20.4.99
Registered Post
Confidential

MEMORANDUM

Whereas a fake transfer order transferring Smt. Namita Pandey, Ex.-PRT, KV, Umarangsho now posted to Kendriya Vidyalaya, Duliajan under forged signature of Shri V.K.Tupta was issued in favour of the above mentioned teacher.

Whereas a fact finding enquiry was conducted on 8.12.98 at KV, Umrangsho by Shri P.C. Parashar, Principal, KV, Panchgram and Shri M. Ravi Kumar, Principal, K.V. Masimpur.

Whereas the fact finding enquiry report did not rule out the involvement of Mrs. N. Pandey, PRT in securing fake transfer order as mentioned above in her favour.

Now therefore, the undersigned directs Smt. Namita Pandey, to clarify the following points :-

- a) Mrs. Namita Pandey, PRT during the course of Fact Finding enquiry submitted that she had been receiving anonymous letters for quite sometime past. If the situation was such whether she had informed the matter either to police or her higher authority. If not the reason should be clarified. She is required to clarify the point with the proof of having received the anonymous letter earlier.
- b) She confessed during the course of Fact Finding Enquiry that she had not applied for transfer. On the other hand she asked the Principal I/c repeatedly to relieve her by showing

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True copy
Advocate*

a copy of the transfer order marked to AC Patna. She is therefore, required to clarify as to how she received the copy of the transfer order marked to Assistant Commissioner, Patna Region.

c) When Mrs. N. Pandey, PRT had admitted that she did not apply for her transfer, the reason for pressuring the Principal I/c by herself as well as by her husband for relieving from KV, Umrangsho should be clarified.

d) The fake transfer order was issued on request although Mrs. Namita Pandey, PRT did not apply for request transfer. The reason of not bringing this fact to her higher authorities need to be clarified. Moreover, knowing the above fact that transfer order was received by her for which she did not apply, without, bringing the matter to the higher authority she put pressure on Principal I/c as well as on this office for her relief. The reason should be clarified.

e) As per statement given by Mrs. Namita Pandey that she made a telephone call to her husband on 31.10.98 regarding the receipt of her transfer order and her husband arrived at Umrangshu on 3.11.98.

As per eye witness her husband was at KV, Umrangshu even before 3.11.98. Smt. Namita Pandey, PRT is therefore required clarify the position.

f) It has also been revealed that the fake transfer order was posted from Sonpur, Bihar and not from New Delhi. It is an established fact that the order relating to Inter regional transfer order are issued from KVS (Hqrs.), New Delhi. As such the fact should have been brought to the higher authorities by her. The reason should be clarified.

Her clarification must reach this office within 10 days from the date of receipt of this memorandum.

*certified to be
True copy
J. K. Singh
Advocate*

To

Mrs. Namita Pandey
Primary Teacher
KV, Duliajan.

Sd/-
(S.P. BAURI)
Assistant Commissioner

Copy to :

Principal, KV, Duliajan for information. He is requested to get the clarification as above from the teacher concerned and send to this office.

*certified to
me 3 mrs 6/11/11
J. Advocate*

Assistant
Commissioner

Annexure-II

KENDRIYA VIDYALAYA SANGATHAN
REGIONAL OFFICE : SILCHAR-1
HOSPITAL ROAD : SILDHAR-788001

F. No. 3-3/98-KVS(SR)/16474-75

Date : 31.01.2000

MEMORANDUM

The undersigned proposes to hold an inquiry against Smt. Namita Pandey Primary Teacher, Kendriya, Vidyalaya, Duliajan, under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965, as extended to the employees of Kendriya Vidyalaya Sangathan. The substances of the imputations of misconduct of misbehaviors in respect of which the inquiry is proposed to be held is set out in the enclosed statement of Articles of charges (Annexure-I). A statement of the imputations of misconduct or misbehavior in support of each article of charge is enclosed (Annexure-II). A list of documents by which, a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure-III and IV).

2. Smt. Namita Pandey, Primary Teacher, Umrangsho now at Kendriya Vidyalaya Duliajan is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to State whether she desires to be heard in person.

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

4. Smt. Namita Pandey, Primary Teacher is further informed that if she does not submit her written statement or defence on or before the date specified in para, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rules 14 of the

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J. K. Adv. Cal.*

5. Attention of Smt. Namita Pandey Primary Teacher is invited to Rule 20 of the Central Civil Services (Conduct) rules, 1964 under which no Govt. Servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to her service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed that Smt. Namita Pandey, Primary Teacher is aware of such is representation and that it has been made her instance and action will be taken against her for violation of Rule 20 of CCS (CONDUCT) Rules, 1964.

To

Sd/-

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Annexure-II (Contd.)

Statement of Article of Charges framed against Smt Namita Pande, Primary Teacher, Kendriya Vidyalaya, Duliajan formerly at Kendriya Vidyalaya, Umrangshu,

ARTICLE -I

Mrs. Nomita Pandey, while working as a Primary Teacher at KV Umrangshu arranged to issue fake transfer order No. F. 33-18/98-KVS (Estt-III) dated 12.10.1998 for posting to Kendriya Vidyalaya, CCI, Gandhi Nagar, Ranchi in her favour.

Mrs. Namita Pandey, Primary Teacher has therefore done fraudulent manipulation in violation of item 34 of Code of conduct for teacher envisaged in Chapter VI of the Education Code and thereby contravened Rule 3(I) (II) of CCS(Conduct) Rules, 1964. She has therefore rendered herself liable to disciplinary action under CCS(CCA) Rules, 1965 as extended to KVS employee.

Article-II

Mrs. Namita Pandey, while working as Primary Teacher at Kendriya Vidyalaya, Umrangshu unauthorisedly took occupation forcefully by breaking the lock of the residential accommodation of the said Kendriya Vidyalaya on 25.07.97. Mrs. Nomita Pandey, Primary Teacher has thus failed to exercise devotion and reasonable care in the discharge of her official duty and has violated item 22 of the Education Code and she has thereby contravened Rule 3(I) (II) of the CCS(Conduct) Rules, 1964 and therefore rendered herself liable to disciplinary action under CCS(CCA) Rules 1965 as extended to KVS employees."

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for
Advocate*

Annexure -II (Contd.)

Statement of imputation of misconduct or misbehavior in support of the articles of Charge I framed against Smt. Namita Pandey, Primary Teacher formerly at Kendriya Vidyalaya, Umrangshu, now at Kendriya Vidyalaya, Duliajan.

A fake request transfer order No. 06/98 vide letter No. F. 33-18/98-KVS(Estt.III) dated 12.10.98 under the forged signature of Shri V.K. Gupta, Assistant Commissioner (Admn.), Kendriya Vidyalaya Sangathan, New Delhi was issued in favour of Smt. Namita Pandey, Primary Teacher formerly at Kendriya Vidyalaya, Umrangshu now at Kendriya Vidyalaya, Duliajan. In the aforesaid transfer order Smt. Namita Pandey, Primary Teacher was the lone beneficiary for which she did not apply earlier. As per statement of Smt. Namita Pandey, Primary Teacher her husband applied for her transfer but in support of her statement she failed to submit any documentary evidence.

Moreover, Smt. Namita Pandey, Primary Teacher submitted a copy of the transfer order marked to Asstt. Commissioner, KVS, R.O., Patna to the Principal, KV Umrangshu on 28.10.98 requesting him to relieve her although she received the fake transfer order on 30.10.98 without revealing the fact that she did not apply earlier for transfer to her choice place.

Later on, on query, Smt. Namita Pandey, Primary Teacher submitted that she had been receiving anonymous letters for quite sometime past. Smt. Namita Pandey, Primary Teacher never brought this fact to the notice of any authority and she was surprised to receive the transfer order. Her statement indicates that the fake transfer order was not issued by any authority of the KVS and in spite of knowing this fact she insisted the Principal on 28.10.98 and 5.11.98 for her relieving. Such act.... and act to get relieved speaks of her involvement in the fraudulent

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manipulation of procuring the fake transfer order in her favour.

As per statement of Mrs. Namita Pandey, Primary Teacher, she made telephone call to her husband on 31.10.98 on receipt of her transfer order and her husband came to Umrangshu on 3.11.98. Her statement contradicts with the statement of witness she has provided to the effect that her husband was at Umrangsu even before 03.11.98. More so in spite of receiving the fake transfer order on 28.10.98 by Smt. Namita Pandey, Primary Teacher she made the telephone call to her husband only on 31.10.1998 at 7.30 P.M. whereas she was asking Principal since 28.10.98 to relieve her and also she started disposing off her house hold good. Her fabricated statement speaks of her involvement in procuring the forged transfer order.

Smt. Namita Pandey made a confession that the fake transfer order under forged signature of Shri V.K. Gupta, Assistant Commissioner (Admn.) was posted from a place i.e. 'SON' and obviously not posted from New Delhi. She was also surprised to receive the fake transfer order. In spite of realising the facts, her repeated insistence on the principal to relieve her gives a clear indication of her involvement in fraudulent manipulation to procure fake transfer order dated 5/12.10.98 under forged signature in her favour with mala fide intention.

