

30/100

4

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

(DESTRUCTION OF RECORD RULES, 1990)

Mr. P-64/03 ordersheet pg-1  
allowed date-22/05/03

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SECTION OFFICER (Judl.)

( SEE RULE -4 )

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI  
....

ORDER SHEET

Original Application No : 297(T) 2002  
Misc. Petition No. \_\_\_\_\_  
Contempt Petition No. \_\_\_\_\_  
Review Application No. \_\_\_\_\_

Applicant (s) Biswanjit Banerjee

-Vs-  
Respondent (s) H.O.T. Joms

Advocate for the Applicant (s) Mr. B. N. Datta

Advocate for the Respondent(s) Case K.N. Choudhury  
Mr. P.S. Choudhury  
for W.Pdt. No. 2, 3 & 4.

Notes of the Registry

Date

Order of the Tribunal

This application  
is transferred from  
Shillong Bench, Garo  
High Court and registered  
as C.A. 297(T)/2002

13.9.02

Deputy Registrar is to ask  
for explanation from the Officer  
concerned as to why the matter was  
posted before the Court forthwith.

Filed before the  
Honble Court for order. mb

Vice-Chairman

11.11.02

O.A. 297/02 (W)

28.1.03

Present \* The Hon'ble Mr. Justice D. N. Chowdhury, Vice-Chairman  
The Hon'ble Mr. S.K. Hajra  
Administrative Member.

placed before the Hon'ble  
Court alongwith the transfer  
letter / forwarding letter H.C. (S.P.)

11/7/02 dt. 16.5.02.

But how the letter was  
missing from the file it  
is not known. However, as  
per explanation given dated

13.7.02 case had written a  
letter to Mr. Registrar, Guwahati  
High Court Shillong to send  
a copy of the said transfer letter  
as early as possible.

Now we have received  
a transfer letter alongwith the  
photo copy of the Court's order  
on 12.8.02 (Page A')

Since the matter is  
placed again before the Hon'ble  
Court for necessary order.

Sd/  
S.O (S)

11/11/02

The matter has been sent  
from the High Court on transfer. Let  
the matter be posted for orders on  
4.3.2003. Office to intimate the  
parties concerned directing for  
their appearance either by person  
or by the counsel on the date for  
orders.

Sum  
Member

Vice-Chairman

H/3. Court did not sit today,  
The case is adjourned to  
12/3/2003.

Mb  
A

12.3.2003

None appears for the applic-  
ant today also. Mrs. R.S. Choudhury  
learned counsel has entered  
appearance on behalf of respondent  
Nos. 2,3 and 4. and prays for  
time for filing written statement.  
Prayer is allowed. List again on  
10.4.2003 for further orders.  
Office may inform fact of transfer  
of the application from the  
registry to enable the applicant  
to take steps to represent his case.

A

Vice-Chairman

mb

Order dtd. 28/1/03 Communicated  
to Sri B. Banerjee, Shillong by Speed.  
Post.

3/No 299 dtd. 24/2/03.

(2)

O.A. No. 297/2002(1)

Notes of the Registry

Date

Order of the Tribunal

Order dtd 12/3/03 Communicated  
to Shri B. Banerjee & Sri B.N. Dutta  
Advocate.

10.4.2003

None appears for the  
applicant today also. Mrs. R.S.  
Choudhury, learned counsel appea-  
ring on behalf of the respondents  
stated that she is filing written  
statement within short time. In  
that view of the matter, the  
case may now be listed for hearing  
on 22.5.2003.

No written statement  
has been filed

Mo  
9.4.03

  
Vice-Chairman

mb

20.5.03

22.5.03


W/s on behalf of  
the Respondent Nos. 2, 3, 4 & 6  
has been Submitted.

None present for the applicant.  
Heard Mrs R.S.Choudhury, learned  
counsel for the respondents.

Put up again on 28.5.2003 to  
enable Mrs Choudhury to produce the  
connected records.

Mo

  
Member

  
Vice-Chairman

pg


28/5. None appears for the applicant.  
Heard in Mot.  
List again on 30/5/2003.

Mo  
for

30.5.2003

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

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

  
Member

  
Vice-Chairman

bb

6/6/03  
Copy of the  
Judgment has been  
sent to the Office  
for issuing the same  
to the applicant as  
well as to the  
Advocate for the  
replies.

cll

4

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A. / XXX. No.297 of. 2002 &X(T)

DATE OF DECISION 30.5.2003.....  
DATE OF JUDGMENT

... . Biswajit.Banerjee . . . . .APPLICANT(S).

... . None appears for the applicant.. . . . ADVOCATE FOR THE  
APPLICANT(S).

- VERSUS -

... . Union of India & Others, . . . . .RESPONDENT(S).


... . Mr.K.N.Choudhury, Sr. Advocate & Mrs.R.S.Choudhury ADVOCATE FOR THE  
RESPONDENT(S).

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

THE HON'BLE MR S.K.HAJRA, 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.



b

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 297 of 2002 (T)

Date of Order : This the 30th Day of May, 2003.

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

THE HON'BLE MR S.K.HAJRA, ADMINISTRATIVE MEMBER.

Biswajit Banerjee  
S/o Late Ajit Kumar Banerjee  
Permanent resident of 13, Sunderbag  
Lucknow, Uttar Pradesh, working  
as an Audit Assistant in  
Regional Office of the  
Navodaya Vidyalaya Samiti  
Shillong, Meghalaya.

. . . Applicant.

None appears for the applicant.

- Versus -

1. The Union of India  
Through the Secretary  
Ministry of Human Resource, Development  
(Education Department)  
Govt. of India  
New Delhi.
2. The Director  
Navodaya Vidyalaya Samiti.
3. The Joint Director (Administration)  
Navodaya Vidyalaya Samiti
4. The Deputy Director, Administration  
Navodaya Vidyalaya Samiti  
New Delhi.
5. Rakesh Khanna  
C/o Dy. Director  
Navodaya Vidyalaya Samiti  
Regional Office, Lucknow  
B-10 Sector C, Aliganj  
Lucknow - 226020.
6. Sri Debendra Hazarika  
Deputy Director  
Navodaya Vidyalaya Samiti  
Regional Office, Nongrim Hills  
Shillong, Meghalaya.

. . . Respondents.

By Mr.K.N.Choudhury, Sr. Advocate & Mrs.R.S.Choudhury.

O R D E R

CHOWDHURY, J.(V.C.):

The whole controversy centers round the order dated 31.7.1998 whereby 5 Assistants/Audit Assistants working in the Navodaya Vidyalaya Samiti were promoted to the post of Section Officer in the pay scale of Rs.6500-200-

Contd./2

10500/- in the Navodaya Vidyalaya Samiti.


1. The applicant who was working under the respondents as Audit Assistant assailed the aforesaid order of promotion on the score that the case of the applicant was overlooked and the juniors were allowed to march over him. The applicant, more particularly, cited the example of Rakesh Khanna, respondent No.5. He was promoted by the same order dated 31.7.1998 superceding him. The applicant, thereafter, moved the Hon'ble High Court and preferred a Writ Petition. The respondents were served notice and the High Court upon hearing the respective parties by its order dated 12.8.2002 transferred the case to this Bench and on transfer the matter came before us. Due notices were sent to the parties including the applicant and lawyers, who represented the applicant at the High Court, but none appeared before us for his representation. The matter thus came up before us for hearing. On four occasions earlier the matter came before us for hearing, but there was no representation on behalf of the applicant and accordingly the case was adjourned and finally the matter was listed for hearing on today expecting that someone will appear on behalf of the applicant. Since none appeared on behalf of the applicant, we thought it proper to proceed with the case.


2. We have perused the materials on record and also heard Mrs.R.S.Choudhury, learned counsel appearing for the respondents. Mrs. Choudhury fairly produced before us the records of the DPC Proceedings dated 25.6.1998. On perusal of the DPC materials it appears that a committee of DPC was held on 25.6.1998 consisting of 5 officers. The bench mark for promotion to the post of Section Officer by <sup>was determined</sup> selection/as 'Good'. To arrive at the overall grading of eligible officers, DPC decided to give weightage to individual ACRs as - Poor-1, Average-2, Good-3 and Outstanding-5. Average of

preceding five years was taken on decide about the bench mark of each officer. After going through the ACRs of the 14 officers, the DPC recommended five officers for promotion to the post of Section Officer including that of respondent No.5. We have also seen the marking given by the DPC. On overall consideration of the materials on record we do not find any scope for interference in a judicial review. The case of the applicant was duly considered and after consideration the applicant was not found suitable for promotion to the post of Section Officer on the basis of ACRs and junior to him the respondent No.5 was promoted on the basis of his merit. No illegality as such is discernible in the promotion of the respondent No.5. It may be mentioned that in the DPC records there was an endorsement not to open the records till termination of the Disciplinary Proceedings of the applicant. Mrs.R.S.Choudhury, however, informed that the DPC Proceedings was concluded and thereafter the same was opened. We will not make any comment on the same in the absence of any materials on records. But from DPC Proceedings it appeared the DPC, on consideration, did not find the applicant suitable for promotion and accordingly he was not considered for promotion.

The application accordingly stands dismissed.

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

  
( S.K. HAJRA )  
ADMINISTRATIVE MEMBER

  
( D.N. CHOWDHURY )  
VICE CHAIRMAN



SO(J)

10

Explanation dated 16.9.02

The WPEC 196/98 (T) received by this Registry (Despatch Section) on 21.8.2002. The letter was addressed to the Dy. Registrar, CAT, Guwahati Bench. The letter was seen by the Dy. Registrar and SO(J) and SO(J) marked to the dealing asst. to take necessary action. Accordingly I registered the case as O.A. 297/2002 (T). The forwarding letter HC/(S.B) 111/7/02 dated 16.8.02 was placed with the case records for placing the same before the Honorable Court. But, how the letter was missed from the case record is not known to me. In this connection we have write a letter to the Dy. Registrar, Guwahati High Court, Shillong Bench for sending a photo copy of the above mentioned letter for placing the same before the Honorable Court.

When I registered the case I send the same to the SO(J) for signature on the file sheet. But, by mistake it was linked <sup>by another dealing asst.</sup> without signature of the SO(J) and D.R. The authority may kindly excuse me for this mistake.

SO(J)

16/9/02

pl examine the above explanation of dealing asst in Judicial Section.

Dy. Registrar

16/9/02



Phone Office : 529294

Fax : 529056

सं०/No.

899

केन्द्रीय प्रशासनिक अधिकरण,  
गुवाहाटी न्यायपीठ, गुवाहाटी,  
राजगढ़ रोड, गुवाहाटी-५

**Central Administrative Tribunal**

Guwahati Bench,  
Rajgarh Road, Bhangagarh,  
GUWAHATI-781 005

दिनांक/Date 16/9/2002

To,

**The Registrar,  
Guwahati High Court, Shillong Bench,  
Shillong-1.**

**Sub:- Regarding W.P.(C) 196 (SH)/98(Biswajit Banerjee -VS-U.O.I  
& Ors)**

Sir,

I am directed to request you kindly to send a photo copy of the forwarding letter No. HC/ SB/ 111/ 7/ 02 dated 16.8.2002 in connection with WP (C) 196/98 (Biswajit Banerjee - VS- U. O. I & Ors ) : Which was trasfered to this Bench. The same was missing somewhere and required by the Hon'ble Court for passing necessary orders.

