

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. B/58/02

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

E.P/M.A No. 163/02

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SECTION OFFICER (JUDI.)

( SEE RULE -4 )

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI

ORDER SHEET

Original Application No : 358/02

Misc. Petition No. \_\_\_\_\_

Contempt Petition No. \_\_\_\_\_

Review Application No. \_\_\_\_\_

Applicant (s) S. Kewat

Respondent (s) U.O.I. Town

Advocate for the Applicant (s) Mr. S. Datta

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

Notes of the Registry	Date	Order of the Tribunal
This is application in form C. F. for Rs. 50/- deposited vide IPO/3D o Jh 82/5878 Dated .... 11.11.02 <i>By Registrar</i>	8.11.02	Heard learned counsel for the parties. Application is admitted. Call for records. Returnable by for weeks. List on 11.12.02 for orders. <i>U. Shar</i> Member
Steps taken  Notice forwarded and sent to A/o for giving the respondent No 1 to 6 to Regd. A/o  <i>26/11</i> <u>DINo 323946-43</u> dd 21/12/02	1m 11.12.02	Heard Mr. M.K. Mazumdar, learned counsel for the respondents who has prayed for time for filing written statement. Prayer is allowed. List on 9.1.2003 to enable the respondents to file written statement. <i>U. Shar</i> Member

mb

Vice-Chairman

3

(2)

9.1.2003

Present:- The Hon'ble Mr. Justice  
V.S. Aggarwal, Chairman  
The Hon'ble Mr. K.K. Sharma  
Administrative Member.

No written statement  
has been filed

3/1  
8/10/03

Mr. M.K. Mazumdar, learned counsel  
appearing for the respondents stated that  
he has got the instruction to state that  
the appeal preferred by the applicant has  
been disposed of. He further states that he  
will be filing written statement and will  
also supply the order that has been passed  
to the applicant through the learned coun-  
sel for the applicant Mr. S. Dutta.

Allowed as prayed. Written statement  
to be filed within four weeks.

No written statement  
has been filed

3/1  
6/2/03

List the case on 7.2.2003 for order

K. K. Sharma V. S. Aggarwal  
Member Chairman

7.2.2003 Put up the matter on 6.3.2003 to  
enable the respondents to file written  
statement.

No written statement  
has been filed

mb

Member

Vice-Chairman

6.3.2003. Court did not sit today. The  
case is adjourned to 21.3.2003.

M. Chanda  
21

24.3.03 present : The Hon'ble Mr Justice D.N. Chow-  
dhury, Vice-Chairman  
The Hon'ble Mr S. Biswas, Admn.  
Member.

Heard Mr M. Chanda, learned counsel for  
the applicant and Mr M.K. Mazumdar, learned  
counsel for the respondents. Mr Chanda has  
stated that in view of the subsequent  
development by which the applicant was  
reinstated without continuous service, he  
wants to withdraw this application at this  
stage with a leave to file a fresh, if  
occasion arises. prayer allowed.

With thanks

24.3.03  
W.S. Adminstr.  
- My law is suspended.  
D. N. Chanda

Notes of the Registry

Date

Order of the Tribunal

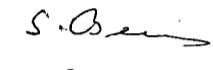
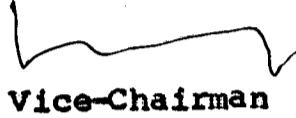
24.3.2003

Upon hearing learned

counsel for the parties and considering all aspects of the matter, the O.A. stands dismissed on withdrawal, with the leave to the applicant to present an application a fresh in accordance with law.

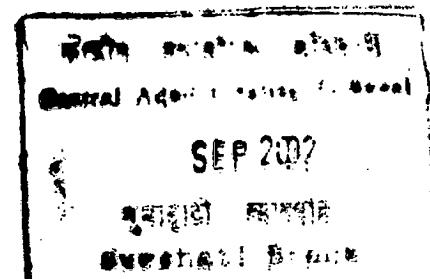
26.3.2003  
Copy of the order  
was been sent to the  
D.P.C.C. for issue  
the same to the 4/03/03  
for the parties.