Smt. Namita Pandey, Primary Teacher has thus involved herself in fraudulent manipulation for procuring fake transfer order under forged signature in her favour with mala fide intention which is violative to item 43 of the code of conduct for teacher as envisaged in the Education Code.

Smt. Namita Pandey, Primary Teacher has thereby contravened Rule 3(I) (II) of the CCS (Conduct) Rules, 1964 and thus rendered herself liable to Disciplinary Action under CCS (CCA) Rules, 1965 as extended to employees of Kendriya Vidyalaya Sangathan.

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Annexure-II(Contd.)

Statement of imputation of Misconduct or misbehaviour in support of Article of Charge II framed against Smt. Namita Pandey.

The residential accommodation of Kendriya Vidyalaya, Umrangshu was locked on 16.7.1997 after vacating by another teacher. Mrs. Namita Pandey, Primary Teacher forcibly took accommodation of the said quarter by breaking the lock of the quarter on 26.7.97. Such an unauthorised occupation is violative of item 22 and 34 of the Code of Conduct for teachers as envisaged in the Chapter VI of the Education Code.

Mrs. Namita Pandey has thus contravened Rule 3(I) (II) of the CCS (Conduct) Rules, 1954 and rendered herself liable to disciplinary action under CCS (CCA) Rules 1965 as extended to employees of Kendriya Vidyalaya Sangathan.

Annexure-III

List of Documents by which articles of charge framed against Mrs. Namita Pandey, Primary Teacher are proposed to be sustained.

1. Forged transfer order No. 06/98-99 vide KVS (HQ) letter No. F. 33-18/98-KVS(Estt-III) dated 5/12-10-98.
2. Written statement dated 8.12.98 of the Principal, KV, Umrangshu, and Shri W. Shankar, TGT (BIO).
3. Letter No. F.1/PF NP(KVJ)97-98/357 dated 26.7.97.

Annexure-IV

List of witness by whom the articles of charges framed against Mrs. Namita Pandey, Primary Teacher formerly at KV Umrangshu now at KV Duliajan.

1. Shri Ramesh Chandra Katiyar, PGT, (Hindi).
2. Shri K. Shankar, TGT (Bio)

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for
Advocate*

F-II/PP.NP

/97-98/357

Date 28.7.98

To

Mrs. Namita Pandey, PRT,
KV Umrangsho.

Sub : **Unauthorised Occupation of quarter No. E-40-A and
 explanation thereof.**

The Vidyalaya has locked the quarter on 16.7.97 on vacation by Mrs. Nanda Upadhaya, PRT. As per your statement and on verification you have entered in to the quarter by breaking the lock of the quarter on 25.7.97.

You are therefore, asked to explain how you have broken the lock of the Govt. quarter and How you have entered into the quarter, it a clear cut violation of rule of discipline Explain the fact. Further it is ordered to vacate the quarter within 2 days. Otherwise it will a clear insubordination and disobedience and case will be referred to the Asstt. Commissioner and other higher authorities for further necessary action.

Sd/-
(S.L.Jain)
Principal

*Certified to
see True copy
Jame
Advocate*

ANNEXURE-III

KENDRIYA VIDYALAYA Silchar

Dist. Cachar, Assam (Opposite to Doordarshan Kendra,
Silchar)
Pin - 788 003

No. 3-1(Conf)/KV-SIL/2000

Date 28.7.2000

To

The Assistant Commissioner
Kendriya Vidyalaya Sangathan,
Silchar Region, Silchar-1.

Sub Departmental enquiry against Smt. Namita
Pandey, PRT, KV,
Duliajan.

Sir,

I submit the detail account of above case to your kind
notice and necessary action.

I INTRODUCTION: The Assistant Commissioner, Silchar
Region, Silchar appointed me as the Inquiry Officer
vide office order No. F.3-3/99-2000/KVS(SR) dated
2000, under rule 14 of CCS (CCA) Rules, 1965, to hold
an Inquiry against Mrs. Namita Pandey, Primary Teacher,
K.V. Umrangso, at present at K.V. Duliajan. In the same
order Shri Rajendran Kamaul, Principal, K.V. Tinsukia
is nominated as Presenting Officer (P.O.) to present
the case in support of the charges.

The Preliminary hearing was held on 26th April,
2000, at K.V. Silchar duly attended by the Charged
Officer (C.O.) and the Presenting Officer. The
Inspection of documents was completed on the same day.
The Presenting Officer presented the related documents
during Inquiry. At the close of enquiry the Charged
Office requested for time to submit the evidences
against the charges and 12th July, 2000 was fixed as
the date of final hearing at K.V. Lumding, convenient
to both C.O. and P.O. attended the enquiry. The briefs
received both in preliminary and final hearing have
been placed in folder below :

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for
Advocate*

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II. CHARGES FRAMED AND INQUIRED INTO : The imputation of Namita Pandey involved herself in fraudulent manipulation for procuring fake transfer order under the forged signature of Shri V.K. Gupta, Asstt. Commissioner (Admn.) KVS, New Delhi in her favour with mala fide intention, and forceful occupation of K.V. accommodation by Mrs. Namita Pandey by breaking the lock on 16.7.97. The charges framed against Mrs. Namita Pandey vide Annexure-I & II to the charge sheet memorandum are enclosed with this report.

III. FACTS AND DOCUMENTS ADMITTED : The broad facts of the case relating to manipulation of fake transfer order to get relieved from K.V. Umrangshu by C.O. and forceful occupation of K.V. accommodation by breaking the lock had not been admitted by Charged Officer both in preliminary enquiry and final enquiry. The copies of the enquiry proceedings in both cases have been enclosed.

IV. THE CASE OF DISCIPLINARY AUTHORITY : The Presenting Officer presented the documents in support of charges made against Charged Officer and also cross examined the case in support of charges. The briefs received from Presenting Officer have been placed in folder No.2. The arguments drawn by P.O. thoroughly established evidence in support of charges of contravention of Rule 3 (i) (ii) of CCS (Conduct) Rules.

V. DEFENCE ARGUMENTS OF THE CHARGED OFFICER : The charged Officer Mrs. Namita Pandey submitted her defence against two articles of charges through written briefs placed in the relevant folder (No.3). The defence plea is briefly summarised in the following paragraphs.

The Charged Officer suspects the role of I/C Principal, K.V., Umrangshu, Shri Katiyar behind the

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birth fake transfer order and later on story due to her bad personal relations with him.

The Charged Officer also argues that once settled another quarter dispute by regular Principal Shri S.C. Jain was reopened by Shri Khatiyar to trouble her.

The Charged Officer submitted xerox copies of fee receipt in support of Shri Khatiyal misdeeds - which is absolutely irrelevant to present case.

VI. ASSESSMENT OF THE EVIDENCE, BOTH ORAL AND DOCUMENTARY AND THE INQUIRY OFFICER'S FINDINGS ON THE POINTS REGARDING DETERMINATION :

From the assessment of the evidence, both documentary and oral, the following points emerge :

1. The Charged Officer confuses herself to stand on the statements given in preliminary enquiry in final hearing.
2. She admits her husband applied for her transfer but fails to produce a copy of it (or) its through proper channel copy of her husband office or her office. To apply for spouse transfer without following official formalities and not keeping a personal copy by both educated and employed couple is doubtful. Her argument of her innocence is doubtful.
3. She failed to produce evidence the way she get the copy of transfer order marked to Asstt. Commissioner, Patna Region. But she get it and requested the Principal to relieve.
4. The Charged Officer argues that I/C Principal pressurised her to get relieve. But fails to produce any oral or written evidence in support of it.

Her application to Principal to relieve her is presented by Presenting Officer which indicates she

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Officer, enquiry fails to grab any evidence from C.O. in support of her argument of innocence.

ARTICLE OF CHARGES - II : Forceful occupation of K.V. accommodation by Charged Officer. The article of charges did not stand any value because the Charged Officer was warned and given chance not to repeat such act in future by regular Principal Shri S.L. Jain, letter 3/KV(N)U/97-98/440 dated 12.8.97 in response of C.O. response to Memo issued by In charge Principal dated 26.7.97.

VII. FINDING OF THE INQUIRY OFFICER ON THE CHARGE FRAMED AGAINST THE C.O.

In the light of the assessment of the evidence and determination of the points made in the previous paragraph, my finding are that :-

1. The charged officer failed to provide any kind of evidence in support of her argument of her innocence, result all charges mentioned in Article I in seven paragraphs have been established.
2. The charge mentioned in Article-II has not been established since it is unwise to open the closed file on this charge.

Yours faithfully,

Sd/-

(M.SUBRAHMANIUM)
Inquiry Officer
Principal, KV, Silchar.

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REPORT OF CROSS EXAMINATION OF WITNESS BY ACCUSED OFFICER -
MRS. NOMITA PANDEY, PRT.