*[Signature]*  
16/9/02  
**DEPUTY REGISTRAR**

✓

Original Application No. 297/2002 (T) in W.P. (C) 196/98.

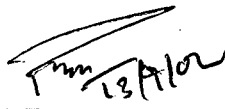
Mr. Biswajit Benerjee Vs. Union of India & Ors.

The above noted O.A. was listed today before the Court. The Hon'ble Court vide order dated 13.9.2002 has directed to call for the explanation from the concerned Official as to why the matter was posted before the Court forthwith. After going through the file, I could not find any order of the Gauhati High Court, Shillong Bench for transferring the case to the Central Administrative Tribunal, Guwahati Bench whereas in the note of the Registry " This application is transferred from Shillong Bench, Gauhati High Court and registered as O.A. 297(T)/2002. Laid before the Hon'ble Court for orders." The dealing hand has not indicated the date of the signature of the Official nor it is counter signed by the S.O. (J) or the Deputy Registrar.

The Section Officer (J) is directed to call for the explanation of the Official concerned as to why this case was registered under whose orders the case was listed before the Court.

The explanation must reach ~~to~~ the undersigned by 16.9.2002 positively, failing which it will be presumed that the defaulter/Official has nothing to explain in the matter.

SECTION OFFICER (J)

  
DEPUTY REGISTRAR

Dealing abstr. may  
kindly be explain the  
above within 16/9/02  
positively.

B. Benerjee  
13/9/02

**CIVIL APPELLATE SIDE**

**Appellant**

**Petitioner**

Sn Biswajit Barnerjee

## Versus

Union of India Govt.

**Respondent**

## Opposite-Party

For Appellant Mr. B. N. Della  
Petitioner

For Respondent Mr. P. Jay add C95C  
Opposite-Party SC Shyam

<div> <div>2</div> <div>14</div> </div> Noting by Office or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature's
			<p style="text-align: center;"><u>B E F O R E</u></p> <p style="text-align: center;">THE HON'BLE MR JUSTICE N SUR</p> <p><u>16.12.98</u></p> <p>Heard Mr BN Dutta, learned counsel for the petitioner.</p> <p>Let a Rule Issue calling upon the respondents to show cause as to why an appropriate writ should not be issued as prayed for; or why such further and other orders should not be passed as this Court may deem fit and proper.</p> <p><i>Rule is made returnable within 2 (two) months</i></p> <p>Mr SC Shyam accepts notice for and on behalf of the respondents and, as such, no formal notice is called for. However, Mr Dutta is required to take steps for service of notice upon the respondent No.5 within one week.</p> <p>List this case after 2 months for further order.</p> <p style="text-align: right;"> <i>N. S. Sur</i>            JUDGE         </p> <p>mdk</p>
<p><u>29-1-99</u></p> <p>Steps taken for service on respondent No. 5.</p> <p>R</p> <p>Notice issued on 29-1-99 through Registrar Bench, N. P.</p>			

Noting by Office or advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature's
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Ref: Court's order dt. 16.12.98

Rule is made returnable within 2 months. Mr S. C. Shyam accept notice on behalf of Respondent Nos 1 to 4. Notice issued on 29.1.99 but service report not yet received.

Filed before the Bench for filing of add.

Shyam 9/3/99  
Deputy Registrar  
K

B E F O R E

THE HON'BLE MR. JUSTICE NS SINGH

10.3.99

Three weeks time is granted to the respondent Nos. 1 to 4 so as to enable them to file counter affidavit. Awaits service report upon the respondent No. 5.

N. S. Singh  
JUDGE

as.

Affidavit has not yet filed by the respondents

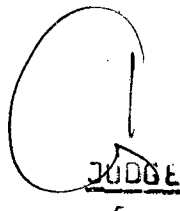
8/5/99

Noting by Office or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
<p>16</p> <p><u>27-4-99</u></p> <p>Service Report on respondent No - 5 returned undersigned.</p> <p>R</p>			

18

Noting by Office or advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature's
			<p style="text-align: center;"><u>B E F O R E.</u></p> <p>THE HON'BLE MR.JUSTICE NS SINGH</p> <p>25.8.99</p> <p>3(three) weeks time is granted to the respondent Nos. 1 to 4 so as to enable them to file counter affidavit. The petitioner is required to take steps for service of notice upon the respondent No.5 within 3(three) days.</p> <p>List it after 3(three) weeks for further order.</p> <p style="text-align: right;">N. S. Singh JUDGE</p> <p>as.</p>
20-8-99			
Salabana filed			
21-8-99			
notice issued to the respondent No-5			
15/9/99			
Service Report on respondents No 5 not yet received.			
20-9-99			
Reminder issued for transmission of Salabana report and counter affidavit has not yet been filed			



Noting by Office or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature's
			BEFORE
			THE HON'BLE MR JUSTICE BN SINGH
			NEELAM
		24.9.99	
			Mr BN Dutta, the learned counsel for the petitioner is present. On behalf of the respondents, except respondent No.5, Mr SC Shyam the learned counsel makes prayer for further 3 weeks time as to file counter. Perusal of the record reveals that as regards respondent No.5 steps have been taken, reminder is also sent for sending the report with regard to service of notice upon Respondent No.5. Prayer so made on behalf of respondents except respondent No.5 for giving further 3 weeks time as to file counter is allowed. Office to send reminder with regard to service of notice upon respondent No.5. Be listed after 3 weeks.
			 JUDGE

Send reminder for service report.

29/9/99

skd

Service Report of Respondent No.5 returned unserved with a report in Hindi Language

18/10/99

Noting by Officer or  
advocateSerial  
No.

Date

Office notes, reports, orders or proceedings  
with signature's

14

B E F O R E

THE HON'BLE MR JUSTICE AP SINGH

18.11.99

Seen the service report. It appears despite repeated attempts respondent No.5 - Shri Rakesh Khanna who is posted in the Regional Office of Deputy Director of Navodaya Vidyalaya Samiti, Lucknow at B-10 Sector C has not been served. The report says that he was not present in the office. This clearly shows that the said respondent is avoiding service of notices on him. Petitioner is accordingly authorised to serve the notice of the writ petition on respondent No.5 through the Deputy Director. On receipt of the notice, the Deputy Director shall ensure its service on respondent No.5. The said respondent shall accordingly file the counter affidavit in the writ petition within a period of one month from the date of service. Necessary steps for service as above, may be taken within a week.

Shri SC Shyam who appears for the Union of India and other officers of Union of India who are respondents in the writ petition, is allowed a months time to file counter affidavit.

  
JUDGE
22-11-99

Delivered for service  
mdk  
7 Notice on respondent No-5

25-11-99

Notice issued to respondent  
No 5 by Registered A.D./

8-2-2000

Service report on  
respondents No. 5  
received after duly  
served, May A)

R

Counter Affidavit  
has not yet filed

10/5/2000

by Office or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature's
			<p>Civil Rule No. 196(SH)98 ✓</p> <p><u>B E F O R E</u></p> <p>THE HON'BLE MR JUSTICE AP SINGH</p> <p><u>11.5.2000</u></p> <p>Shri SC Shyam,, learned counsel for the respondents informs that the order passed by this Court on 4.5.99, has been challenged in writ appeal which is pending in the Pricipal Seat, he has there- after received no instructions from the petitioner about the <del>fate</del> of the writ appeal. Shri SC Shyam, <sup>within 3 weeks</sup> may inform the Court about the order if any passed in the writ appeal. The matter shall <del>then</del> be listed for orders after 3 (three) weeks.</p> <p><i>dr/</i></p> <p><i>10/8/2000</i></p> <p><b>BEFORE</b> The Hon'ble Mr. Justice <i>N.S. SINGH</i></p> <p><i>3 weeks time is granted to the learned counsel appearing for the parties so as to enable them to have proper instructions from the Authority concerned.</i></p> <p><i>N.S. SINGH</i> <i>judge</i></p> <p><i>dm</i></p>

Noting by Office of  
advocate

Serial  
Nu.

Date

Order notes, reports, orders or proceedings  
with signature

26

31/10/2017

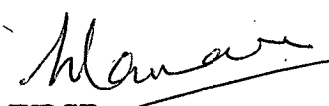
**BEFORE**  
The Hon'ble Mr. Justice... *N.S. SINGH*

As prayed for  
by Mr S.C. Shyam, learned  
Addl. C.G.S.C. for the union  
of India. Let it after  
one week.

*N.S. Singh*  
—  
**JUDGE**

*By*

Noting by Office or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature's
			<p style="text-align: center;"><u>B E F O R E</u></p> <p style="text-align: center;">THE HON'BLE MR JUSTICE RANJAN GOGOI</p> <p style="text-align: center;"><u>12.4.2001</u></p> <p style="text-align: center;">Adjourned for two weeks as prayed for by Mr SC Shyam, so as to enable him to obtain necessary instructions.</p> <p style="text-align: right;"><i>dr</i> JUDGE</p>
		26/9/01	<p style="text-align: center;">BEFORE The Hon'ble Mr. Justice P.C. Phukan.</p> <p style="text-align: center;">AS Submitted by the learned counsel for both the parties. Let the W.A NO 320/99 in C.R. NO 196(SH) 98 be transferred to This Bench Registry of This Bench shall intimate the Registry of the Principal seat accordingly.</p> <p style="text-align: right;"><i>Judge</i></p>
8-10-2001			
Records of W.A. no - 320/99 called for from the principal seat.			
27-3-2002			
Reminders issued for transmission of records.			

Noting by Office or Advocate	Serial No	Date	Office notes, reports, orders or proceedings with signature's
<p>27</p> <p><u>31.01.01</u></p> <p>Heard Mr BN Dutta, learned counsel for the petitioner and Mr SC Shyam, learned Addl CGSC for the respondents.</p> <p>It is submitted by Mr Shyam at the bar that against the order dated 4.5.99 passed by this Court in Misc Case No. 48(SH)99 the respondents have gone in appeal and the matter is now pending in the Principal Seat at Gauhati. However, Mr Shyam has not been able to produce any paper relating to the appeal. Accordingly, Mr Shyam is directed to submit the relevant order of the Appellate Court by 9.2.01.</p> <p>List this case on 9.2.01.</p> <p>dr/</p>			<p><u>B E F O R E</u></p> <p>THE HON'BLE MR JUSTICE B LAMARE</p> <p> JUDGE</p>

DISTRICT : EAST KHASI HILLS.

IN THE GAUHATI HIGH COURT

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

SHILLONG BENCH.

R CIVIL RULE NO. 196 OF 1998

Biswajit Banerjee.

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PETITIONER.

- VERSUS -

The Union of India and others.---

RESPONDENTS.