SS

S. Basu  
Member

Vice-Chairman

pg



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

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

Title of the case : O. A. No 358 /2002

Sri Sugreev Kewat : Applicant

- Versus -

Union of India & Others : Respondents.

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Filed by

Sugreev

Advocate

Date 29.07.02

Sugreev Kewat

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

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

## BETWEEN

Sri Sugreev Kewat  
Son of Ram Saran Kewat  
Group D Peon, Kendriya Vidyalaya, Lekhapani.  
District Tinsukia, Assam. PIN - 786180

...Applicant

-AND-

1. The Union of India,  
Represented by the Secretary to the Government of India,  
Department of Education, New Delhi.
2. The Commissioner,  
Kendriya Vidylaya Sangathan  
18 Institutional Area, Shaheed Jeet Singh Marg,  
New Delhi-110016
3. The Vice Chairman  
Kendriya Vidylaya Sangathan  
18 Institutional Area, Shahheed Jeet Singh Marg,  
New Delhi-110016
4. The Joint Commissioner (Admn.)  
Kendriya Vidylaya Sangathan  
18 Institutional Area, Shaheed Jeet Singh Marg,  
New Delhi-110016

Seeger's Kid set

5. The Assistant Commissioner  
Kendriya Vidyalaya Sangathan  
Regional Office, Hospital Road.  
Silchar - 788005

6. The Principal  
Kendriya Vidyalaya, Lekhapani  
Tinsukia, Assam.

.... Respondents

#### DETAILS OF THE APPLICATION

##### 1. Particulars of order(s) against which this application is made.

This application is made against the order issued under no. F. 10-7/2002-KVS[VIG] dated 02/03.05.02 by the respondent no. 2 terminating the service of the applicant with immediate effect.

##### 2. Jurisdiction of the Tribunal.

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

##### 3. Limitation.

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

##### 4. Facts of the Case.

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

*Second Request*

4.2 That the applicant hails from a poor family of Uttar Pradesh. He has read up to Class X. He could not prosecute further studies for financial constraints and had to engage himself in search of a job so that he could pull on the burden of the family. He initially joined under the services of the respondents as Group D Peon with effect from November 22nd, 1997 and resumed his duties at Kendriya Vidyalaya (for short, KV), Lekhapani.

4.3 That since his appointment under the respondents, the applicant has been rendering his services with all sincerity, devotion, without any blemish and there has been nothing adverse against him.

4.4 That suddenly on 01.03.02, the respondent no. 6, served a memorandum bearing no. F.PF/SK/KVL/2002-02/1014 dated 01.03.02 upon the applicant alleging an act of exhibiting doubtful character on his part towards a girl student. By the said memorandum, the applicant was strongly warned for his alleged act towards girl students while discharging his routine duties in the Vidyalaya. The applicant was asked by the said memorandum to submit a written reply as to why disciplinary action would not be initiated against him. The said memorandum though mentioned about a complaint from girl student, it did not accompany any copy of the complaint.

*Seigooor Kewal*

A copy of the said memorandum dated 01.03.02 is annexed herewith as Annexure - 1.

4.5 That the applicant was surprised to receive the said memorandum. The said memorandum did neither contain any specific allegation nor did it mention the alleged misbehaviour. The said memorandum was vague and it was issued only to harass him. However, immediately on receipt of the same, he submitted a written reply on 04.03.02 to the Respondent no. 6.

A translated copy of the said reply dated 04.03.02 is annexed herewith as Annexure - 2.

4.6 That surprisingly before submission of the reply by him, the Respondent no. 6 summoned the applicant in his chamber in the evening on 02.03.02 and at his instance, one Major Rohtash (O/C 886 AT Coy who is the husband of Mrs. Gunjan Kumar, PRT, a contractual teacher of the Vidyalaya) interrogated the applicant and alleged him to have misbehaved with a girl student. He stated that on the same day another Group D Peon namely, SS Baidya was also summoned and interrogated at the same time and in similar manner. But since the applicant denied of having committed any such act as alleged, the said Major Rohtash forcefully obtained his signatures on some papers and let him go.