Cross examination of witness, Shri R.C. Katiyar, PGT, K.V. No. 3 Guwalior and once In charge Principal of K.V. Umrangshu by the accused officer Mrs. Namita Pandey, PRT is summarised below :

PROCEEDINGS :

Cross examination was conducted at K.V. Lunding on 24.2.01 from 11.30 A.M. The prosecuting officer of the case, Sri K. Rajendran, Principal, K.V. Tinsukia, Shri R.C. Katiyar witness and Mrs. Nomita Pandey the accused officer attended the proceedings.

The accused officer cross examined the witness by means of a questionnaire prepared by her (hand written copy is enclosed; annexure-I two pages), and submitted to Enquiry Officer to lead the process. The Enquiry Officer wrote the same questions on separate papers to give scope to witness to answer. The witness answered the questions and they in turn had gone through the presenting officer and accused officer. The cross examination process is enclosed in annexure-II (3 pages).

The cross examination was concluded after the accused officer and presenting officer expressed their satisfaction by going through the answers given by witness and acknowledged the same. This is noted in daily order sheet - Annexure-III.

CONCLUSIONS :

The accused officer failed to prove any kind of charges made against the in charge Principal, Sri R.C. Katiyar in connection with suspicious transfer order - The in charge Principal need not be doubted in this incident. He simply discharged the duties of Principal.

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The In charge Principal received the office copy of Mrs. N. Pandey transfer only on 2.11.1998. But she submitted the copy to Principal on 28.10.98 and requested him to relieve her. This is revealed in cross examination and accepted by accused officer, contrary to her earlier statement as the In charge Principal only pressurised her to get relieve.

Regarding the Camp of Mrs. N. Pandey husband at Umrangshu prior to 31.10.98 is established in the cross examinations (contradictory to her version in enquiry). The accused officer herself revealed her husband's arrival to In charge.

It is also established that she disposed some of her house hold articles prior to relieve, which was accepted by accused officer in the cross examination.

The In charge Principal acted as per the instructions of Regional Office to operate the transfer order. The cross examination did not reveal any evidence to stand the allegations of accused officer as In charge Principal harassed her or pressurised her to relieve.

The cross examination did not substantiate any allegations made by accused officer to prove her innocence in getting and operating the transfer order, which was suspected as fraud at Regional Office level.

Thus the accused officer failed to defend the charges made against her and established sufficient ground of master plan behind the transfer order.

Sd/-

(M. SUBRAHMANIUM)
ENQUIRY OFFICER

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for
Advocate*

Annexure-IV

KENDRIYA VIDYALAYA SANGATHAN

Regional Office
Hospital Road
Silchar-788001

F. No. 3-4/94-KVS(SR)/647-49

Dated 30.03.2001/17.4.01

Regd/Confidential

MEMORANDUM

Whereas on careful consideration of the Inquiry Report (Copy enclosed) the undersigned has provisionally come to the conclusion that the gravity of the charge is such as to warrant the imposition of major penalty on Smt. Namita Pandey, Primary Teacher, Kendriya Vidyalaya, Duliajan and accordingly the undersigned proposes to impose on her penalty of reduction to lower stage (s) on the time scale of pay Rs. 4500-7000 with cumulative effect.

NOW, THEREFORE, Smt. Namita Pandey Ex-primary teacher, KV Umrangshu now working as Primary teacher at KV Duliajan is hereby given an opportunity of making representation on the penalty proposed above. Any representation which she may wish to make against the penalty proposed will be considered by the undersigned. Such representation if any should be made in writing and submitted so as to reach the undersigned not later than 15 (fifteen) days from the date of the receipt of this memorandum by Smt. Namita Pandey, Primary Teacher, KV Duliajan.

The receipt of this memorandum should be acknowledged.

Sd/-

(S.P. Bauri)
Assistant Commissioner

Encls :-

Enquiry report in 07 pages

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for
Advocate*

Annexure-V

To,
The Assistant Commissioner (Disciplinary authority),
Kendriya Vidyalaya Sangathan,
Regional Office,
Hospital Road,
Silchar - 788001

Sub : Submission of Representation against the memorandum bearing letter No.3-4/94-KVS(SR)/647-49 dated 30.03.2001/17.04.2001 against the proposed imposition penalty of reduction to lower stage (s) on the time scale of pay Rs.4500-7000 with cumulative effect.

Ref : Your memorandum issued under letter No.3-4/94-KVS(SR)/647-49 dated 30.03.2001/17.04.2000.

Respected Sir,

Most humbly and respectfully I beg to state that the aforesaid memorandum proposing imposition of Penalty of reduction to lower stage(s) on the time scale of pay Rs.4500-7000 with cumulative effect, the aforesaid memorandum is duly received by the undersigned only on 20.04.2001 and I have carefully gone through the same, and understood the contents thereof.

I therefore like to draw your kind attention to the following fact for your kind attention to the following fact for your kind consideration before taking any adverse decision as proposed in the memorandum dated 30.3.2001/17.4.2001.

That Sir, the memorandum of charge sheet served upon the undersigned vide your letter bearing No. F. -3/98-KVS (SR)16774-75 dated 31.1.2000 under rule 14 of the CCS(CCA) Rules 1965 with the following article of charges quoted below :-

"Article -I

Mrs. Namita Pandey, while working as a Primary Teacher at KV Umrangshu arranged to issue fake transfer order No. F. 33-18/98-KVS (Estt-III) dated 12.10.1998 for posting to Kendriya Vidyalaya, CCI, Gandhi Nagar, Ranchi in her favour.

Mrs. Namita Pandey, Primary Teacher has therefore done fraudulent manipulation in violation of item 34 of Code of conduct for teacher envisaged in Chapter VI of the Education Code and thereby contravened Rule 3(I) (II) of CCS(Conduct) Rules, 1964. She has therefore rendered herself liable to

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disciplinary action under CCS(CCA) Rules, 1965 as extended to KVS employee.

Article-II

Mrs. Namita Pandey, while working as Primary Teacher at Kendriya Vidyalaya, Umrangshu unauthorisedly took occupation forcefully by breaking the lock of the residential accommodation of the said Kendriya Vidyalaya on 25.07.97. Mrs. Namita Pandey, Primary Teacher has thus failed to exercise devotion and reasonable care in the discharge of her official duty and has violated item 22 of the Education Code and she has thereby contravened Rule 3(I) (II) of the CCS(Conduct) Rules, 1964 and therefore rendered herself liable to disciplinary action under CCS(CCA) Rules 1965 as extended to KVS employees."

That the charges brought against me through article-I with the allegation that the undersigned has arranged to issue fake transfer order No. F. 3318/98-KVS (Estt-III) dated 12.10.98 for posting to Kendriya Vidyalaya, CCI, Gandhi Nagar, Ranchi in my favour and it is further alleged that due to this act of fraudulent manipulation in violation of item 34 of Code of Conduct for teacher envisaged in chapter VI of the education Code and thereby contravened Rule 3(I) (II) of CCS (Conduct) Rules, 1964 and the aforesaid misconduct of misbehaviour is sought to be sustained/established on the basis of a statement made by Sri R.C. Katiyar the then incharge Principal, Umrangshu which is made at the time of prima facie inquiry conducted on 8.12.98 by the authority. The said statement made by the then Principal on 8.12.98 and the other written statement of Sri N. Shankar, TGT (Bio) but the statement of Sri N. Shankar although shown as listed document in the memorandum of charge sheet dated 31.1.2001 but the same was not annexed in the aforesaid memorandum of charges. Moreover, none of the listed documents were examined in the enquiry proceeding as was required under the relevant rule of CCS(CCA) Rules 1965. It is further categorically submitted even the sole listed document relating to article to charge No.I, has not been examined. It is relevant to mention here that the written statement of the then Principal, Umrangshu which is relied in the memorandum of charge sheet in order to sustain the article of charge No. I now the said statement of Sri R.C. Katiyar went contrary to his own statement made

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during the cross-examination in the enquiry proceeding held on 24.2.2001 wherein in a reply to a question Sri R.C. Katiyar stated as follows, the relevant portion of the proceeding dated 24.2.2001 is quoted below :

"CROSS EXAMINATION OF THE NAMITA PANDEY AT K.V. LUNDING AT 11.30 A.M. ON 24.2.2001.

Questions given by Mrs. Namita Pandey Vs. Answers by Sri R.C. Katiyar.

- 1.. When and how you have received this fraudulent order (a) transfer and posting of me ?

Sir, Madam N. Pandey Ex. (PRT) of K.V Umrangshu showed me her transfer copy on 28.10.98 and requested me to relieve her but I refused to relieve because I (As a Principal) did not receive her transfer order. I received transfer order on 02.11.98 on the next day I. order U.D.C. to prepare L.P.C. & relieving order.

- 2.. How did you come to know that the order of transfer dated 5/12.10.98 is fraudulent ?