SUBJECT : PROMOTION.

4

I N D E X

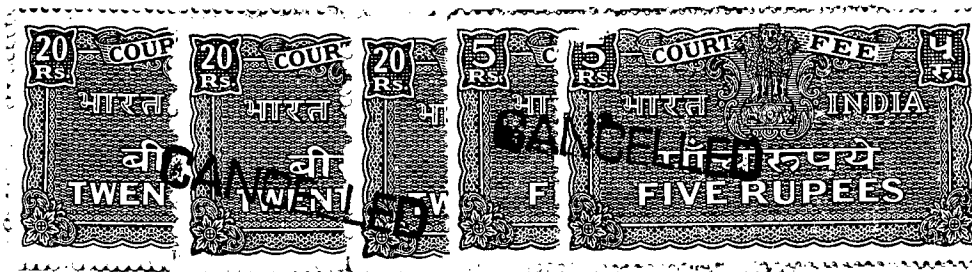
<u>Sl. No.</u>	<u>Particulars.</u>	<u>Annexures</u>	<u>Page No.</u>
1.	Application	-	1 to 12
2.	Affidavit	-	13
3.	Representation dt.14/7/1998 -	1 -	14-15.
4.	Representation dt.17/8/1998 -	2 -	16-17
5.	Appointment letter- dt.17/3/1989 -	3 -	18.
6.	Seniority List dt.19/11/1992 -	4 -	19-20
7.	List of promotion- of Promotees dt.31/7/1998. -	5 -	21.
8.	List of persons recommended for appointment a Section Officers- 6	-	22-23.

contd....2....



- 26
9. Copy of the ~~Admit~~ Admit Card of the petitioner for 1997 Examination - 7 - 24.
  10. A copy of part.II of the Instruction on 1997 Examinations - 8 - 25.
  11. Vakalatnama duly executed by the petitioner- -
  12. Advocate for the petitioner-

Filed by : The Petitioner  
Aro B.N. Datta  
Advocate, Dhillon



Filed by the petitioner  
Shri B.N. Datta  
Associate Advocate  
27 Dec 1998

DISTRICT : EAST KHASI HILLS.

IN THE GAUHATI HIGH COURT.

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

SHILLONG BENCH

CIVIL RULE NO. OF 1998

To,

Hon'ble Shri N. C. Jain, B.A., LL.B.,  
the Chief Justice ( Acting ) of the  
Hon'ble Gauhati High Court and his  
Companion Hon'ble Justices of the said  
Hon'ble High Court.

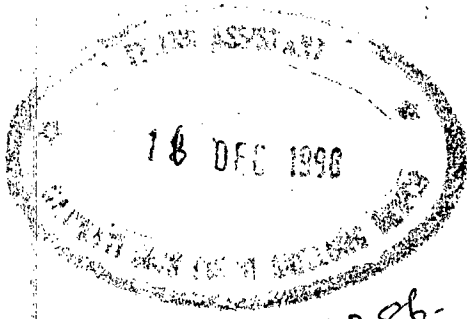
IN THE MATTER OF :

An application under Article 226  
and 227 of the Constitution of  
India ;

AND

IN THE MATTER OF :

An application on behalf of  
Biswajit Banerjee, an Audit  
Assistant, in the Regional Office,  
of Navodaya Vidyalaya Samiti, (NVS  
in short), Shillong, Meghalaya for  
protection of his Constitutional  
and legal rights.



9(1)786-  
16/12/98

contd...2...

COMMISSIONER OF AFFIDAVIT

AND

IN THE MATTER OF :

A petition on behalf of the petitioner for redressal of his grievances arising out of his non-promotion to the post of Section Officer in NVS;

AND

IN THE MATTER OF :

A petition for a direction or an order in the nature of a writ of Mandamus for requiring the concerned authority to consider his case of promotion to the post of a Section Officer, NVS, in terms of the Rules applicable to the promotion;

AND

IN THE MATTER OF :

An application with a prayer to issue a writ in the nature of a Certiorari for quashing an order passed arbitrarily and against Rules by which an Audit Assistant, Rakesh Khanna by name, a Junior to the petitioner, was promoted to the post of the Section Officer in preference to the petitioner and without giving reasons for the same;

AND

contd....3....

COMMISSIONER OF AFFIDAVIT

AND

IN THE MATTER OF :

Biswajit Banerjee, son of  
Late Ajit Kumar Banerjee,  
permanent resident of 13, Sundarbag,  
Lucknow, Uttar Pradesh, at present  
working as an Audit Assistant in  
the Regional Office of the  
Navodaya Vidyalaya Samiti,  
Shillong, Meghalaya. - - - - - PETITIONER

-VERSUS-

1. The Union of India,  
through the Secretary,  
Ministry of Human Resources, Development,  
(Education Department),  
Govt. of India,  
New Delhi.
2. The Director,  
Navodaya Vidyalaya Samiti.
3. The Joint Director, (Administration),  
Navodaya Vidyalaya Samiti.
4. The Deputy Director, Administration,  
Navodaya Vidyalaya Samiti,  
New Delhi.  
All at, A-39, Kailash Colony,  
New Delhi-110048.
5. Rakesh Khanna, Posted at present at the  
Regional Office at B- 159, Niralanagar,  
Lucknow, Pin- 226022. - - - - - RESPONDENTS.

contd.....4....

COMMISSIONER OF AFFIDAVIT

Lucknow - 226020.

6. Sri Debendra Hazareika,  
Deputy Director,  
Navodaya Vidyalaya Samiti,  
Regional Office, Nongkein Hills,  
Shillong, Meghalaya.

As per order dtd. 22/5/03  
passed on MP 6/03.

Corrected with the  
permission of the Court  
18/11/09

Care of Dy Director  
Navodaya Vidyalaya Samiti  
Regional Office, Lucknow  
B-10 Sector C, Aliganj  
Lucknow - 226020.

-4-

The humble petition on behalf of  
the abovenamed petitioner,

Most Respectfully Sheweth :-

1. That the petitioner prays that this Honourable Court be pleased to grant the following prayers for redressal of his grievances arising out of his non-consideration for his promotion to a post of Section Officer in MVS.

The concerned Respondents be required to consider the case of the petitioner according to the Rules applicable to him for his promotion to the post of a Section Officer or quash, by a writ of certiorari, the promotion of Respondent No.5, a Junior to the petitioner and direct the promotion of the petitioner on the post made so vacant or order promotion of the petitioner to a vacant post of Section Officer, if any w.e.f. the date of promotion of Respondent No.5, without disturbing his promotion.

2. That the point for consideration is - whether on the facts of the case, the petitioner is entitled to the grant of the prayer as made by him vide para 1 above.
3. That previous to this petition no other petition was filed ~~on behalf of the petitioner~~ in this

contd...5...

-5-

in this Hon'ble Court and there is no alternative and effective remedy to the one available in this Hon'ble Court for grant of the relief as mentioned in para 1 above.

4. That the petitioner is a citizen of India and he is entitled to the grant of the relief as mentioned in para 1 above. The Respondents are equally duty bound to consider the case of the petitioner for his promotion which they have failed unreasonably, arbitrarily, unfairly to consider.

5. That the petitioner made two representations by turn, one vide his letter dated 14/7/98 and the other vide his letter dated 17/8/1998. Both these Representations were sent to the relevant authorities through proper channel. However, the requests, as made by the above Representations, have not worked and they had even gone without any reply.

A copy of each of the said Representations is attached to this petition as Annexure 1 and 2 for reference in the matter.

6. That some of the relevant facts are given below :-  
(a) the petitioner was offered the post of an Audit Assistant vide letter dated 17/3/1989 of the Deputy Director, N.V.S., Respondent No.4. Accordingly the petitioner accepted the offer and joined the post on 5/4/89 at Lucknow Regional

contd.....6.....

at Lucknow Regional Office of the N.V.S.

A copy of the offer, as in the said letter dated 17/3/89, is attached to this petition as Annexure-3.

(b) the pay scale, as mentioned in Annexure-3 was Rs.1400-2300/- which was later on revised to Rs.1640/- 2900/- and this scale of pay was made effective from February, 1986. Later on, on the basis of the recommendation of the 5th Pay Revision Committee and as accepted by the Govt. of India, the pay scale of Audit Assistant was revised to Rs.5500/- 175-9000/- w.e.f.1/1/96. As accepted the Efficiency Bar in the new pay scale was removed from the scale.

(c) for the reasons of the facts mentioned above the basic pay of the petitioner on 1/4/98 became Rs.6725/- and he has been getting the same from that date onwards.

(d) the date of birth of the petitioner has been 5/5/1961 and he did his B.Com in 1980, and C.A. Articleship of 3 years duration in 1984 and was also having experience of service as an Assistant Account of the Uptron India Limited, A U.P.Govt. Undertaking.

(e) the petitioner thus was perfectly qualified for the post of Audit Assistant under N.V.S.

contd...7...

7. That Recruitment Rules 1991 and Revised Recruitment Rules 1995, as framed by Navodaya Vidyalaya Samiti, apply to the promotion of the petitioner to the post of a Section Officer. As laid down by the 1991 Rules 33% of the total posts of Section Officers were to be filled up by promotion of the persons holding the post of Audit Assistant with 6(six) years of experience. Rest of the posts i.e. 67% of the total were to be filled up on the basis of the result of a limited Departmental Examinations.
8. That a seniority list of the Audit Assistant was finally published under a circular dated 19/11/92 of the N.V.S. ( Annexure- 4 ). According to the Seniority List, the place of the petitioner is at S.No. 6 and that of the Respondent No. 5 is at S. No. 7 which shows the inter-se seniority of the two.
9. That in the year 1995 3 persons shown at S.No.1, S. No.2, and S. No.5 of Annexure -4 were promoted to the posts of Section Officers. Persons at S. No. 1 and 2 were from General quota whereas the person at S. No. 5 belonged to the category of schedule caste. However, they were all Seniors to the petitioner and he has no grievances over their promotions.

Contd....8...



10. That in 1998 two promotions from the combined group of employees belonging to Audit Assistant Cadre and Assistants Cadre were to be given, one on the basis of promotions based on requisite period of experience and another on the basis of prescribed experience and result of examination held by the department.

Copies of the relevant Orders relating to these two promotions are attached to this petition as Annexure- 5 and 6.

11. That Shri Mathew Thomas, the petitioner and Shri Rakesh Khanna Respondent No. 5 were eligible for their promotions to the post of a Section Officer in terms of the Rules. They were also eligible to sit in the limited departmental examination if their record of service were clean for their recruitment to the post of Section Officers in the Direct Recruitment quota which was 67% of the total posts as laid down by the Rules. However Shri Mathew Thomas alone qualified in the general quota and so he was recommended for promotion to the post of a Section Officer as would appear from Annexure-6. That being the matter the case of Shri Mathew Thomas did not remain a matter for consideration for his promotion to the post of a Section Officer from the quota meant for promotion which was 33% of the total posts as laid down by 1991 Rules. Shri Rakesh

contd....9...