4.7 That this was followed by another similar round of interrogation by said Major Rohtash on 16.03.02 in presence of Sri ET Arasu, Education Officer, KVS RO

*Sealed*

Silchar, Mrs. L. Radharani, Principal, KV Imphal and Mrs. S. Krishnamachari, PGT (Bio) KV Duliajan and like the earlier occasion, this time too, the applicant was forced to admit the alleged act and he was let off after taking his signatures on some papers. The Army Personnel further threatened to open fire at him if he would not put signature on a white paper as directed in presence of some teaching staff of our school. As a result, he did not have any other option but to act accordingly.

4.8 That soon thereafter, the respondent no. 2 issued the impugned order of termination on 02/03.05.02 and thereby terminated him from service with immediate effect.

A copy of the impugned order of termination dated 02/03.05.02 is annexed herewith as Annexure - 3.

4.9 That applicant states that the impugned order of termination was passed quite arbitrarily disregarding all canons of law. The entire exercise undertaken against him by the respondents was vitiated due to non compliance of the established principles of law. He, therefore, having no alternative submitted a detailed representation to the respondent no. 3 on 15.05.02 and prayed for re-consideration of the order of termination and for his reinstatement in service with all consequential benefits. But till date nothing has been done.

A copy of the representation dated 15.05.02 is annexed herewith as Annexure - 4.

4.10 That the applicant has no alternative but to approach this Hon'ble Tribunal for his redress. The remedy sought for in this application, if granted, will be just, adequate and complete.

4.11 That this application is made bonafide and for the cause of justice.

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

5.1 For that, the impugned order of termination is bad in law and liable to be set aside.

5.2 For that, the respondents have acted in a most arbitrary and unfair manner which has rendered the entire action against the applicant illegal and liable to be declared without jurisdiction.

5.3 For that, the respondents have given a complete go-bye to the established principles of service jurisprudence and have mechanically passed the impugned order of termination and therefore the same is liable to be set aside and quashed.

5.4 For that, the warning issued by the respondent no. 6 on 01.03.02 though without any basis, was itself a minor punishment under Rule 16 of the CCS (CCA) Rules, 1965 and hence imposition of the highest punishment

*Segregated Keweenaw*

thereafter amounts to putting the applicant to double jeopardy.

5.5 For that, the disciplinary authority of Group D staff being the Executive Committee of the Vidyalaya, the respondent no. 2 had no jurisdiction to pass the impugned order of termination and in this view of the matter the impugned order is liable to be set aside and quashed.

5.6 For that, the respondent no. 2 has *prima facie* acted/passed the impugned order on the basis of a Summary Inquiry Report submitted by the respondent no. 5 behind the back of the applicant and has not given the applicant any opportunity to explain his case and as such the impugned order suffers from non-compliance of the due process of law.

5.7 For that, the entire exercise of the respondents against the applicant has been vitiated due to undue influence of Major Rohtash who is no body in the affairs of the Vidyalaya.

5.8 For that, in any view of the matter, the impugned order is arbitrary, without jurisdiction and therefore liable to be set aside.

#### **6. Details of remedies exhausted.**

That the applicant states that he has exhausted all the remedies available to him and there is no other

alternative and efficacious remedy than to file this application.

7. **Matters not previously filed or pending with any other Court.**

The applicant further declares that he had not previously filed any application, Writ Petition or Suit before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. **Relief(s) sought for:**

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted 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 relief(s):

- 8.1 That the impugned order of termination from service dated 02/03.05.02 (Annexure - 3) be set aside and quashed.
- 8.2 That the respondents be directed to reinstate the applicant in service with all consequential service benefits.
- 8.3 Costs of the application.