Sir, I got telephonic message from the Education Officer (Officiating A.C.) on 03.11.98 that he had doubts about this transfer order. He (Sh. P.R.L. Gupta, Sir) called me at Silchar Regional Office along with the documents. He told me that he was making enquiry of this transfer orders.

- 3.. After receipt of the transfer order what steps you have taken?

Sir, after receipt of transfer order of Mrs. N. Pandey I ordered U.D.C. to prepare L.P.C. & relieving order but after getting telephonic message from Hon'ble A.C. (Officiating) Sir I stopped it.

- 4.. How did and when did it strike to your mind that I have arranged to issue the fraudulent order of transfer?

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Sir, it did not strike me that she has arranged her transfer order. I came to know the doubt when A.C. Sir told me that it might be the fraudulent transfer.

5. How did you come to know that my husband has reached Umrangshu prior to 31.10.1998 and what was your reliable source on that ?

Sir, I came to know that the husband of Mrs. Nomita Pandey arrived prior to 31.10.1998 through Mrs. Pandey two and ad-hoc lady teachers.

6. What was the distance of your quarter from the quarter of me at Umrangshu ?

Sir, it is Approx 2500 meters.

7. How did you know that I have disposed of my house hold articles and what was the source of your information ?

Sir, I came to know from two ad-hoc teachers.

8. What has prompted to reach such conclusion that I have arranged to issue the fraudulent transfer order ?

Sir, I have not prompted to reach such conclusion that she has arranged to issue the fraudulent transfer order. A.C. Sir told me that it might be fraudulent transfer.

9. Is that any evidence or materials available with you to establish that the fraudulent letter was issued by me ?

Sir, No. I have not any evidence or materials available with me to establish that the fraudulent letter was issued by Mrs. Nomita Pandey (PRT).

10. Do you believe this certificate of leave dated 03.06.1999 issued by the employer of my husband regarding leave of absence from his office ?

Sir, I do not know.

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Advocate*

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11. Is there any private accommodation available within the NEEPCO campus of Umrangshu for private hire accommodation ?

Sir, I do not know.

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 24.02.2000 24.02.2000 14.02.2000
 (R. C. Katiyar)(K. Rajendran) H. Subramanian)
 P.O. E.O.

In view of the above statement of Sri R.C. Katiyar the then Principal of KV Umrangshu stated in the enquiry proceeding held on 24.2.2001 is contrary with the written statement dated 8.12.1998 as such the written statement dated 08.12.1998 cannot sustain the charges brought against me under article of charge no. I.

It is further submitted that the statement of Sri N. Shankar which is not annexed with the memorandum of charge sheet dated 31.01.2000 but supplied to me by the enquiry officer does not support the charges brought against me under article No.I. The statement of Sri N. Shankar dated 08.12.1998 also support the contention of the undersigned. The statement of Sri N. Shankar is quoted below :-

It is quite clear from the above statement of Sri N. Shankar that the husband of the undersigned came to Umrangshu after receipt of the order of transfer dated 12.10.1998, therefore the above statement also establishes that the written statement of Sri R. C. Katiyar dated 08.12.1998 is contradictory with the written statement of Sri N. Shankar.

That Sir, it is further stated that the written statement of Sri R. C. Katiyar is also contrary to the certificate of leave issued by the District Treasury Office, Dumka (Bihar) which establishes the correctness of the fact that my husband Sri Shekhar Kumar Pandey, Assistant Accountant, Dumka treasury was on leave with effect from 02.11.1998 to 15.11.1998 therefore statement of Sri R. C. Katiyar that my husband came to Umrangshu earlier to 03.11.1998 is false and misleading as because my husband under took journey by Rail from Dumka and he reached at Umrangshu only on 03.11.1998 at

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about 11 a.m. My husband started his journey with effect from 01.11.1998 (Sunday) via Bhagalpur. But the certificate dated 03.06.1999 which was produced by the undersigned before the inquiry proceeding and the same was also got examined by the undersigned while cross examining Sri R. C. Katiyar the than Principal Umrangshu in the hearing proceeding held on 24.02.2001 and on reply which would be evident from the order sheet of cross examination dated 24.02.2001 quoted above, has not been denied by Sri R. C. Katiyar, as such it is categorically submitted that in the so called inquiry proceeding which is initiated in pursuance of the memorandum dated 31.01.2000 nothing could be proved against the undersigned regarding the charges leveled against me through article No.I as well as no evidence could be made available before the Enquiry Officer either by the presenting officer or by the witness Sri R. C. Katiyar who was examined in the enquiry proceeding as was relied upon in the memorandum of charge sheet dated 31.01.2000. It is further submitted that Sri N. Shankar TGT (BIO) listed witness relied upon in the aforesaid memorandum of charges also not examined before the enquiry proceeding by the departmental side as required under the rule and the written statement of Sri N. Shankar, categorically support the contention of the undersigned as stated above.

Therefore no evidence or statement of witnesses supported the charges brought against me under article I of the memorandum of charge sheet dated 31.01.2000.

It is further submitted that the undersigned submitted documentary evidences before the inquiry proceeding and also during the cross-examination such as certificate issued by the employees of NEEPCO Ltd. Regarding non disposal of household articles dated 10.12.98 and Pass issued in NEEPCO Gate dated 11.4.99 issued by Security Manager NEEPCO Ltd. Umrangshu dated 11.4.1999 and the certificate of Truck Owner dated 11.4.1999 carrying the Household articles from Umrangshu to Duliajan after my transfer and leave certificate dated 3.6.99 was also sent by Regd. Post to the Assistant Commissioner (Disciplinary Authority) as was promised by the undersigned on 15.6.99 against the reply submitted by me in terms of the memorandum issued under letter No. 3-4/98-KVS(SR)/11451 dated 20.4.99, but surprisingly none of the documentary evidence taken into

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consideration by the enquiry officer as required under the rules.

That the enquiry report bearing letter No. 3-1(CONF)/KV-SIL/2000 dated 28.7.2000 served upon me along with the memorandum dated 31.3.2001/17.4.2001. A bare perusal of the enquiry report, it would be evident that the same has been prepared in a most arbitrary and unfair and illegal manner without taking into consideration the factual position of the enquiry proceeding. There is no discussion at all made by the enquiry officer of the recorded statement of Sri R.C. Katiyar the then Principal in-charge, Umrangshu Kendriya Vidyalaya when Sri R.C. Katiyar categorically denied that there is no evidence or material available with him regarding issuance of fake letter by me but surprisingly in the enquiry report it is stated by the enquiry officer in the conclusion part that the cross examination does not substantiate any allegation made by the accused officer to prove her innocence in getting and operating the transfer order which was suspected as framed at Regional Office level and thus the accused officer failed to defend the charges made against her and established sufficient ground of Master Plan behind the transfer order.

It is further stated the enquiry officer in his enquiry report in concluding paragraph that "It is also established that she disposed some of her household articles prior to relieve, which was accepted accused officer in the cross examination."

The above conclusion of the enquiry officer is totally false and misleading. In this connection the undersigned beg to rely upon the daily order sheet of the proceeding and enquiry officer is put to strictest proof of the fact that the charged officer has accepted the household articles prior to relieve rather documentary evidence submitted by me regarding non-disposal of household articles not considered at all by the enquiry officer but the same has been rejected in a very arbitrary and unfair manner without any discussion on the aforesaid evidences produced by me, which would be evident in paragraph 6 of the assessment of evidence in the enquiry report, wherein it is held by the enquiry officer that those documents arguments are irrelevant and it is further held that the undersigned

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is failed to submit any relevant document. Surprisingly it is further held that the evidence in support of charges are produced by the Presenting Officer but in reality not a single document or evidence neither produced by the Presenting Officer nor examined before the Enquiry Proceeding by the Presenting Officer. As such entire finding of the Enquiry Officer is highly arbitrary and unfair and a mere reading of the finding and conclusion of the enquiry report. It would be evident that the Enquiry Officer has prepared, the enquiry report in total violation of Sub section (i) and Subsection (ii) of Sub rule 23 of rule 14 of the CCS (CCA) Rules, 1965.

It is categorically submitted that the enquiry report has been prepared without taking into consideration the defence put forwarded by the undersigned in respect of article of charges. It would further be evident that no assessment of the evidence is made in respect of the article of charges and particularly findings as well as the conclusion reached by the enquiry officer in respect of article of charge no. I is totally irrelevant and contrary to the records of the enquiry proceeding. No discussion on evidence particularly relating to the crucial hearing which took place on 24.2.2001 at Lunding did not find place in the enquiry report. No discussion is made by the enquiry officer in the recorded statement of Sri R.C. Katiyar who was cross-examined by me on 24.2.001. It is relevant to mention here that Sri R.C. Katiyar the sole witness cross-examined in the enquiry proceeding who categorically denied regarding availability of any documentary evidence to sustain the charges brought under article of charge no. I. As such, the entire finding and conclusion of the enquiry officer not based on any evidence and the aforesaid enquiry report has been prepared with a pre-determined notion to impose penalty upon me although no evidence or statements of any witness relied upon by the departmental side, supported the charges brought against me, as such on that score alone the proceeding is liable to be dropped.