-9-

Shri Rakesh Khanna and the petitioner did not qualify in the limited Departmental Examination. However they were qualified for their consideration for their promotions to the posts of Section Officers from the 33% of the posts reserved for the promotions quota under 1991 Rules.

A copy of the relevant Admit Card and a copy of the format in which relevant recommendation is supposed to be made by the relevant authority for appearance at the limited Departmental Examinations are attached for reference as Annexure- 7 abd 8.

12. That, according to seniority list of the Audit Assistant circulated finally in 1992, Annexure-4, the petitioner is senior to the Respondent No.5. However he was not promoted by Annexure- 6. There is nothing in Annexure- 6 to show that his promotion was considered, held up or rejected for any reason.

13. That, the petitioner, S.No.6 of Annexure-4, and Respondent No.5, S.No.7 of Annexure-4 were allowd to appear at the limited Departmental Examination of 1997 for their selection for appointment to the posts of Section Officer under N.V.S. from 67% of the total vacant posts meant for direct recruits as they were eligible for the same, and there was nothing to debar them from appearing at the said

contd...10...

at the said Examinations. But they did not qualify and so their cases for appointments to the posts of the Section Officer under N.V.S. in 67% of the total posts were lost. However, this did not effect their right for their considerations for promotion as Section Officers in 33% of the total posts meant to be filled up by promotion of eligible Audit Assistants.

14. That, the petitioner represented, as would appear from Annexure- 2 on his non-promotion to the post of Section Officer from the 33% of the total vacant posts. He knew that he was eligible for his promotion in terms of his experiences in the N.V.S., Rules and otherwise.
15. That, the petitioner does not know of any Representation being made by the Respondent No.5 for his promotion to the post of a Section Officer under N.V.S. from the 33% of the total vacant posts of Section Officers reserved to be filled up by promotions of the Audit Assistants.
16. That, Annexure-5 promotions show that 2 of the posts were filled up by promotions of the Audit Assistants and one of them S.C. Bhatt was senior to him and the other, Respondent No.5, was Junior to him vide Annexure-4.
17. That, the petitioner has no grievance in the matter

contd....11...

in the matter of promotions of the Audit Assistants shown at S.No.1,2 and 5 ( 1995-Promotion) and of Shri S. C. Bhatt at S.No.3 of Annexure-4 (Promotion of 1998). However, he has grievance over the promotion of Respondent No.5, his Junior Audit Assistant, in preference, to his case and for arbitrary non-consideration of his case for his promotion to the post of a Section Officer under N.V.S.

18. That, the petitioner has definite reason to feel that he has not been dealt with fairly, bonafidely and reasonably by the concerned Respondents in the matter of his promotion to the post of a Section Officer under N.V.S.
19. That, the petitioner submits respectfully that he has been made to suffer in the manner stated above for no valid reasons.
20. That, the petitioner submits that he was qualified and fully eligible for his promotion to the post of a Section Officer under the N.V.S. Rules of Services and his case has been left without consideration and arbitrarily and therefore, he is entitled to the grant of his prayers, as made by para 1 above.
21. That, the petition is being filed in good faith,

contd....12...

in good faith, bonafidely and for the purposes of upholding the rule of law and for no such purpose which is not justified either on facts in law.

P R A Y E R

Accordingly the petitioner prays that the petition be admitted for hearing, a Rule be issued upon the Respondents to show cause, in the matter of the petition, as to why the Rule be not made absolute and the petition allowed and upon consideration of the show cause, if any, and after hearing the parties, the Rule be made absolute, and the prayer, as made in para 1 above, be granted,

OR

any other order, be passed any other direction or writ as appear to their Lordships fit and proper in their direction, be issued,

And for this the petitioner, as in duty bound, shall ever pray.

Dated, Shillong

PETITIONER.

the \_\_\_\_\_ 199\_\_.

Affidavit.....13...

COMMISSIONER OF AFFIDAVIT



40

### A F F I D A V I T

I, Biswajit Banerjee, aged about 37 years, son of Late Ajit Kumar Banerjee, working as an Audit Assistant in the Regional Office of the Navodaya Vidyalaya Samiti (Ministry of Human Resources Development, Department Education, Government of India, New Delhi), Shillong, Meghalaya, do state on oath as follows :-

1. That, I am the petitioner myself and as such I am fully and properly aware of the facts and circumstances which have given rise to the filing of this Civil Rule Petition.
2. That, the contents of petition vide para 1 to para 21 and those others in Annexure-1 to Annexure-8, have been read by me and also explained to me which I have followed properly and understood fully.
3. That, the Annexures are true copies of the originals, as they are with the deponent, and para 1 refers to the prayers made, para 2 refers to the point for consideration and paras 3 to 17 and 21, relate to the facts which are correct and of which I have personal knowledge and the rest in paras 18, 19 and 20 are of the nature of submissions made before their Lordships for their consideration.

I conceal nothing. May God help me.

Identified by :-

DEPONENT

*B. Banerjee*  
(B. N. Banerjee)  
Advocate, Shillong

solemnly affirmed before this me 16<sup>th</sup>  
of Dec 1998 The declare Identified by  
Mr. B. N. Banerjee is personally known  
I Certified that I read over and explained  
contents to the declarant and that the  
declarant seemed perfectly understand the same

*[Signature]* 16/12  
Commissioner of Affidavits  
Gauhati High Court  
Shillong Bench

From: Shri. B. Banerjee,  
Audit Asstt.,  
NVS.R.O. Shillong.

FAX MESSAGE

011-6466159

Date: 13.7.98

14

u

To,

ANNEXURE

Shri. Rama Rao,  
Joint Director,  
Grievance Cell,  
Navodaya Vidyalaya Samiti,  
A- 39, Kailash Colony,  
New Delhi- 48.

( Through Paper Channel )

Sub: Representation for Judicious Selection of Section Officer in case of Shri. B. Banerjee, Audit Asstt., in the ensuing Departmental promotion committee, be held by the Navodaya Vidyalaya Samiti, Head Quarter New Delhi.

Respected Sir,

I would beg an apology to intrude upon your valuable time to submit this representation to your Authority on the object of drawing your judicious decision in selection of Section Officer, Navodaya Vidyalaya Samiti on true perspective, based on following facts, enumerated herein under :-

2. That Sir, I have joined in the Samiti on 4.4.1989 as Audit Asstt in Lucknow Regional Office. But no promotion has been awarded, so far to me, even at the span of more than 9 (Nine) years, which generally degenerate the very aspiration and ambition of a diligent employee of the Samiti. In this content it may be added that I have already appeared in the Departmental Examination, held on last December ' 1997 for the post of Section Officer but the result has not yet been out till date.

3. It is now learnt on reliable source that selection in the post of Section Officer will be made, on the combination of both the Departmental Examination, held on December ' 97 and through the ensuing Departmental Promotion Committee, with a single combined list.

4. That Sir, even then being a senior most official my position in the seniority list stands at serial 3( three) against general Quota, as reckoned in Head Quarter letter

No. 17/8/92-NVS/Plm dated 2.9.92 which appears to be very prospective and would secure to me a selection.

Contd....

....2....

5. I would therefore represent my case to your kind honour with an aspirant hope, in advance to be kind enough to finalise the issue in judicious manner to derive justice so that I may be relieved of from *anxiety* and from the burden of taking further course to seek the court mercy, if in case the selection does not come to my favour.

Yours faithfully

( B. BANERJEE )  
AUDIT ASSTT, NVS.  
RO. SHILLONG.

Copy forwarded to :-

For information.

Deputy Director, NVS. R.O. Shillong

2. Advance Copy to Shri. Rama Rao, Joint Director, Grievance Cell, Navodaya Vidyalaya Samiti, A- 39, Kailash Colony, New Delhi- 48 for information and for doing proper justice.

3. Spare Copy.

( B. BANERJEE )  
AUDIT ASSTT, NVS. RO.  
SHILLONG. 793001.



16  
ANNEXURE-2

To  
Th ( ) nurag Bhatnagar

I.A.S.

Director,  
Navodaya Vidyalaya Samiti  
A-39 Kailash Colony,  
New Delhi - 110048

(Through proper channel)

Sub : Appeal against irregular supersession of  
Shri. B. Banerjee Audit Asstt in the selection  
of promotion to the post of section officers  
by his junior official Shri. Rakesh Khanna,  
Audit Asstt, Lucknow Regional Officer

Respected Sir,

With due reverence and hearty respect, May I  
submit this appeal to your benevolent door with fervent  
hope to derive justice against the selection of promotion  
made in the post of section officer, Circulated under Samiti's  
Memo F.No. 2-15/97 -NVS (Admn) Dt. 31-7-98 ( a copy which is  
enclosed) for your kind appraisal and immediate ~~reconcili-~~ reconcili-  
ation against the order, appealed against on the facts and  
figure, narrated here-in-under :-

2. That Sir, I got an information on reliable source  
that the selection in the post of section officer would be  
made very shortly on the basis of combination of both the  
list of Departmental promotion Committee and Departmental  
Examination for the post of section Officers, held on last  
December '97' in single combined list. Though I appeared in  
the Departmental Examination for the post of Section Officer,  
the result could not be known to me until both the list of the  
Departmental promotion Committee and Departmental Examination  
have been circulated vide samiti's Memo. F.No-2-15/97-NVS (Admn)  
Dt- 31.7.98 and F.No. 2-5/97 - NVS (Admn) notification  
Dt- 31.7.98 respectively. But the results made me shocked and  
surprised to see that my pretty seniority has been totally,  
ignored and my ( ) Junior Official Shri. Rakesh Khanna has been  
awarded promotion by way of supersession though nothing adverse  
or unfavourable against me was made known to me in any stage.

Contd.....P/2

That Sir, prior to the finalisation promotion, I submitted an advance representation to Shri V.Rama Rao Joint Director, Grievance Cell NVS New Delhi on 14.7.98 (by fax) to finalise the issue in judicious manner with due perspectives on the ambit of Samiti's Rules. So that my pretty seniority and past faithful services for the span of more than 9 years, may not be lost in sight as it deserves.

But illluck it would have been, my honest prayer has lost sight in wilderness. A copy of my Representation made to the Grievance Cell is (enclosed) for ready reference.

4. That Sir, my position in the seniority list, circulated vide Samiti's Memo F.No. 17 - 8/92 - NVS (Admn)-Dt-19.11.92 stands at 3rd position in General Quota, after selection of 3 senior Audit Asstt in the year 1995. Since my immediate senior Shri. Mathew Thomas, has been selected for the promotion in Seperate list of Departmental Examination my Seniority in Departmental Promotion Committee, may rightly be raised up at 2nd position in general Quota which appears to be very favourable and advantageous to my selection.

5. May I therefore be pardoned, having no other option left to me as a last resort to submit this appeal to your kind honour with a fervent hope to derive justice to the cause of issue, appealed against, by your generous decision in the matter in order to relieve me from mental agony for this act of kindness, I shall remain ever grateful to you.

Dated - 13.8.98

17.