*Sealed No. 14*

8.4 Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for:

The applicant though does not pray for any interim relief in this application, he prays for an early hearing of the application.

10. ....

This application is filed through Advocates.

11. Particulars of the I.P.O.

i) I. P. O. No.	:	7G 575878
ii) Date of Issue	:	05.11.02
iii) Issued from	:	G.P.O. Guwahati
iv) Payable at	:	

12. List of enclosures:

As given in the index.

Sealed <sup>10</sup> Kewa

### VERIFICATION

I, Sri Sugreev Kewat, S/O Ram Saran Kewat, aged about 25 years, resident of Lekhapani, in the District of Tinsukia, Assam, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 29<sup>th</sup> day of July, 2002.



Annexure - 1

KENDRIYA VIDYALAYA  
LEKHAPANI-786180, Silchar Region (Assam)

Ref. No. \_\_\_\_\_

Date \_\_\_\_\_

F.PF/SK/KVL/2001-02/1014

Date: 01.3.2002

**MEMORANDUM**

With reference to the written complaint received by the undersigned from a girl student of class IX and their parents in r/o \_\_\_\_\_ with comments by Sh Sugreev Kewat, Gr.D, of this vidyalaya,

- i) he is hereby strongly warned for exhibiting a doubtful character towards girl student while discharging his routine duties in the vidyalaya.
- ii) He is asked to submit a written reply, on or before 8.00 AM on 4-3-2002, stating why disciplinary action should not be initiated against him under article 81 (b) of the Education Code for his misconduct with girl students.

To  
Sh Sugreev Kewat,  
Gr.D employee,  
KV, Lekhapani

Sd/-Illegible  
Principal  
Kendriya Vidyalaya  
Lekhapani-786180

Copy to:  
1. Personal File

PRINCIPAL



Annexure - 2

(Translated into English)

To,  
 The Principal  
 Kendriya Vidyalaya, Lekhapani.  
 Assam. PIN - 786180

Sub: - Memorandum No. F.PF/SK/KVL/2002-02/1014 dated 01.03.02

Sir,

With reference to the above, I most humbly and respectfully beg to say that I am working as a Grade IV employee in KV Lekhapani. I remain so involved in my official duty that I do not get any time to talk to the students of the Vidyalaya. I go to the class rooms only when I am ordered to. I have never passed any comment to any student of this Vidyalaya (boys or girls). Since I am not much educated, my way of speaking might have hurt the sentiment of the students for which I feel very sorry and for such of my unintentional mistakes I beg apology and I am even ready to apologize before the students who have been hurt by my words.

Sir, I therefore pray to you to excuse me for such of my unintentional mistakes and I hereby assure you of good conduct in future.

Thanking You,

Yours faithfully

Sd/- Sugreev Kewat

Grade IV Employee

KV Lekhapani.

Received one copy

Sd/- Illegible, UDC

04.03.02

*Sugreev Kewat*

Annexure - 3

KENDRIYA VIDYALAYA SANGATHAN  
 [VIGILANCE]  
 18, INSTITUTIONAL AREA  
 SHAHEED JEET SINGH MARG  
 NEW DELHI-110016

F.10-7/2002-KVS[VIG]

DATED: 02/03.05.02

ORDER

WHEREAS Sh Sugreev Kewat, Group-D, Kendriya Vidyalaya Lekhapani is guilty of immoral conduct towards girl students of Kendriya Vidyalaya Lekhapani for havinf passed sexually coloures remarks against them.

WHEREAS, the undersigned is satisfied with the Summary Inquiry Report submitted by the Assistant Commissioner, Regional Office, Silchar, statements of the victim girl students and other students of the Vidyalaya, statement of the parents of these students and the statement of the teachers and the Principal of the Vidyalaya, that the said Sh Sugreev Kewat, Group-D is guilty of Moral Turpitude involving sexual offence and exhibition of immoral sexual behaviour towards the girl students of Kendriya Vidyalaya, Lekhapani.