That Sir, it is further categorically submitted that the charges particularly the article of charge No.I has not been enquired into rather the enquiry officer, enquired into a different charge in respect of fake transfer order. A mere reading of the paragraph-II i.e the charges framed and enquired into is altogether different than the article of

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charge no. I brought under memorandum dated 31.1.2000. The Enquiry Officer enquired into "the imputation of Namita Pandey involved herself in fraudulent manipulation for procuring fake transfer order under the forged signature of Sri V.K.Gupta, Assistant Commissioner (Admn), KVS, New Delhi in her favour with mala fide intention" whereas article of charge no. I is quite different as leveled against me in the memorandum dated 31.1.2001. On that score alone the entire enquiry proceeding is liable to be set aside and quashed.

In paragraph V of the enquiry report the defence arguments of the charged officer which is discussed did not reflect the actual/factual position. It is also evident that the documents of misdeeds of Sri R.C. Katiyar which was submitted by me in the enquiry proceeding has been arbitrarily rejected by the enquiry officer holding the same as irrelevant without assigning any valid reason.

It is stated that no assessment of evidence both oral and documentary is made and further no discussion is made on evidences as required under the rule.

Finding assessment of evidence conclusion of the enquiry proceeding made by the enquiry officer as evident from the enquiry report is quite contrary to the record of the proceeding, it appears that the enquiry officer acted in a very arbitrary manner in total violation of Rule 14 of CCS(CCA) Rules 1965 and further reached to the findings and conclusion in the enquiry report in total violation of Sub-section (i) and (ii) of Sub-section -23 of Rule 14 of CCS(CCA) Rules 1965 and as such the entire enquiry proceeding which is conducted in pursuance of the memorandum dated 31.3.2001 are liable to be set aside and quashed and therefore penalty proposed under memorandum dated 31.3.2001/17.4.2001 also liable to be dropped in the interest of justice and fair play.

I, therefore like to draw your kind attention to the above stated fact for your kind consideration before taking any adverse decision as proposed in the memorandum dated 30.3.2001/17.4.2001 and further be pleased to drop the Memorandum of charges dated 31.3.2000 in view of the above stated contradictions, infirmity in the enquiry proceeding and also be pleased to revoke/cancel the Memorandum dated

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30.3.2001/17.4.2001 proposing penalty under intimation to the undersigned.

Date : 26.04.2001

Place : Duliajan

Yours faithfully,

Sd/-

(NAMITA PANDEY)

PRT, KV, Duliajan

Copy to,

Principal, K.V., Duliajan, for information only.

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true copy
for
Advocate*

(NAMITA PANDEY)

PRT, KV, Duliajan.

ANNEXURE-VI

To
Smt. Namita Pandey, PRT,
K.V. Duliajan.

KENDRIYA VIDYALAYA SANGATHAN

Regional Office
Hospital Road
Silchar-788001

Dated
19/25.6.2001

F. No. 3-4/99-2000/KVS(SR)/4126-28

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O R D E R

Whereas disciplinary proceedings under Rule 14 of the Central Services (Classification central and Appeal) rules, 1965 were instituted against Smt. Namita Pandey, Ex-Primary Teacher, Kendriya Vidyalaya, Umrangshu, now working at Kendriya Vidyalaya, Duliajan in regard to the charges framed against her vide Memorandum No. 3-3/98-KVS(SR)/647-75 dated 31.1.2000.

2. Whereas Shri M. Subrahmanium, Prindipal, Kendriya Vidyalaya, Silchar who was appointed as Inquiry Officer to inquire into the charges framed against the said Smt. Namita Pandey, Primary Teacher has submitted his report and was sent to said Smt. Namita Pandey, Primary Teacher vide Memo of even No. dated 17.4.2001.

3. Whereas proposal for imposing penalty was sent to Smt. Namita Pandey, Primary Teacher alongwith the enquiry report vide Memo of even No. dated 17.4.2001 giving her opportunity to make representation if any against the proposed penalty.

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Advocate*

4. Whereas Smt. Namita Pandey, Primary Teacher made representation dated 26.4.2001 has been examined by the undersigned.

5. Whereas after taking into consideration the representation dated 26.04.2001 submitted by Smt. Namita Pandey, PRT and the record of enquiry and having regard to all the facts and circumstances, the undersigned is satisfied that the findings of the Inquiry Officer is acceptable and that good and sufficient reasons exist for imposing penalty of reduction of two lower stages in the time scale of pay Rs. 4500-125-7000 for a period of two years with cumulative effect.

6. Now, therefore, the undersigned accordingly orders that the pay of Smt. Namita Pandey, PRT will be reduced by two lower stages in the time scale of pay Rs. 4500-125-7000 for a period of two years with cumulative effect. Smt. Namita Pandey will not earn increments of pay during the period of reduction and that on expiry of this period, the reduction will not have effect of postponing her future increments.

Sd/-

(S.P. BAURI)
ASSISTANT COMMISSIONER

To
Smt. Namita Pandey, Primary Teacher,
Kendriya Vidyalaya,
Duliajan.

Copy to :

1. The Principal, KV, Duliajan, for giving effect of the penalty order.
2. The education officer, (Vig), KVS, New Delhi - for information please.

Assistant Commissioner

*certified to
Mr. Tm
Advocate*

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ANNEXURE -VII

To

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

Sub : An Appeal against the order of Penalty imposed
vide order Issued under letter No. 3-4/99-
2000/KVS(SR) 4126-28 dated 19/25.6.2001.

Respected Sir,

I like to draw your kind attention on the subject cited above and further beg to state that the impugned order of penalty dated 19/25.6.2001 is duly received by the undersigned only on 28.6.2001 and thereafter carefully gone through the same and it appears that the order of reduction of pay by two lower stages and the time scale of pay Rs. 4500-125-7000 for a period of two years with cumulative effect and further ordered that the undersigned will not earn increments of pay during the period of reduction and on expiry of this period, the reduction will not have effect of postponing future increments.

That the above penalty has been imposed upon the undersigned in a very arbitrary manner in total violation of Rule 14 of CCS (CCA) Rules 1965 and further reached to the findings to the conclusion by the disciplinary authority contrary to the evidence recorded in the proceeding.

I therefore like to draw your kind attention to the following fact for your kind consideration and also urge upon you to set aside the impugned order of penalty dated 19/25.6.2001 by exercising the power conferred on you under sub-rule 2 of Rule 27 of CCS (CCA) Rules, 1965.

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per true copy
Advocate*



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That the charges brought against me through article-I with the allegation that the undersigned has arranged to issue fake transfer order No. F. 33-18/98-KVS (Estt-III) dated 12.10.98 for posting to Kendriya Vidyalaya, CCI, Gandhi Nagar, Ranchi in my favour and it is further alleged that due to this act of fraudulent manipulation in violation of item 34 of Code of Conduct for teacher envisaged in chapter VI of the education Code and thereby contravened Rule 3(I) (II) of CCS (Conduct) Rules, 1964 and the aforesaid misconduct of misbehaviour is sought to be sustained/established on the basis of a statement made by Sri R.C. Katiyar the then in-charge Principal, Umrangshu which is made at the time of prima facie inquiry conducted on 8.12.98 by the authority. The said statement made by the then Principal on 8.12.98 and the other written statement of Sri N. Shankar, TGT (Bio) but the statement of Sri N. Shankar although shown as listed document in the memorandum of charge sheet dated 31.1.2001 but the same was not annexed in the aforesaid memorandum of charges. Moreover, none of the listed documents were examined in the enquiry proceeding as was required under the relevant rule of CCS(CCA) Rules 1965. It is further categorically submitted even the sole listed document relating to article to charge No.I, has not been examined. It is relevant to mention here that the written statement of the then Principal, Umrangshu which is relied in the memorandum of charge sheet in order to sustain the article of charge No. I now the said statement of Sri R.C. Katiyar went contrary to his own statement made during the cross-examination in the enquiry proceeding held on 24.2.2001 wherein in a reply to a question Sri R.C. Katiyar stated

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as follows, the relevant portion of the proceeding dated 24.2.2001 is quoted below :

"CROSS EXAMINATION OF THE NAMITA PANDEY AT K.V. LUMDING AT 11.30 A.M. ON 24.2.2001.

Questions given by Mrs. Nomita Pandey Vs. Answers by Sri R.C. Katiyar.

1. When and how you have received this fraudulent order (a) transfer and posting of me ?

Sir, Madam N. Pandey Ex. (PRT) of K.V Umrangshu showed me her transfer copy on 28.10.98 and requested me to relieve her but I refused to relieve because I (As a Principal) did not receive her transfer order. I received transfer order on 02.11.98 on the next day I. order U.D.C. to prepare L.P.C. & relieving order."