Yours faithfully,

(B.Banerjee)  
Audit Asstt R.O.Shillong

Enclosed :-

1. F.No. 17-8/92 -NVS (Admn)  
Dt-19.11.92 (Seniority list)
2. Office order & notification  
Dt-31.7.98
3. Representation Dt- 14.7.98

Copy forwarded to (1) Shri. V.Rama Rao, J.D.(Admn) for information.  
(2) Dy. Director NVS, Shillg. for necessary action please.  
(3) Advance Copy to the Director, New Delhi.

NAVODAYA VIDYALAYA SAMITI  
Ministry of Human Resource Development  
(Department of Education)  
1/6, Siri Fort Institutional Area, Khail Gaon Road,  
New Delhi- 11 00 49

Ref: No. 1-73/88-NVS (Admn.)

Dt. 17.03.1989

To

Shri Biswajit Banerjee  
13, Sunder Bagh  
Lucknow  
Pin-226019

Subject:- Appointment of the post of Audit Assistant in the Navodaya Vidyalaya Samiti in the pay-scale of Rs. 1400-2300, Offer of appointment.

Sir,

I am to offer you the post of Audit Assistant in the Navodaya Vidyalaya Samiti on purely temporary basis. The post carries the pay-scale of Rs. 1400-40-1800-EB-50-2300 plus other usual allowances as admissible under the rules.

2. The terms and conditions of the service will be governed in accordance with the prevailing rules and regulations of the Samiti.

3. You will be on probation for a period of two years which may be extended or terminated at the discretion of the competent authority. Your regularisation in the Samiti will be considered only after completion of probation period successfully.

4. The appointing authority reserves the right to terminate your services at any time without assigning any reason by giving one month's notice or one month's pay in lieu of notice.

5. Your present Headquarters will be at Lucknow. However, you can be posted any where in India at any time during your service in the Samiti.

6. In case you are willing to accept the offer of appointment on the terms and conditions mentioned above, you are requested to report for duty immediately to the following address but not later than 30.4.89 failing which it will be presumed that you are not willing to accept the offer and this offer will automatically stand cancelled:-

The Deputy Director  
Navodaya Vidyalaya Samiti,  
Regional Office, Lucknow,  
B-159, Nirala Nagar,  
Lucknow

7. Your appointment to the post of Audit Assistant will be considered provisional till you are able to produce the following documents to the Head of Office where you join your duties:-

....2/-

- 40
- i) Character Certificates from two Gazetted Officers.
  - ii) Original Educational Qualification Certificates.
  - iii) Matriculation/Higher Secondary Certificate in support of your date of birth.
  - iv) Medical fitness certificates.
  - v) Scheduled Caste/Scheduled Tribe Certificate, if applicable, and
  - vi) Discharge Certificate in the prescribed form of previous Government appointment, if any.
8. Any canvassing for change of posting will lead to the cancellation of offer of appointment.

*(J.N. Sharma)*

Deputy Director (Admn.)

Copy to:-

1. The Deputy Director, Navodaya Vidyalaya Samiti, Regional Office, Lucknow,
2. The Finance and Accounts Wing, Navodaya Vidyalaya Samiti,
3. File No. /89-NVS (Admn.)
4. The ~~5. Singh~~ Pers. & Admn. Officer, Uptron India Limited, Ef-II 31-36, Industrial Area, Sarojini Nagar, Lucknow-226008.

14  
23  
322

NAVODAYA VIDYALAYA SAMITI  
Ministry of Human Resource Development  
(Department of Education)  
A-39, Kallash Colony, New Delhi-110048  
.....

F.No. 17-3/92-NVS (Admn)

Dated: 19.11.92

C I R C U L A R

SUB: Seniority list in the Grade of Audit Assistants borne on the strength of Navodaya Vidyalaya Samiti (Hqrs) and Regional Offices.

On the basis of this Office Circular of even number dated 9.10.92, a seniority list of Audit Assistants borne on the strength of Navodaya Vidyalaya Samiti (Hqrs) and Regional Offices has been finally prepared and enclosed herewith which may please be circulated amongst all the Audit Asstts of Samiti (Hqrs) and Regional Offices for their information.

*(Signature)*  
G.S. SINGH  
DEPUTY DIRECTOR (Admn)

Copy to:-

- 1) All the Regional Offices, Navodaya Vidyalaya Samiti.
- 2) All the Wing's Head at Navodaya Vidyalaya Samiti (Hqrs), New Delhi.

/LKS/

Navodaya Vidyalaya Samiti  
SHILLONG

Diary No

602-1

Date

30.11.92

26  
(52)  
48

SENIORITY LIST OF AUDIT ASSISTANT IN H.V.O. & VEDYADANA SAMITI (HO) AND REGIONAL OFFICES.

S.No.	Name	Date of Joining	Place of Posting	Remarks
1	2	3	4	5
1995-1	Shri S.K. (Ind)	10.4.89	Bhopal	✓ 95 95-
1995-2	Shri Sandeep Datta	10.4.89	HQ, New Delhi	✓
DPC (88)	Shri Satish Ch. Bhattacharya	06.4.89	Lucknow	
1995-3	Shri Mathew Thomas	03.4.89	Hyderabad	
1995-4	Shri Madan Pal (S/C)	01.5.89	Lucknow	✓ 95
5	Sh. Biswajit Hanerjee	05.4.89	-do-	
6	Sh. Rakesh Khanna	31.3.89	-do-	
7	Sh. Kailash Maheswari	30.3.89	Jaipur	
8	Sh. Bijaya Kr. Pradhan	10.4.89	Bhopal	
9	Sh. Bishnu Ch. Panda	10.4.89	Hyderabad	
10	Sh. Ranjeet (S/C)	12.5.89	Chandigarh	✓
11	Sh. Vijaya Singh	04.4.89	Shillong	
12	Sh. V.S. Raveendran	07.4.89	HQ, New Delhi	
13	Sh. Nutalapati Ankinodu	03.4.89	Hyderabad	
14	Sh. S.Y. Dogra	15.5.89	HQ, New Delhi	
15	Sh. Manoj Kumar	26.5.89	Jaipur	
16	Sh. Nagesh R. Naidu	06.7.89	Pune	
17	Sh. T. Joseph Mathew	17.7.89	Chandigarh	
18	Kapil Kr. Sharma	20.11.89	HQ, NVS, New Delhi	
19	Sh. Vitam Kr. Das (S/C)	22.8.90	Shillong	
20	Sh. H.L. Panwar (S/C)	30.1.92	Jaipur	
21	Sh. V.T. Jadhav (S/C)	16.12.91	Bhopal	
22	Sh. G.S. Khadbade (S/C)	10.12.91	Pune	
23	Sh. Tadi Venkateswarlu (S/C)	13.12.91	Hyderabad	
24	Sh. Nelson Singh (S/T)	13.12.91	Jaipur	
25	Sh. G.L. Meena (S/T)	09.1.92	-do-	
26	Sh. Ram Singh Meena (S/T)	08.1.92	Chandigarh	

(D.S. SINGH)  
DEPUTY DIRECTOR (ADMN)

/bks/

NAVODAYA VIDYALAYA SAMITI.  
A-39, KAILASH COLONY, NEW DELHI-110048.

F No.2-15/97-NVS (Admn).

Dated: 31st Jul, 90.

OFFICE ORDER No. 138/90.

On the basis of the recommendations of the Departmental Promotion Committee, the following Asstts./Audit Assts. working in the Navodaya Vidyalaya Samiti are promoted to the post of Section Officer in the scale of pay of Rs. 6500-200-10500/- in the Navodaya Vidyalaya Samiti. Their promotion will take effect from the date they assume charge of the post of Section Officer at their respective place of posting as given against their names:-

Sl.No.	Name	Present place of posting	Posting on Promotion.
1.	Sh.S.C.Dhatt, Audit Asstt.	R.O., Lucknow	R.O., Lucknow.
2.	Sh.S.K.Nayak, Assistant	NVS Hqrs.	NVS Hqrs.
3.	Sh.N.Vijayan, Assistant	R.O., Jaipur	R.O., Shillong.
4.	Sh.Rakesh Khanna Audit Asstt.	R.O., Lucknow	R.O., Lucknow.
5.	Sh.S.S.Mishra, Assistant.	R.O., Patna	R.O., Patna.

2. They will be on probation for a period of two years from the date of actual joining the post, which can be extended at the discretion of competent authority.

Sd/-  
(V.RAMA RAO)  
JOINT DIRECTOR (ADMN),

Copy to :-

1. Sh.S.C.Dhatt, Audit Asstt., NVS, R.O., Lucknow.
2. Sh.S.K.Nayak, Asstt., NVS, Const. Wing, New Delhi.
3. Sh.N.Vijayan, Asstt., NVS, R.O., Jaipur.
4. Sh.Rakesh Khanna, Audit Asstt., R.O., Lucknow.
5. Sh.S.S.Mishra, Asstt., NVS, R.O., Patna.
6. Dy. Director, NVS, R.O., Lucknow/Jaipur/Patna/Shillong.

Controlling Officers are requested to relieve the persons concerned from their duties immediately to enable them to report for assuming new assignment as Section Officer and accordingly send their joining reports to this office at the earliest.

7. G.M. (Const.), NVSHqrs, New Delhi.
8. Dy. Director (Fin), NVS, New Delhi.
9. DDO, NVS, New Delhi.
10. Personal File
11. Service Book.
12. PS to Director.
13. Office Order File.

F.No.2-5/97-NVS(Admn.)

Dated: 31st Jul '98

NOTIFICATION

On the basis of their performance in the Limited Departmental Competitive Examination held in December '97 for promotion to the post of Section Officer, the following have been recommended for appointment to the post of Section Officer by the D.P.C. in order of merit :-

S.No.	Name	Present place of posting/ Office
01	Shri Mathew Thomas, Audit Assistant	R.O., Hyderabad
02	Shri N.K. Pawha, Assistant	R.O., Chandigarh
03	Shri N.R. Naidu, Audit Assistant	R.O., Pune
04	Shri Pradeep Choudhary, Office Supdt.	JHV, Dumka
05	Shri Ramjeet, Audit Assistant	R.O., Chandigarh

2. Separate orders of promotion-cum-posting will be issued shortly.

( V. RAMA RAO )  
JOINT DIRECTOR (ADMN.)

Copy to :-

1. All official concerned.
2. Deputy Directors, All Regional Office of NVS.
3. Deputy Director (Pers.), NVS HQrs., New Delhi.
4. Deputy Director (Fin.), NVS HQrs., New Delhi.
5. PS to Director.



1. C.A. (Const.) / Post, NVS, RO, Patna.

2. By Director, NVS, RO, Lucknow/Jalpur/Litna/Shillong.  
Controlling Officers are requested to relieve the persons concerned from their duties immediately to enable them to report for assuming new assignment as Section Officer and accordingly send their joining reports to this office at the earliest.