AND WHEREAS, the undersigned is further satisfied that the procedure of Central Civil Services (Classification, Control & Appeal) Rules, 1965, to hold regular inquiry is not expedient in this casc, as the same may cause serious embarrasment to the said student and their parents.

The evidence on record establishes the guilt of the aforesaid Sh Sugreev Kewat, Group-D and hence his continuance in a co-educational institution like Kendriya Vidyalayas is prejudicial to the interest of the students and the Vidyalaya.

NOW THEREFORE, the undersigned, in the capacity of the Commissioner, KVS in exercise of the powers under Article 81(b) of the Education Code for Kendriya Vidyalayas, hereby terminates the service of the aforesaid Sh Sugreev Kewat, Group-D, with immediate effect.

Sh Sugreev Kewat, Group-D shall be paid Pay & Allowances for one or three months as the case may be, as admissible under the rules.

Sd/- Illegible  
 02.05.2002  
 (H.M. Cairae)  
 Commissioner

DISTRIBUTION:

1. Sh Sugreev Kewat, Gropu-D, Kendriya Vidyalaya, Lekhapani
2. The Principal, Kendriya Vidyalaya, Lekhapani with the direction that the Pay & Allowances to Sh Sugreev Kewat, Group-D, in lieu of notice period is to be regulated in terms of Article 81 (b) of Education Code for KVS.
3. The Assistant Commissioner, KVS, Regional Office, Silchar.
4. Guard File.

*Certified to be true copy*

Sugreev

Advocate

*Sugreev Kewat*

Annexure - 4

To,  
 The Vice Chairman  
 Kendriya Vidyalaya Sangathan,  
 Additional Secretary, Department of Education  
 Ministry of Human Resource Development  
 Shatry Bhawan, New Delhi.

Date : 15.05.02

**Subject: Prayer for reconsideration of Order dated 02/03.05.02 passed by the Commissioner, KVS terminating my services with immediate effect.**

Respected Sir,

I have the honour to state that by the above mentioned order bearing no. F.107/2002-KVS (VIG), I have been terminated from service on the alleged ground of misbehaviour/immoral conduct towards girl students of the Vidyalaya.

In this context, I beg to say that on 02.03.02, I received a Memorandum bearing No. F.PF/SK/KVL/2001-02/101 from the Respondent no. 6 alleging misconduct/misbehaviour on my part towards the girl students of the Vidyalaya. By the said memorandum, I was also strongly warned for my alleged misconduct etc. and was further directed to submit my reply thereto before 04.03.02, stating why disciplinary action should not be initiated against me under article 81(b) of the Education Code.

It is worth mentioning that the said memorandum did neither contain any specific allegation of misconduct alleged to have been committed by me nor did it contain the name of the students against whom such misconduct was done. The said memorandum was vague and it was issued only to harass me.

However, I submitted my reply thereto as directed and anticipated a positive action. But surprisingly, at the instance of the Respondent no. 6, one Major Rohatash, 0/C 868 AT Coy (who is also husband of Mrs. Gunjan Kumar, Contractual Teacher, PRT) interrogated me on 02.03.2002 itself in the Vidyalaya Campus without giving me any opportunity to

*Segeeran D Kewal*

submit my defence through a written reply to the Memorandum and forcefully obtained my signature in some papers the contents whereof were not made known to me.

This was followed by another similar round of interrogation conducted by the said Major Rohtash on 16.03.02 in presence of the Education Officer ET Arasu, Mrs. L.Radharani, Principal, KV, Imphal and Mrs. S. Krishnamachari PGT (BIO), KV, Duliajan. In the said second round of interrogation, I was also forced to admit the misconduct of misbehaviour towards the girl students of the school and like the earlier occasion, my signatures were forcefully taken on some papers. The Army Personnel further threatened to open fire at me if I would not put signature on a white paper as directed in presence of some teaching staff of our school. As a result, I did not have any other option but to act accordingly.