2. How did you come to know that the order of transfer dated 5/12.10.98 is fraudulent ?

Sir, I got telephonic message from the Education Officer (Officiating A.C.) on 03.11.98 that he had doubts about this transfer order. He (Sh. P.R.L. Gupta, Sir) called me at Silchar Regional Office along with the documents. He told me that he was making enquiry of this transfer orders.

3. After receipt of the transfer order what steps you have taken?

Sir, after receipt of transfer order of Mrs. N. Pandey I ordered U.D.C. to prepare L.P.C.

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& relieving order but after getting telephonic message from Hon'ble A.C. (Officiating) Sir I stopped it.

4. How did and when did it strike to your mind that I have arranged to issue the fraudulent order of transfer?

Sir, it did not strike me that she has arranged her transfer order. I came to know the doubt when A.C. Sir told me that it might be the fraudulent transfer.

5. How did you come to know that my husband has reached Umrangshu prior to 31.10.1998 and what was your reliable source on that ?

Sir, I came to know that the husband of Mrs. Nomita Pandey arrived prior to 31.10.1998 through Mrs. Pandey two and ad-hoc lady teachers.

6. What was the distance of your quarter from the quarter of me at Umrangshu ?

Sir, it is Approx 2500 meters.

7. How did you know that I have disposed of my house hold articles and what was the source of your information ?

Sir, I came to know from two ad-hoc teachers.

8. What has prompted to reach such conclusion that I have arranged to issue the fraudulent transfer order ?

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Sir, I have not prompted to reach such conclusion that she has arranged to issue the fraudulent transfer order. A.C. Sir told me that it might be fraudulent transfer.

9. Is that any evidence or materials available with you to establish that the fraudulent letter was issued by me ?

Sir, No, I have not any evidence or materials available with me to establish that the fraudulent letter was issued by Mrs. Nomita Pandey (PRT).

10. Do you believe this certificate of leave dated 03.06.1999 issued by the employer of my husband regarding leave of absence from his office ?

Sir, I do not know.

11. Is there any private accommodation available within the NEEPCO campus of Umrangshu for private hire accommodation ?

Sir, I do not know.

Sd/- Illegible	Sd/- Illegible	Sd/- Illegible
24.02.2000	24.02.2000	14.02.2000
(R.C.Katiyar)	(K. Rajendran)	H.Subramanian)
	P.O.	E.O.

In view of the above statement of Sri R.C. Katiyar the then Principal of KV Umrangshu stated in the enquiry proceeding held on 24.2.2001 is contrary with the written statement dated 8.12.1998 as such the written statement dated 08.12.1998 cannot sustain the charges brought against me under article of charge no. I.

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It is further submitted that the statement of Sri N. Shankar which is not annexed with the memorandum of charge sheet dated 31.01.2000 but supplied to me by the enquiry officer does not support the charges brought against me under article No.I. The statement of Sri N. Shankar dated 08.12.1998 also support the contention of the undersigned. The statement of Sri N. Shankar is quoted below :-

(Hindi)

It is quite clear from the above statement of Sri N. Shankar that the husband of the undersigned came to Umrangshu after receipt of the order of transfer dated 12.10.1998, therefore the above statement also establishes that the written statement of Sri R. C. Katiyar dated 08.12.1998 is contradictory with the written statement of Sri N. Shankar.

That Sir, it is further stated that the written statement of Sri R. C. Katiyar is also contrary to the certificate of leave issued by the District Treasury Office, Dumka (Bihar) which establishes the correctness of the fact that my husband Sri Shekhar Kumar Pandey, Assistant Accountant, Dumka treasury was on leave with effect from 02.11.1998 to 15.11.1998 therefore statement of Sri R. C. Katiyar that my husband came to Umrangshu earlier to 03.11.1998 is false and misleading as because my husband under took journey by Rail from Dumka and he reached at Umrangshu only on 03.11.1998 at about 11 a.m. My husband started his journey with effect from 01.11.1998 (Sunday) via Bhagalpur. But the certificate dated 03.06.1999 which was produced by the undersigned before the inquiry proceeding and the same was also got examined by the undersigned while cross examining Sri R. C. Katiyar the than Principal Umrangshu in the hearing proceeding held on 24.02.2001 and on reply which would be evident from the order

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sheet of cross examination dated 24.02.2001 quoted above, has not been denied by Sri R. C. Katiyar, as such it is categorically submitted that in the so called inquiry proceeding which is initiated in pursuance of the memorandum dated 31.01.2000 nothing could be proved against the undersigned regarding the charges leveled against me through article No.I as well as no evidence could be made available before the Enquiry Officer either by the presenting officer or by the witness Sri R. C. Katiyar who was examined in the enquiry proceeding as was relied upon in the memorandum of charge sheet dated 31.01.2000. It is further submitted that Sri N. Shankar TGT (BIO) listed witness relied upon in the aforesaid memorandum of charges also not examined before the enquiry proceeding by the departmental side as required under the rule and the written statement of Sri N. Shankar, categorically support the contention of the undersigned as stated above.

Therefore no evidence or statement of witnesses supported the charges brought against me under article I of the memorandum of charge sheet dated 31.01.2000.

It is further submitted that the undersigned submitted documentary evidences before the inquiry proceeding and also during the cross-examination such as certificate issued by the employees of NEEPCO Ltd. Regarding non disposal of household articles dated 10.12.98 and Pass issued in NEEPCO Gate dated 11.4.99 issued by Security Manager NEEPCO Ltd. Umrangshu dated 11.4.1999 and the certificate of Truck Owner dated 11.4.1999 carrying the Household articles from Umrangshu to Duliajan after my transfer and leave certificate dated 3.6.99 was also sent by Regd. Post to the Assistant Commissioner (Disciplinary Authority) as was promised by the undersigned on 15.6.99 against the reply submitted by me in terms of the memorandum issued under letter No. 3-4/98-KVS(SR)/11451 dated

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20.4.99, but surprisingly none of the documentary evidence taken into consideration by the enquiry officer as required under the rules.

That the enquiry report bearing letter No. 3-1(CONF)/KV-SIL/2000 dated 28.7.2000 served upon me along with the memorandum dated 31.3.2001/17.4.2001. A bare perusal of the enquiry report, it would be evident that the same has been prepared in a most arbitrary and unfair and illegal manner without taking into consideration the factual position of the enquiry proceeding. There is no discussion at all made by the enquiry officer of the recorded statement of Sri R.C. Katiyar the then Principal in-charge, Umrangshu Kendriya Vidyalaya when Sri R.C. Katiyar categorically denied that there is no evidence or material available with him regarding issuance of fake letter by me but surprisingly in the enquiry report it is state by the enquiry officer in the conclusion part that the cross-examination does not substantiate any allegation made by the accused officer to prove her innocence in getting and operating the transfer order which was suspected as framed at Regional Office level and thus the accused officer failed to defend the charges made against her and established sufficient ground of Master Plan behind the transfer order.

It is further stated the enquiry officer in his enquiry report in concluding paragraph that "It is also established that she disposed some of her household articles prior to relieve, which was accepted accused officer in the cross examination."

The above conclusion of the enquiry officer is totally false and misleading. In this connection the undersigned beg to rely upon the daily order sheet of the proceeding and enquiry officer is put to strictest proof of the fact that the charged officer has accepted the household articles prior to relieve rather

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documentary evidence submitted by me regarding non-disposal of household articles not considered at all by the enquiry officer but the same has been rejected in a very arbitrary and unfair manner without any discussion on the aforesaid evidences produced by me, which would be evident in paragraph 6 of the assessment of evidence in the enquiry report, wherein it is held by the enquiry officer that those documents arguments are irrelevant and it is further held that the undersigned is failed to submit any relevant document. Surprisingly it is further held that the evidence in support of charges are produced by the Presenting Officer but in reality not a single document or evidence neither produced by the Presenting Officer nor examined before the Enquiry Proceeding by the Presenting Officer. As such entire finding of the Enquiry Officer is highly arbitrary and unfair and a mere reading of the finding and conclusion of the enquiry report. It would be evident that the Enquiry Officer has prepared, the enquiry report in total violation of Sub-section (i) and Sub-section (ii) of Sub rule 23 of rule 14 of the CCS (CCA) Rules, 1965.

It is categorically submitted that the enquiry report has been prepared without taking into consideration the defence put forwarded by the undersigned in respect of article of charges. It would further be evident that no assessment of the evidence is made in respect of the article of charges and particularly findings as well as the conclusion reached by the enquiry officer in respect of article of charge no. I is totally irrelevant and contrary to the records of the enquiry proceeding. No discussion on evidence particularly relating to the crucial hearing which took place on 24.2.2001 at Lumding did not find place in the enquiry report. No discussion is made by the enquiry officer in the recorded statement of Sri R.C. Katiyar who was cross-examined by me on 24.2.001. It is

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relevant to mention here that Sri R.C. Katiyar the sole witness cross-examined in the enquiry proceeding who categorically denied regarding availability of any documentary evidence to sustain the charges brought under article of charge no. I. As such, the entire finding and conclusion of the enquiry officer not based on any evidence and the aforesaid enquiry report has been prepared with a pre-determined notion to impose penalty upon me although no evidence or statements of any witness relied upon by the departmental side, supported the charges brought against me, as such on that score alone the proceeding is liable to be dropped.