3. C.A. (Const.), NVS Hqs., New Delhi.

4. By Director (Fin.), NVS, New Delhi.

5. LEO, NVS, New Delhi.

6. Personal file (05 copies).

7. Service Book (05 copies).

8. Re to Director.

9. Office Order file.

Roll. No - S.O./143/97

24

52

## CANDIDATE'S ATTENDANCE SHEET

1. Name of the candidate:- *BISWAJIT BANERJEE*2. Date of Birth :- *05-05-1961.*3. Father's name *LATE A.K. Banerji*4. Postal address:- *NVS. R.O.**SHILLONG.*

( )  
 Community to  
 belong  
 ( ) ( ) ( ) ( ) ( )

*General*

Centre of examination *Jawahar Navodaya Vidyalaya*  
 Section- *25 Chandigarh.*  
 (Phone-0172-710236)



Photo

Signature of the candi

Annexure - 8

PART-II

(TO BE FILLED IN BY THE OFFICE WHILE FORWARDING APPLICATION)

(To be filled in by the Deputy Director, In-charge of the Region under which the candidate is working in case of candidates posted at a place other than Headquarters of Navodaya Vidyalaya Samiti. For candidates posted at Headquarters, this is to be filled by Asstt. Director (Admn.), Navodaya Vidyalaya Samiti Headquarters.)

1. The entry relating to his/her date of birth has been verified with reference to his/her service records and is correct.
2. The entry relating to his/her claim to belong to SC/ST community has been verified with reference to his/her service records and is correct.
3. The entries made by Shri/Smt./Km./ relating to his/her grade and his/her date of regular appointment thereto have been verified with reference to his/her service records and are correct.
4. The orders for his/her permanent absorption in the grade in the Samiti have been issued vide no.....dt.....
5. No disciplinary/vigilance case is either pending or contemplated against him/her and there are no circumstances rendering him/her unsuitable for his/her promotion to the post of Section Officer in the Samiti.
6. Certified that he/she submitted his/her application on\_\_\_\_\_, for onward transmission to DD(Admn.), NVS Hqrs.

SIGNATURE

NAME

DESIGNATION

ADDRESS

INSTRUCTIONS FOR FILLING THE APPLICATION FORM

1. Before filling in the application form, the candidates should ensure that they are eligible.
2. The application form must be completed by the candidate in his own handwriting in ink/with ball point pen. Application which is incomplete or is wrongly filled in will be rejected and no representation or correspondence in this regard will be entertained under any circumstances.
3. The candidates applying for the examination should ensure that they fulfil all the eligibility conditions for admission to the examination. Their admission at all the stages of examination for which they are admitted by the Samiti viz. written examination and evaluation of service record will be purely provisional, subject to their satisfying the prescribed eligibility conditions. If on verification at any time before or after the written examination or evaluation of service records, it is found that they do not fulfil any of the eligibility conditions, their candidature for the examination will be cancelled by the Samiti.
4. A candidate working under the charge of a Deputy Director Incharge of a Region should send his application through the Deputy Director concerned, who will verify the relevant entries in the application form before forwarding it to Deputy Director (Admn.).
5. A candidate must send the following documents with his application form:-
  - i) 2 identical copies of his/her photographs (Recent Passport size photographs 5x7 Cms. approximately).
  - ii) Each copy of the photograph should be signed in ink on the front by the candidate.
  - iii) One self-addressed unstamped envelope. The candidate should write neatly his complete postal address on the envelope.

Candidates are entitled only to II Class rail/ordinary bus fare for attending examination at the allotted centre through shortest route from the place of their posting.

\*\*\*\*\*

(26)

FILED BY: The Respondents  
THROUGH: Mr. R.S. CHOWDHURY  
ADVOCATE  
20/05/03

20 MAY 2003  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH  
GUWAHATI

O.A. NO. 196(SH)/1998 (O.A. NO. 297(T)/2002)

Shri Biswajit Banerjee ... APPLICANT/

-Vs-

U.O.I. & Ors. ... RESPONDENTS

WRITTEN STATEMENTS FILED ON BEHALF OF THE  
RESPONDENT NOS. 2, 3, 4 & 6

I, Sri Debananda Hazarika, Deputy Director, Navodaya Vidyalaya Samiti, Regional Office, Nongrim Hills, Shillong-3, do hereby solemnly affirm and state as follows :

1. That I am the Deputy Director, Navodaya Vidyalaya Samity, though the Petitioner herein, has not impleaded the answering Respondent as a Party Respondent, however the Deponent is authorised to swear this Written Statement on behalf of the Respondent Nos. 2, 3, 4 and 6. A copy of the application of the said Case has been served upon me. I have perused the same and understood the contents thereof. Be it stated herein that a separate Misc. Petition has been filed before this Hon'ble Tribunal to implead the answering Respondent as a Party Respondent in the O.A. No. 297(T)/2002.
2. That I am well acquainted with the facts and circumstances of the Case and have been duly authorised to swear

( 2 )

this affidavit on behalf of the other Respondents.

3. That all the averments and submissions made in the Original Application are denied by the answering Respondent, save and except those which have been specifically admitted herein and that which appear from the records of the Case.

4. That with regard to the statements made in Paragraph 1 of the Original Application, the answering Respondent refrains from making any comments thereon at this stage and reserves the right to counter the same in subsequent paragraphs herein.

5. That with regard to the statements made in Paragraphs 1, 3 and 4, the answering Respondent has no comments to offer.

6. That with regard to the statements made in Paragraph 5 of the Original Application, the Deponent states that the representation submitted by the Petitioner was duly examined by the competent authority in the light of the instructions issued by the Govt. of India. It is pertinent to mention here that Disciplinary Proceedings against the Petitioner was pending for mis-appropriation of Govt. money and tampering the records etc. Accordingly, the Petitioner was placed under suspension vide Order No. 19-1/99-NVS (Admn) dated 13.9.1999 and charge sheeted vide Memorandum No. 19-1/98-NVS (Admn) dated 1.6.1999. Out of VII charges framed against the Petitioner, Articles of Charges, Article Nos. I, II and

-28-

( 3 )

IV have been proved and the Disciplinary Authority vide Order No. 19-1/98-NVS (Admn) dated 8.12.2000 has awarded the penalty in pursuance of the powers conferred under Central Civil Service (Classification, Control and Appeal) Rules, 1965 imposed the penalty of "Reduction to a lower stage in the time scale of Pay for a period of three years with cumulative effect" followed by another Order vide the Disciplinary Authority No. 19-1/98-NVS (Admn) dated 8.12.2000 has treated the suspension period from 13.9.1999 to 7.12.2000 as "Dienon" for all purposes"

It is not a fact that the Petitioner's name was not considered for promotion. His Case was also considered by the duly constituted Departmental Promotion Committee and since the Departmental Proceedings were pending against the Petitioner, sealed cover proceedings had been adopted by the D.P.C. as per law.

Copies of all the relevant Orders dated 7/8.12.2000 are annexed herewith and marked as ANNEXURE - A, B & C respectively.

7. That with regard to the statements made in Paragraphs 6(a) and 6(b), the Deponent states that the Applicant was initially appointed as Audit Assistant with effect from 15th April, 1989 on direct recruitment basis and the Applicant was initially appointed as an Audit Assistant in the pay scale of Rs. 1400-2300/- which was later revised to Rs. 1400-2600/- with effect from June, 1991 and to

( 4 )

Rs. 1640-2900/- respectively with effect from 28th February, 1986 and Rs. 5500-9000/- with effect from 1st January, 1996, consequent upon the adoption of the recommendation of the Fifth Central Pay Commission by Navodaya Vidyalaya Samiti. However, the Pay scale of Rs. 1640-2900 (Pre-revised), Rs. 5500-9000/- (revised) is subject to the final outcome of the decision of the Hon'ble High Court of Delhi in the LPAs filed by Navodaya Vidyalaya Samiti and Union of India. With regard to the statements made in Para 6(c), (d) and (e), the same being matters within the knowledge of the Applicant deserves no comments from the Respondent/Deponent.

8. That while denying the statements made in Paragraph 7, the answering Respondent respectfully submits that as per the existing Recruitment Rules of the NVS with effect from 22nd June, 1995, the post of Section Officer in the Pay scale of Rs. 6500-200-10,500/- is required to be filled 50% by promotion on the basis of Merit-cum-Seniority among the Assistants and Audit Assistants who have completed 6 years of regular service in the grade. The rest 50% are to be filled up by Limited Departmental Examination from among Office Superintendents with 4 years of service and Assistants/Audit Assistants/ Legal Assistants/Statistical Assistants/Editorial Assistants with 5 years of regular service in the grade and the above promotion is also to be made on the basis of selection. As such, the statements made in Paragraph 7 are incorrect and are hereby denied.



( 5 )

A copy of the relevant Recruitment Rules is annexed herewith and marked as ANNEXURE - D.

9. That with regard to the statements made in Paragraphs 8, 9 and 10, the same being matters of record, the answering Respondent has no comments to offer thereon.

10. That with regard to the statements made in Paragraph 11, the answering Respondent submits that the Limited Departmental Examination for the post of Section Officer was held on 27th and 28th December, 1997 and the results were declared only on 31st July, 1998, wherein Audit Assistants, namely Shri Mathew Thomas (Seniority No. 4) and Shri Ramjeet (Seniority No. 13) and Shri N.R. Naidu (Seniority No. 17) were declared qualified in the Test and accordingly, they were promoted. While in the case of promotion on regular line against merit-cum-seniority quota, Shri Rakesh Khanna (Seniority No. 7) was recommended by the Departmental Promotion Committee held on 23.6.1998 and accordingly Shri Rakesh Khanna was given promotion to the post of Section Officer. It is pertinent to state herein that the Applicant was also in the 'zone of consideration' and was accordingly considered for promotion by the duly constituted Departmental Promotion Committee held in June, 1998. However, the said D.P.C. adopted the 'Sealed cover Procedure' in the case of the applicant, as it was decided to initiate a Departmental Inquiry against him.

( 6 )

11. That with regard to the statements made in Paragraph 12, the answering Respondent humbly submit that in the final seniority list circulated by the Respondents, the position of the Applicant was at Sl. No. 6 and the position of the Respondent No. 5 was at Sl.No. 7. However, as stated in the foregoing Paragraphs, the Case of the Petitioner for promotion to the post of Section Officer was placed under "Sealed Cover Procedure" due to the pending/contemplated Departmental Inquiry against the Applicant.

12. That while denying the statements made in Paragraphs 13 and 14, of the Original Application as incorrect, the answering Respondent reiterates the statements made in Paragraphs 8 and 10 herein above.

13. That with regard to the statements made in Paragraph 15, the answering Respondent has no comments to offer. However, it is pertinent to mention that as per the Samiti's Rules, no individual representation is required for considering cases against promotion quota.

14. That with regard to the statements made in Paragraphs 16 and 17 of the Original Application, the answering Respondent submits that the promotion against 50% quota is made purely on Merit-cum-Seniority basis as per the recruitment rules, where the minimum bench mark in the ACRs for the preceeding 5 (five) years should be good or above in addition to Vigilance Clearance and Integrity. The question of seniority alone cannot stand

( 7 )

anywhere and as such, the Petitioner cannot have any grievance against the promotion of Respondent No. 5 who was recommended by the D.P.C. on the principle of Merit-cum-Seniority, merit being the determining factor.