That surprisingly thereafter, the order dated 02/03.05.02 was issued by the Commissioner, terminating me from service on the ground of exhibiting misbehaviour/immoral conduct towards girl students of the Vidyalaya. It is categorically stated that no such misconduct was ever committed by me and no report of misconduct or misbehavior was ever lodged against me by anybody. It is stated that authorities have made out a baseless and concocted story against me and the entire exercise have been undertaken in a clandestine manner being regardless of the relevant rules of law and the order of termination has been passed in a most arbitrary manner. It may not be out of place to mention that identical Memorandum was also issued in respect of three other employees of the Vidyalaya including a Peon and two teachers and in the similar manner they have also been terminated from service without conducting any regular enquiry as contemplated under the law. The harsh punishment of termination of service has been inflicted upon me in a most mechanical manner.

*Sealed*

I would, therefore, fervently appeal to you to kindly consider the facts and circumstances of the case and revoke the order of termination and reinstate me in service with all service benefits.

And for this act, I shall remain ever grateful to you.

Yours faithfully,

Enclo : As stated above.

(SUGREEV KEWAT)

Group - D (Peon)  
S/o Ramsharan Kewat  
Tipong B. Typc. P.O. Tipong,  
Quarter No. 402  
District-Tinsukia,  
Assam.

*Sugreev Kewat*

24 MAR 2003

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
Guwahati Bench  
GUWAHATI BENCH

O.A. NO. 358/2002

Sri Sugreev Kewat

....Applicant.

- Vs. -

Union of India & Ors.

.... Respondents.

IN THE MATTER OF :

Written Statement filed  
by the respondents

- AND -

IN THE MATTER OF :

Order passed in the M.P.  
No. 163/02 dated 29-11-02.

- AND -

IN THE MATTER OF :

The Asstt. Commissioner,  
Kendriya Vidyalaya Sangathan,  
Regional Office, Hospital  
Road, Silchar - 788005.

.... Deponent.

The humble written state-  
ment of the Respondent are as follows :

1) That the Respondent states that in  
the Original Application he has been made a

contd....p/2.

Filed by /i Respondent  
Kroga Mukherjee  
24/3/03

party respondent and a copy of the same has been served upon him. The Respondent has gone through the contents of the petition and have understood the same and he is competent to file the written statement on behalf of him and for others, they being official respondents.

2) That the Respondent states that before controverting the statement and averments made in the above petition, the Respondent craves leave of this Hon'ble Tribunal to submit the following facts of the case in brief for appreciation.

FACTS OF THE CASE :

2.(1) Shri Sugreev Kewat, Group 'D' was working at Kendriya Vidyalaya, Lekhapani since 22.11.1997. In February, 2002 a complaint was lodged by one 'mother of Ahmad' with the Joint Commissioner (Acad.) on phone regarding misbehaviour of some male staff of Kendriya Vidyalaya, Lekhapani with some girl students.

2.(2) The Principal, Kendriya Vidyalaya Lekhapani ordered a preliminary inquiry and the same was conducted on 27.2.2002 and 2.3.2002 by a committee consisting of the following :-

1. Shri N.P. Singh, PGT (Hindi).
2. Smt. J.B. Gogoi, Music Teacher.
3. Smt. S.G. Sood.

As reported by the Principal under his letter dated 5th March' 2002, the Committee called one by one several students of classes

VII, VIII and IX ~~is~~ to enquire whether they had had any problems with any male staff of the Vidyalaya. In response one Km. Anju Kanwar Class 9 states that Shri Sugreev Kewat takes undue interest in her and passes lewd remarks which she does not like.

2.(3) Separately, the Chairman VMC, on receipt of advice from Principal KV, Lekhapani initiated another inquiry into the allegations by a committee consisting of the following members :-

1. Major Rohitash Kumar, LOC 868 ATCOY
2. Shri N.P. Singh, PGT (Hindi), KV, Lekhapani
3. Smt. S.G. Sood, PRFT, KV, Lekhapani

The Committee conducted an enquiry on 28.2.2002 and 4.3.2002. The Committee concluded that Shri Kewat had made comments against Kum. Anju, class 9. The misconduct is more of eve teasing.