That Sir, it is further categorically submitted that the charges particularly the article of charge No.I has not been enquired into rather the enquiry officer, enquired into a different charge in respect of fake transfer order. A mere reading of the paragraph-II i.e the charges framed and enquired into is altogether different than the article of charge no. I brought under memorandum dated 31.1.2000. The Enquiry Officer enquired into "the imputation of Namita Pandey involved herself in fraudulent manipulation for procuring fake transfer order under the forged signature of Sri V.K.Gupta, Assistant Commissioner (Admn), KVS, New Delhi in her favour with mala fide intention" whereas article of charge no. I is quite different as leveled against me in the memorandum dated 31.1.2001. On that score alone the entire enquiry proceeding is liable to be set aside and quashed.

In paragraph V of the enquiry report the defence arguments of the charged officer which is discussed did not reflect the actual/factual position. It is also evident that the documents of misdeeds of Sri R.C. Katiyar which was submitted by me in the enquiry

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proceeding has been arbitrarily rejected by the enquiry officer holding the same as irrelevant without assigning any valid reason.

It is stated that no assessment of evidence both oral and documentary is made and further no discussion is made on evidences as required under the rule.

Finding assessment of evidence conclusion of the enquiry proceeding made by the enquiry officer as evident from the enquiry report is quite contrary to the record of the proceeding, it appears that the enquiry officer acted in a very arbitrary manner in total violation of Rule 14 of CCS(CCA) Rules 1965 and further reached to the findings and conclusion in the enquiry report in total violation of Sub-section (i) and (ii) of Sub-section -23 of Rule 14 of CCS(CCA) Rules 1965 and as such the entire enquiry proceeding which is conducted in pursuance of the memorandum dated 31.3.2001 are liable to be set aside and quashed and therefore penalty proposed under memorandum dated 31.3.2001/17.4.2001 also liable to be dropped in the interest of justice and fair play.

It is further submitted that the enquiry report was prepared even before completion of the proceeding which would be evident from the enquiry report served upon me through letter bearing No. 3-1(Conf)/KV-SIL/2000 dated 28.7.2000, whereas cross-examination and further enquiry proceeding in fact held on 24.2.2001. But surprisingly the Disciplinary Authority acted upon the said inquiry report dated 28.7.2000 and also without considering the other infirmities and irregularities which were took place during the course of the enquiry proceeding although the same were brought to the notice of the Disciplinary Authority vide my representation dated 26.4.2001 against the enquiry report dated 28.7.2000. But in spite of all

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these infirmities and irregularities and in contrary to the evidence recorded in the proceeding the Disciplinary Authority arbitrarily reached to the conclusion that the charges have been established and further imposed penalty upon the undersigned vide impugned order issued under letter dated 19/25.6.2001 whereby my pay is reduced by two lower stages in the time scale of pay of Rs 4500-125-700 for a period of two years with cumulative effect, and also further ordered that the undersigned will not earn increments of pay during the period of reduction and that on expiry of this period, the reduction will not have effect of postponing my future increments.

In the circumstances stated above and also in view of large scale infirmities and irregularities as stated above, your honour would be pleased to set aside the impugned order of penalty issued under letter dated 19/25.6.2001 and further be pleased to pass necessary order exonerating the undersigned from the Memorandum of charges brought against the undersigned vide memorandum dated 31.1.2000 and further be pleased to pass any other order or orders as deem fit and proper after examining the records of the enquiry proceeding.

INTERIM PRAYER

It is humbly prayed that during the pendency of the appeal the impugned order of penalty dated 19/25.6.2001 be stayed till final disposal of this appeal otherwise the appellant will suffer irreparable loss.

Date : 12.7.2001

Yours faithfully,

Place : Duliajan

(NOMITA PANDEY)
PRT, KV, Duliajan

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Advocate*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
ORDER SHEET

Original application No. 267 of 2001.

Applicant(s) : Smti Namita Pandey
Respondent(s) : U.O.I. & Ors.
Advocate for the Applicants(s) Mr. M.Chanda, H.Dutta, Mrs. N.D.Goswami
Advocate for Rspondents Mr. S.Sarma, K.V.S.

Notes of the Registry	Dated	Order of the Tribunal
	20.7.01	<p>Present : The Hon'ble Mr. Justice D.N.Chowdhury, Vice Chairman.</p> <p>The Hon'ble Mr. K.K.Sharma, Administrative Member.</p> <p>This is an application under Section 19 of the Administrative Tribunals Act 1985 assailing the order dated 19/25.6.2001 passed by the Assistant Commissioner imposing penalty of reduction in the time scale of the applicant for a period of two years with cumulative effect. Admittedly the order is appealable under CCS(CCA) Rules 1964. As a matter of fact the applicant has already preferred an appeal before the authority as is reflected in Annexure IX of the O.A. Mr. M.Chanda, learned counsel for the applicant has however submitted that though appeal is preferred there is no bar for entertaining an application under section 19 by the Tribunal when the</p>

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		<p>impugned order was passed in violation of the principles of natural justice.</p> <p>Upon hearing Mr.M. Chanda, learned counsel for the applicant at length and also Mr. S.Sarma, learned counsel for the respondents we are however not inclined to entertain this application at this stage solely on the ground that there is an alternative remedy provided by the statute. We are of the opinion that since the appeal lies and the appellate authority has the full power to examine the legality of the order of penalty and is competent to assess and evaluate facts, the proper forum is the appellate authority and the said appellate authority should be provided with full opportunity to examine the legality and validity of the order. Mr. Chanda submits that since the order of penalty is already imposed an interim order need be passed by the Tribunal protecting the interest of the applicant till disposal of the appeal. We are not inclined to pass any such order. However, it would be open to the applicant to make such prayer before the appellate authority as per law. We also feel that the matter should be disposed of expeditiously and accordingly we direct the appellate authority to examine the appeal and dispose it of with utmost despatch preferably within 2 months from today.</p> <p>The application stands disposed of accordingly. No order as to costs.</p> <p>Sd/- Vice-Chairman Sd/- Member (Adm)</p>

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J. S. Rao
Sd/- Secy

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Misc Application No. 262 /2001
w.o.A 267/2001

Applicant(s) :- Union of India & ors

Respondant(s) :- Smt. Namita Pandey

Advocate for the applicant :- Mr. S. Sarma

Advocate for the Respondant :- M. Chanda, Mr. N. D. Sengupta, H. D. B. S. N. Chakraborty

Notes of the Registry

Date

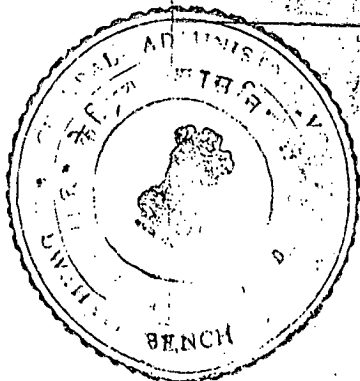
Order of the Tribunal

21.12.01

Heard Mr. S. Sarma, learned counsel for the applicant and also Mr. M. Chanda, learned counsel for the respondents.

The respondents are allowed further time up to 31.12.2001 to implement the judgment and order passed in O.A. No. 267/2001.

The application accordingly stands disposed of.



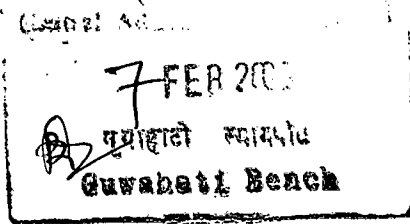
Sd/ VICE CHAIRMAN

Sd/ MEMBER (Adm)

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for
Advocate

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26/1/02
Section officer (Judicial)
Central Administrative Tribunal
Guwahati Bench, Guwahati



Filed by -
The Respondent
through S. D. Bar
Advocate
5-2-2003

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

O.A. NO. 240/2002

Smt. Namita Pandey

- Vs -

Union of India and others

IN THE MATTER OF

Written statement on behalf
of the Respondents.

AND

IN THE MATTER OF

Assistant Commissioner

K.V.S.

Guwahati Region.

- Respondent -

The humble written statement of the Respondent are
as follows -

MOST RESPECTFULLY SHEWETH -

1. That the Respondent states that in the Original Application he has been made party and a copy of the same has been served upon him. The Respondent has gone through the contents of the petition and understood the same and he is competent to file the

Cont.

written statement on behalf of him and for others, they being the Official Respondents.

1. That the Respondent states that the statement and averments made in the original application are totally denied. The statements which are not born out of records are denied. The Respondent further states that the statements which are not specifically admitted may be deemed to be denied.

2. That the Respondent states that before controverting the statements and averments made in the above application the Respondent craves leave of this Hon'ble Tribunal to submit the following facts of the case in behalf for appreciation.