Since the departmental Inquiry was pending against the Petitioner, the D.P.C. had adopted "Sealed Cover Procedure" and recommended the name of Respondent No. 5 for promotion who is junior to the Petitioner which was within the laid down procedure and law. Hence, the recommendation of the D.P.C. for the promotion of Respondent No. 5 is in order.

15. That with regard to the statements made in Paragraphs 18, 19 and 20, the answering Respondent states that the same are wholly baseless and are not tenable in law and fact and are hereby denied by the answering Respondent. No unfair treatment have been meted out to the Applicant/Petitioner. In this regard, the Deponent respectfully submits that, promotion is not a matter of right and mere possession of the prescribed qualification or the length of service does not entitle a candidate to promotion to a higher grade automatically. As a matter of fact, all the promotion are given effect to only on the basis of recommendation made by the duly constituted Departmental Promotion Committee which duly considers the records/performance of all the candidates who fall within the zone of consideration. The allegations of arbitrariness are therefore misplaced and are hereby denied.

33-  
12

( 8 )

16. That with regard to the statements made in Paragraph 21, the answering Respondent respectfully submits that the Petition has been filed by suppression and mis-representation of facts and there has been no violation of the rule of law as alleged by the Applicant/Petitioner and the Application is liable to be accordingly dismissed.

... VERIFICATION ...

VERIFICATION

I, Shri Debananda Hazarika, Son of Late Domborudhar Hazarika, working as Deputy Director in the Navodaya Vidyalaya Samiti, Regional Office, Nongrim Hills, Shillong (Meghalaya), do hereby verify that the statements made in Paragraph 1 to 5, 6 (pt), ~~7, 8 (pt), 9 to 16~~ <sup>7, 8 (pt), 9 to 16</sup> are true to my knowledge and those made in Paragraph 6 (pt), 8 (pt) are true to my <sup>information derived from records.</sup> and I have not suppressed any material fact.

And I sign this verification on this the 20<sup>th</sup> day of May, 2003.

*Debananda Hazarika*

DEPONENT

Deputy Director  
Navodaya Vidyalaya Samiti  
Regional Office Shillong 793003

**NAVODAYA VIDYALAYA SAMITI**  
**A-39, KAILASH COLONY, NEW DELHI-110048**

**(ADMINISTRATION WING)**

F.No.19-1/98-NVS(Admn.)

Dated: 07-12-2000  
as

**ORDER**

Whereas disciplinary proceedings under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965) were instituted against Shri B.Banerji, Audit Assistant, NVS, H.Qrs. vide this Office Memorandum No.19-1/98-NVS(Admn), dated 1-6-1999 on the following articles of charge.

**Article of charge - I**

That the said Shri. B. Banerjee, Audit assistant, while functioning as Cashier as well Accounts Officer Incharge during the period 1996-97 had drawn a total advance of Rs.12000 in his favour as per the following details i)Rs.2000 on 20.09.96, ii)Rs.7000 on 26.11.96 and iii)Rs.3000 on 29.11.96 for purchasing rules books against which an adjustment voucher of Rs.11013 had been submitted and Rs.987/- had been shown in the receipt side of the cash book on 31.03.97, whereas factually this amount was not deposited in the Bank account of the Samiti on 31.03.97. This amount was later deposited by Shri Banerjee only on 23.05.97 as per entries in the cash book. Shri Banerjee thus fraudulently made a fictitious entry to show a deposit of Rs.987/- in the cash book on 31.03.97 which amount was actually not deposited on that date and thereby failed to maintain absolute integrity and exhibiting conduct unbecoming of a govt. servant, violative of Rule-3 of CCS(Conduct) Rule, 1964 as applicable to employees of the Samiti.

**Article of Charge-II**

That during the period 1996-97 and while functioning in the aforesaid office, the said Shri B. Banerjee, Audit Assistant had drawn an advance of Rs.60,000/- (Two advanced of Rs.50,000/- and Rs.10,000/- on 03.10.96 & 10.10.96) in his favour for the expenditure in connection with the payment of TA etc. to the candidates appearing for interview for the post of TGT & Misc. Categories teacher etc. He submitted an adjustment voucher of Rs.33,319/- on 28.02.97 against advance of Rs.60,000/- and unspent balance of Rs.26,681/- was shown as deposited into bank, in the columns of cash book whereas actually this amount had not been deposited into bank on that date. This amount of Rs.26,681/- was actually deposited back in Samiti's account on 23.05.97.

When this fictitious entry of amount deposited into the bank, came to the notice and the said Shri B. Banerjee was asked to explain these entries, Shri Banerjee corrected these entries using white fluid and thus tempered with official records. By this act, Shri Banerjee who was functioning as Accounts Officer Incharge at the relevant time has committed gross irregularity in the discharge of official duties and misuse of official position and power of

*Certified to be true copy.*

*R. P. Chowdhury*  
*Advocate*

Accounts Officer Incharge for personal gain and thus failed to maintain absolute integrity and devotion to duty violative of Rule-3 of CCS(Conduct) Rule-1964 as applicable to employees of the Samiti.

### Article of charge-III

That during the period for 01.01.1996 to June, 1997 and while functioning in the aforesaid office, the said Shri B. Banerjee, Audit Assistant had deposited an unspent amounts of Rs.987/- and Rs.26,681/- (Total Rs.27,668/-) out of advances drawn by him for official purposes during 10/96 and 11/96 on 23.05.97 only when he was put under pressure of Dy. Director, NVS, RO, Shillong. Thus he kept the balance Govt. money of Rs.27,668/- for personal gain with a dishonest motive while suppressing the material information and fact from the authorities, thereby exhibiting conduct unbecoming of a govt. servant and failed to maintain absolute integrity and thus violated Rule-3 of CCS(Conduct)Rule,1964 as applicable to employees of the Samiti.

### Article of charge-IV

That during the aforesaid period and while functioning in the aforesaid office, the said Shri Banerjee tried to misappropriate Govt. fund to the extent of Rs.27,668/- by making fictitious entries in the cash book and later on tampering the official record at page 59 to 87 of cash book Vol.VII and thereby exhibiting doubtful integrity violative of Rule-3 of CCS (Conduct) Rule,1964 and Rule-8 of General Financial Rules as applicable to employees of the Samiti.

### Article of charge-V

That during the aforesaid period and while functioning in the aforesaid office, the said Shri Banerjee has drawn 05 advances of Rs.72,000/- (period 20.09.96 to 29.01.97) without the adjustment of previous advances which is not in accordance with the Govt. instructions issued vide Order F.11(1)-E.II(A)/88 dt.29.11.1990.

Being Accounts Officer Incharge and knowing the rule position, Shri Banerjee has suppressed the material information and rule position from the Controlling Officer and thereby failed to maintain absolute integrity, in the discharge of his official duties as assigned during the period with a dishonest motive and for personal gain violative of Rule-3 of CCS (Conduct) Rules 1964 as applicable to employees of Samiti.

### Article in charge-VI

That during the aforesaid period and while functioning in the aforesaid office, the said Shri Banerjee has drawn an amount of Rs.13,000/- on 15.10.96 as scooter advance by violating the normal procedure for sanctioning the scooter advance and overruling the notes of dealing Asstt. As per GFR 206 and Govt. of India's decisions, the proof for the purchase of conveyance should be submitted within one month from the date on which he draws advance and sanctioning authority should ensure utilization of advance. But no proof for the purchase of scooter has been furnished by Shri Banerjee till 22.09.98 thereby exhibiting conduct unbecoming of a Govt. servant, gross negligence in respect of the duties

and untrustworthiness violative of Rule-3 of CCS (Conduct) Rules-1964 as applicable to employees of the Samiti.

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Article in charge-VII

That during the aforesaid period and while functioning in the aforesaid office, the said Shri B. Banerjee has been claimed and allowed a portion of LTC by Private Bus for Rs.714.00 (V.No.Nil dated 31.03.98 for Rs.8710/-) while journey on LTC by Private Buses is not allowed. Shri Banerjee irregularly claimed the LTC and was admitted ignoring the rules of LTC thereby exhibiting conduct of misuse of official position and power for personal gain violative of Rule-3 of CCS (Conduct) Rule-1964 as applicable to employees of the Samiti.

A statement of imputations of Misconduct or Misbehaviour on which the articles of charge were based, together with a list of documents by which, and a list of witnesses by whom, the charges were proposed to be sustained, were also forwarded to him along with the above said Memorandum dated 1-6-1999.

2. Shri B.Banerjee, Audit Assistant denied the charges vide his letter dated 10-8-1999. Accordingly, Shri K.K.Sharma, Assistant Director(Fin.), NVS, H.Qrs was appointed as the Inquiring Authority to inquire into the charges vide order No.19-1/98-NVS(Admn.) dated the 30<sup>th</sup> August, 1999.

3. And whereas the Inquiring authority vide his Report dated 30-6-2000 gave a finding that on the basis of oral and documentary evidence, written brief of Charged Officer and P.O., adduced during proceedings, the following are the findings:

- i) Article of Charge No.I is proved.
- ii) Article of Charge No.II is proved.
- iii) Article of Charge No.IV is proved.

4. And whereas a copy of the report of inquiry was sent to Shri B.Banerjee, Audit Assistant vide, this Office Memorandum No.19-1/98-NVS(Admn.) dated 24-8-2000 and he was given an opportunity of making such submissions on the report of inquiry as he desired. His submissions on the Report of inquiry were received vide his letter dated 3-9-2000. The said representation of Shri B.Banerjee has been carefully considered. The various points raised by him examined in the light of records of the case are given below:-

The ground taken by Charged officer in his written representation dated 3-9-2000 has no merit to disprove the inquiry report and to interpret that the Inquiry Officer is biased. Since, the Inquiry Officer has not found the Charged Officer guilty in all the other charges.

5. And whereas on careful consideration of the report of the Inquiry Officer and other records of the case in the light of the submissions made by Shri B.Banerjee in his observation on report of the inquiry the undersigned has decided to accept the findings of the Inquiry Officer.



64

circumstances of the case, the undersigned has come to the conclusion that Shri B. Banerjee, Audit Assistant has exhibited intention to involve in financial irregularities by making fraudulent entries in the cash book, reconciliation statement and failed to maintain absolute integrity and exhibited conduct in becoming of a Government Servant. The undersigned is of the view that ends of justice would be met if the penalty of reduction to a lower stage in the time scale of pay of Shri B. Banerjee for a period of Three years with cumulative effect is imposed on Sh. B. Banerjee.

7. Now, therefore, the undersigned in pursuance of the powers conferred under Central Civil Services (Classification, Control and Appeal) Rules, 1965, hereby impose the penalty of a reduction to a lower stage in the time scale of pay of Shri B. Banerjee for a period of three years with cumulative effect with immediate effect.

*V.K. Sharma*  
(V.K. SHARMA)  
DY. DIRECTOR (P&E)

To

Sh. B. Banarjee,  
Audit. Assistant,  
NVS, Regional Office,  
Bhopal.