2.(4) Based on these preliminary findings, the Regional Office, KVS, Silchar constituted a 3 - Member Committee consisting of the following :-

1. Shri E.T. Arasu, EO, KVS (RO Silchar)
2. Smt. Radharani Devi, Principal, KV No.1, Imphal.
3. Smt. Suhba Krishnamachar, PGT (Bio), KV, Duliajan

The Committee conducted a detailed inquiry and findings of the inquiry are as follows :-

" Shri Sugreev Kewat indulged in passing sexually coloured ~~is~~ remarks."

2.(5) Based on material made available to him and the above mentioned inquiry reports the Commissioner, KVS came to the conclusion that Shri Kewat was guilty of immoral conduct and since it was not expedient to hold a regular inquiry in this case as the same would cause serious embarrassment to the students and their parents by virtue of powers vested in him under Article 81(b) of the Education Code for KVs terminated the service of Shri Sugreev Kewat on 3.5.2002.

2.(6) Aggrieved by the said order Shri Kewat, Group 'D' has filed this appeal. In his written appeal and oral submission before me on 6.11.2002 Shri Kewat has made the following points.

- (i) He was given a memorandum by the Principal KV, Lekhapani on 1st March, 2002 asking him to submit a reply by 4th March, 2002. However before he could prepare his written reply, on the very next day he was directed to appear before the inquiry conducted by the Army personnel who threatened him with dire consequences if he did not sign on a paper in the presence of some teaching staff admitting his guilt. He was not allowed to take assistance of any Advocate to defend himself.
- (ii) The memorandum issued to him was vague and did not mention the date of the incident or the name of the complainants.

(iii) Although it is alleged that he passed sexually coloured remarks against the girl students, it is pertinent to note that the complaint was made after one year from the date of the cause of action. As the girls did not lodge any complaint immediately after the alleged incident, alleging a complaint after one year was meaningless.

(iv) The inquiry against him is not only fabricated but is a conspiracy against the staff as the same kind of allegation has been made against four employees of the school on the same day and their services had been terminated without regular inquiry.

3) That the Respondent states that present O.A. was filed during pendency of disposal of the representation filed by the Applicant before the Respondent No. 3 on 15/5/02.

4) That the Respondent states that during the pendency ~~eg yor~~ of the Original Application the Respondent submitted the fact of pendency of representation before the Authority and the applicant was given personal hearing on 6-11-02.

5) That the Respondent state that on 29-11-02 the Applicant filed a Misc. Petition No. 163/02 and obtained an order for disposal of the representation by passing appropriate order.

6) That the Respondent states that the Respondent No. 3 being the competent authority disposed the representation and vide Memorandum No. F. 9-47/2002 - KVS (Vig.) dtd. 4-2-03. The Respondent No. 2 forwarded the order passed allowing his appeal by reinstating him prospectively without any benefit of continuity in service during the period of termination.

A copy of the order is  
annexed.

7) That the Respondent states that considering the seriousness of the offence the respondent partially allowed the appeal and thereby the relief sought by the Applicant is otherwise being granted by such allowance and as such the OA has become infractious.

8) That the Respondents submit that since the relief reinstatement is being granted by the Appellate authority the present O.A. has become infractious and liable to be dismissed.

.... Verification.

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VERIFICATION

I, Sunder Singh Sehrawat, S/o Shri Harish Chander, Age about 52 years, presently working as the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Guwahati Region, Maligaon Chariali, Guwahati-12 do hereby verify that the statement made in paragraphs 1, 2, 3, 4, 7 are true to my knowledge and those made in paragraphs 2.1 - 2.6  
5, 6 are based on records.

And I sign this verification on this 24/<sup>March</sup> 1<sup>st</sup> the day of 2003 at Guwahati.

Place : Guwahati

*Sunder Singh Sehrawat*

DEPONENT

Date :