3. That with regard to the statements made in a para 1,2,3 and 4.1, the Respondent does not forward any comment.

4. That with regard to the statements made in a para 4.2, the Respondent states that as a matter of record and does not forward any comment.

5. That with regard to statements made in para 4.3 and 4.4 the Respondent denies the correctness and put forwards the following comments that a KVS employee is liable to Disciplinary action under CCS (CCA) Rules for ant lapse/ misconduct on his/her part. During the fact finding enquiry regarding manipulated and fraudulent Transfer Order there were sufficient grounds for the Disciplinary Authority to initiate Disciplinary action against the applicant for her involvement in said Transfer Order.

7. That with regard to statements made in para 4.5 the Applicant denies the correctness and states that there were good and sufficient reasons and substances for the Disciplinary Authority to initiate Disciplinary action against the Applicant.

The contention made by the Applicant is misleading to the extent that any misconduct/misbehaviours on the part of an employee can form a part of charge sheet framed against him based on the facts and records irrespective of the fact whether the same was included or not in the fact finding enquiry conducted on another issue.

The applicant was occupying the residential accommodation unauthorizedly and the action on her part was against the set rules. As such the action of Disciplinary Authority was in order.

8. That with regard to statements made in para 4.6 the applicant states it to be misleading and distorting and further states that the enquiry conducted by the Inquiry Officer on behalf of the Disciplinary Authority was a regular enquiry as per CCS (CCA) Rules and not a preliminary enquiry as contended by the Applicant. The Applicant has been given reasonable opportunity during the proceeding to prove herself innocent.

Cont.

9. That with regard to statements made in para 4.7, 4.8, 4.9, 4.10, 4.11, 12, 4.13, 4.14, 4.15 the answering respondents categorically denies the correctness of the same and puts forward the correct position of the stages of the Disciplinary proceeding as under-

The infirmities were rectified by the Disciplinary Authority by remitting the case to the enquiry officer for completing the Cross Examination of witnesses by Applicant which she availed of and got sufficient opportunity to prove herself to be innocent. On the other hand the respondent categorically states that there was no procedural lapse in conducting the enquiry.

Further in reply to the para No. 4.9 the respondent states that the action of the Disciplinary authority ie, the respondent No.3 in the present Original Application was based on the findings, facts and records of the case and the same was very much in order. The respondent in support of the action of the authority states that the final action of the Disciplinary authority over the enquiry authority was taken only after completion of the cross examination of witness curing the infirmities as stated in earlier para.

On the facts stated above, it is clear that the averments made by the applicant in the para of the application are not correct. These are distorted and misleading facts. The infirmities noticed by the Disciplinary authority were rectified by giving the opportunity to the applicant to cross-examine the witnesses and the copy of enquiry report was supplied to her to make Representation thereon. The action of the Disciplinary authority for imposing penalty was based on facts and records of the case and as such the action of the Disciplinary authority was in order and as per rule. Thereafter the appeal filed by the applicant has been disposed by the authority turning down the penalty vide order dated 8/10/2002.

10. That the Respondent states that the grounds of relief as represented by the applicant in support of her case are baseless, incorrect for the following reason -

That the action of the Disciplinary Authority was based on the findings of enquiry, fact and circumstances of the case which warranted imposition of penalty upon the applicant. The present O.A. may be dismissed. The enquiry has been conducted fairly and judiciously based on the facts and circumstances of the case. The infirmities noticed by the Disciplinary Authority have been rectified by remitting the case to the Inquiry Officer for Cross

Cont.

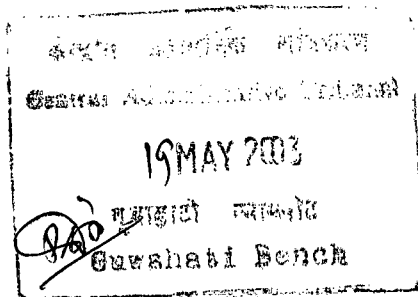
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Examination of the witnesses and the Applicant has been provided couple of opportunity to cross examine the prosecution witness. Hence the proceedings are in accordance with rules. The action of the Disciplinary Authority is fair and judicious based on the findings, facts and circumstances of the case and the order passed is as in law. The applicant has failed to disprove the charge and the appeal preferred by the Appellant has been disposed of by the Disciplinary Authority turning down the penalty and as such the petition is liable to be dismissed.

Cont.

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

I, Sri S.S. Sehrawat, Assistant Commissioner,
Regional Office affirm Chariali Ghy-12 do hereby
solemnly affirm and verify that I am conversant with
the facts and circumstances of the case and the
statements made in paragraphs 1 to 18 are true to the
best of my knowledge and belief being matter of record
and I sign this verification on this 5th day of FEB 2003.



**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

In the matter of :

O.A. No. 240 of 2002

Smti Namita Pandey

-vs-

Union of India & Ors.

And

In the matter of

Rejoinder submitted by the
applicant in reply to the written
statement submitted by the
Respondents.

The applicant above named most humbly and respectfully begs
to state as under :

1. That the applicant categorically denies the statements made in para 6 and 7 of the written statement and begs to state that the KVS authorities initiated an inquiry on a completely false and unfounded allegation labeled against the applicant alleging her involvement in her transfer order. Further, the inquiry held on 08.12.1998 was pertaining to the sole and only charge that the applicant was involved in the issuance of the transfer order which she allegedly got issued through fraudulent manipulations. But having failed to substantiate their allegation, the respondents, while

*Filed by the applicant
through advocate Sri
G. M. Chakravarty on
19-5-2003.
[Signature]
Process*

issuing the charge sheet thereafter, added one more charge that the applicant occupied her residential occupation unauthorisedly, an issue which was already investigated and disposed of long back. This was done with the sole intention of providing teeth to their first allegation which already got frustrated and such an attempt by the respondents clearly speaks of their mind that they are determined to harass the applicant by even adding new charge or charges, no matter whether they are baseless, false or concocted.

2. That the applicant emphatically denies the statements made in paragraph 8 and 9 of the written statement and begs to submit that during the so called regular enquiry held on 26.04.2000 and 12.07.2000, none of the charges labeled against the applicant could be substantiated and even a copy of the inquiry report was not given to the applicant which is mandatory under the procedure established by law. Further, although the respondents tried to give an eye wash by holding a final hearing on 24.02.2001 in a bid to cover up their lapses, but the inquiry officer already submitted his inquiry report vide his letter No. 3-1(Conf)/KV-SIL/2000 dated 28.07.2000, a copy of which was forwarded to the applicant vide letter dated 17.04.2001 i.e. submitted well ahead of the final hearing. The inquiry thus concluded was also vitiated by infirmities as stated in the O.A. and none of the charges could be established but even in spite of that punishment was

imposed on the applicant vide impugned order dated 19/25/06.2001 on the basis of pre planned inquiry report dated 28.07.2000. while doing so, the Disciplinary ^{Authority} totally relied on the biased and pre set inquiry report and ignored the fact that the statements and evidences recorded in the final hearing were fully inconsistent with one another and issued order of penalty without considering any points submitted by the applicant in his representations against the said inquiry report or without rebutting any of the allegations raised by the applicant against the inquiry officer. The Appellate Authority also acted in the same manner as that of the Disciplinary Authority without considering the appeal preferred by the applicant against the order of penalty and further repeated their action subsequently even after the passing of the judgment and order dated 20.7.2001 in O.A. No. 267/2001 by the Hon'ble Central Administrative Tribunal directing the respondents to dispose of the appeal to be preferred again by the applicant which the applicant preferred as directed on 10.8.2001. It is aptly evident from the representation/appeal of the applicant/appellant that the actions of the Disciplinary authority and the Appellate Authority were not based on facts and records and as such are mala fide, arbitrary and capricious. The contention of the respondents that the infirmities in the inquiry, as admitted by the Appellate Authority also, have been cured by holding subsequent cross examination etc; but

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the fact remains that the penalty was imposed on the basis of the pre-determined inquiry report which was prepared and submitted much earlier than such curing and holding of cross examination etc. in the name of providing reasonable opportunity to the applicant was an infructuous exercise only.

3. That the applicant categorically denies the statements made in para 10 of the written statement and further begs to submit that the grounds of relief stated by the applicant are correct and bona fide, and the action of the respondents are not based on facts or evidences recorded. The inquiry has not been conducted fairly or judiciously and the entire proceeding was marred by irregularities on the basis of which penalty have been imposed on the applicant. As such, the application deserves to be allowed with costs.

4. That in the facts and circumstances the applicant humbly submits that she is entitled to the reliefs prayed for and the O.A. deserves to be allowed with cost.

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163**VERIFICATION**

I, Smti Namita Pandey, wife of Sri Shekhar Kumar Pandey, Presently working as Primary Teacher, Kendriya Vidyalaya, Duliajan, do hereby verify that the statements made in Paragraph 1 to 4 of this rejoinder are true to my knowledge and I have not suppressed any material fact.

And I sign this the19.15.....day of May,

2003.

Namita Pandey -