Copy to:

1. The Dy. Director, NVS, Regional Office, Shillong.
2. The Dy. Director, NVS, Regional Office, Bhopal.
3. A.C.R. folder.
4. Service book.

NAVODAYA VIDYALAYA SAMITI  
A-39, KAILASH COLONY, NEW DELHI-110048

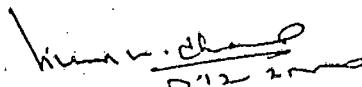
F.No.19-1/98-NVS(Admn.)

Dated: 07-12-2000  
08

ORDER

Whereas a case against Shri B.Banerjee, Audit Assistant, NVS, H.Qrs., under suspension was made by order 19-1/99-NVS(Admn.) on 13-9-1999.

Now, therefore, the undersigned in exercise of the powers conferred by clause(c) of Sub-rule(5) of Rule 10 of the Central Civil Services(Clarification, Control and Appeal) Rules, 1965, hereby revokes the said order of suspension with immediate effect.

  
(V.K.SHARMA)  
Dy.DIRECTOR(P&E)

Copy to:

1. Shri B.Banerjee, Audit Asst., NVS, R.O., Bhopal.
2. The Dy.Director, NVS, Regional Office, Bhopal.
3. The Dy.Director, NVS, Regional Office, Shillong.
4. The Dy.Director, NVS, Regional Office, Chandigarh.
5. Service Book.
6. A.C.R. Folder.
7. Office order file.

Certified to be true copy.

R. S. Chowdhury  
Advocate

NAVODAYA VIDYALAYA SAMITI  
A-39, KAILASH COLONY, NEW DELHI-110048

F.No.19-1/98-NVS(Admn.)

Dated: 07-12-2000  
08

ORDER

Consequent upon revocation of suspension order vide No.19-1/98-NVS(Admn.) dated 07-12-2000, Shri B.Banerjee, Audit Assistant, NVS, H.Qrs is hereby posted to NVS, R.O., Chandigarh with immediate effect with the direction to report to Dy.Director, NVS, R.O., Chandigarh immediately. The period of suspension in respect of Shri B.Banerjee with effect from 13-9-1999 to 7-12-2000 will be treated as "dies-non" for all purposes.

*V.K. Sharma*  
2.12.2000  
(V.K.SHARMA)  
Dy.DIRECTOR(P&E).

Copy to:-

1. Shri B.Banerjee, Audit Asst., NVS, R.O., Bhopal.
2. The Dy.Director, NVS, R.O., Bhopal.
3. The Dy.Director, NVS, R.O., Shillong.
4. The Dy.Director, NVS, R.O., Chandigarh.
5. A.D(Admn.), NVS, H.Qrs.
6. Service Record.
7. Office order file.

*Certified to be true copy.*

*R. S. Chowdhury*  
*Advocate*

- 16 -

# NAVODAYA VIDYALAYA SAMITI

ANNEXURE-2  
(41)

MINISTRY OF HUMAN RESOURCE DEVELOPMENT  
(DEPARTMENT OF EDUCATION)

A-39, Kailash Colony, New Delhi - 110048

No.F.2-29/94-NVS(Admn.)

Dated: 22nd June, 1995

## NOTIFICATION

In exercise of the powers conferred under Rule-24 of the Rules of Navodaya Vidyalaya Samiti, the Executive Committee of the Samiti hereby makes the following rules in modification of the rules notified vide notification No. F.1-67/89-Admn. dated 7 June, 1991, for regulating the method of recruitment to all the posts in the Navodaya Vidyalaya Samiti :

### 1. SHORT TITLE AND COMMENCEMENT

- (i) These rules may be called Navodaya Vidyalaya Samiti Recruitment (Revised) Rules, 1995.
- (ii) They shall come into force on the date of their notification.

### 2. FUTURE MAINTENANCE OF THE SERVICE

- (i) All persons appointed on direct recruitment basis in accordance with the Recruitment Rules notified earlier vide notification No. F.1-67/89-Admn. dated 7th June, 1991, or under any administrative instructions existing prior to notification of these Rules, or on permanent absorption basis in accordance with the Permanent Absorption Rules of the Samiti, shall continue in the substantive posts held by them.
- (ii) All the appointments in the Samiti after the notification of these Rules shall be made only in accordance with the provisions of these Rules. Appointments to existing posts not covered by these Rules shall continue to be in accordance with the Recruitment Rules notified on 7th June, 1991 mentioned above.
- (iii) Persons who have joined on deputation to various posts in the Samiti one year before the date of notification of these Rules, shall be given one opportunity of consideration for permanent absorption in their respective post after notification of these Rules, against direct recruitment vacancies unless otherwise specified in the Schedule hereto. Such of the deputationists who are not recommended for absorption shall continue in the same capacity till completion of their deputation period subject to administrative exigencies. Thereafter any deputationist seeking permanent employment in the Samiti will have to apply for direct recruitment as per prescribed rules.
- (iv) All teaching staff other than Principals, and Vice-Principals and PGTs and all non-teaching staff upto and including Office Superintendents working in Navodaya Vidyalayas in a region, shall be borne on the concerned Regional Cadre. The seniority of Post Graduate Teachers, which is a feeder post for promotion to Vice-Principal, would be maintained on all-India basis.

Certified to be true copy.

R.S. Chowdhury  
Advocate -

- (v) All Group 'A' and 'B' employees of the Samiti including Principals and Vice-Principals, will be borne on respective all-India Cadres. The seniority of employees borne on Regional Cadre will be maintained at the Regional basis. Notwithstanding anything contained herein any class or category of posts and incumbents thereof, may be placed in the Regional Cadre or All India Cadre, as the case may be, by general or special orders of Directory, NVS

### 3. NUMBER OF POSTS, CLASSIFICATION AND SCALES OF PAY

The number of posts, their classification and the scales of pay attached thereto shall be as specified in columns 2 to 4 of the Schedule annexed to this notification.

NOTE : Teachers are entitled for senior scale and selection grade in accordance with Govt. of India orders dated 20th Sept., 1987 as amended from time to time.

### 4. METHOD OF RECRUITMENT, AGE-LIMIT AND OTHER QUALIFICATIONS

- (i) The method of recruitment, age-limit, qualifications and other matters relating to the said posts shall be as specified in columns 5 to 11 of the said Schedule.

NOTE : In columns 7 and 11 of the Schedule, wherever, regular service in a specific scale of pay is mentioned as part of qualification/experience for the post, the allowances attached to that scale shall be comparable or equivalent to that prescribed by the GOI.

- (ii) For promotion to the various posts under the Samiti, the composition of the departmental promotion committees for different categories of posts will be as given in Appendix-1A to the Schedule.

The composition of selection committees for appointments to various categories of posts under the Samiti will be as given in Appendix-1B to the Schedule.

- (iii) The scheme of the Navodaya Vidyalayas provides for admission of girls to the extent of atleast one-third of the students in each Vidyalaya. In order to effectively manage the residential and custodial requirements of girl students, the Director of the Samiti may decide during each selection to enlarge the zone of consideration by upto 50 % for female candidates in order to facilitate recruitment of more female candidates for direct recruitment in respect of all teaching posts in the Vidyalayas.

- (iv) In order to encourage more female candidates to apply for teaching jobs in the Samiti, the upper age-limit in case of female candidates applying for teaching posts in the Vidyalayas would be extendable by 10 years while deciding their eligibility.

- (v) In cases where promotion has been prescribed as a method of recruitment, the eligibility list for promotion shall be prepared with reference to the date of completion by the officers of the prescribed qualifying service as on 1st October of the Recruitment Year in their respective grade/post. The Recruitment Year for promotions will be the calendar year.

- (vi) Notwithstanding anything contained in these Rules, the Director of the Samiti may, in case of urgent need, permit appointment on short-term contract against any post included in these Rules, on a consolidated remuneration, provided that the amount of remuneration shall not exceed the pay plus dearness allowance admissible at the minimum of the pay of the post. In such cases the contract period shall not normally exceed one year unless otherwise specified.

### 5. DISQUALIFICATION

No person -

- (a) Who has entered into or contracted a marriage with a person having a spouse living, or  
(b) having a spouse living has entered into or contracted marriage with any person, shall be eligible for appointment to the said post. Provided that the Samiti may, if satisfied that such marriage is permissible under the Personnel Law applicable to such person and the other party to the marriage and there are other grounds for so doing, exempt any person from the operation of this Rule

6. POWER TO RELAX

When the Executive Committee of the Samiti upon a recommendation made by the Director to that effect, is of the opinion that it is necessary or expedient to do so, it may, for reasons to be recorded in writing, relax any of the provisions of these Rules with respect to any class or category of posts or persons. All administrative orders/instructions providing for any relaxation, exemption etc. of the provisions of Recruitment Rules issued prior to notification of these revised Rules shall stand superseded after notification of these Rules.

7. SAVINGS

Nothing in these Rules shall affect reservations, relaxations in age-limit and other concessions required to be provided by the Samiti for the Scheduled Castes, Scheduled Tribes, Ex-servicemen and other special categories of persons in accordance with the orders issued by the Government of India from time to time in this regard.

8. INTERPRETATIONS

Any question relating to interpretation of these Rules shall be decided by the Director, Navodaya Vidyalaya Samiti.

*Neeru Nanda*

(NEERU NANDA)  
DIRECTOR

## NVS SCHEDULE OF POSTS AT HEADQUARTERS & REGIONAL OFFICES

1	Name of post :	SECTION OFFICER
2	No. of posts :	Headquarters = 7 Regional Offices = 14 <u>Total = 21</u>
3	Classification :	Group 'B' Ministerial
4	Scale of pay :	Rs. 2000-60-2300-EB-75- 3200-100-3500
5	Whether Selection post or non-Selection post :	Selection <input checked="" type="checkbox"/>
6	Age limit for direct recruits :	N.A.
7	Educational and other qualifications required for direct recruits :	N.A.
8	Whether age and educational qualifications for direct recruits will apply to promotees :	N.A.
9	Period of probation, if any :	2 years
10	Method of rectt. whether by direct rectt. or by promotion or by deputation/transfer & percentage of vacancies to be filled by various methods :	50% by <u>promotion</u> failing which by transfer on deputation and/or short-term contract. ✓  50% by <u>limited departmental examination</u> failing which by transfer on deputation and/or short-term contract.
11	In case of rectt. by promotion/deputation/transfer grades from which promotion/deputation/transfer to be made :	<b>PROMOTION</b>  From among all the Assistants and Audit Assistants with 6 years of regular service in the grade in the Samiti.  <b>DEPARTMENTAL EXAM</b>  From among eligible (i) Office Suptds. with 4 years of regular service in the grade in the Samiti (ii) Legal Assistant/Statistical Assistant/Editorial Assistant/Assistants/Audit Assistants/Personal Assistants with 5 years of regular service in the grade in the Samiti.

1998-LP  
Notar

Certified to be true copy.

R.S. Chowdhury  
Advocate