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76

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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Disposed date-29/11/2002

O.A/T.A No... 359/02

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

E.P/M.A No... 46/2003

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SECTION OFFICER (Judl.)

(SEE RULE -4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

ORDER SHEET

Original Application No : 389/02
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicant (s) V.K. Yadav

Respondent (s) -Vs- U.O.I Govt

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

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

Notes of the Registry	Date	Order of the Tribunal
<p>This is application in form C. F. for Rs. 50/- deposited vide IPD/307/02 26.5.02 5877 Dated 5.11.02 By Dy. Registrar 7/11/02</p>	8.11.02	<p>Heard learned counsel for the parties. Application is admitted. Call for records. Returnable by four weeks. List on 11.12.02 for orders.</p> <p>Member <u>K. U. Sharma</u> Vice-Chairman</p>
<p>Steps taken P.D.</p>	11.12.02	<p>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.</p> <p>Member <u>K. U. Sharma</u> Vice-Chairman</p>

Notice prepared and sent to all
for filing the responses
No 1 to 6 by Regd A.D.

D/No 3232 to 37
Dtd 31/12/02

mb

(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

30
8.1.03

Mr. M.K. Mazumdar, learned counsel
for the respondents stated that he has got
the instruction to state that the appeal
preferred by the applicant has been dis-
posed 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 counsel
for the applicant Mr. S. Dutta.

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

List the case on 7.2.2003 for order.

No written statement
has been filed

30
6.2.03

K. K. Sharma
Member

V. S. Aggarwal
Chairman

bb

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

30
21.3.03

S. B. Biswas
Member

Vice-Chairman

mb

6.3.2003. Court did not sit today. The case
is adjourned to 24/3/2003.

mio

du

24.3.03

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

The Hon'ble Mr S. Biswas, Admn.
Member.

No written statement
has been filed

30
25.4.03

Heard Mr M. Chanda, learned counsel for
the applicant and Mr M.K. Mazumdar, learned
counsel for the respondents. Further four
weeks time is allowed to file written
statement.

List on 28.4.03 for order.

S. B. Biswas
Member

Vice-Chairman

(3)

O.A. No. 359/2002

28.4.2003 . . List the matter for hearing
on 6.6.2003.

28/4/03

Written statement
has been filed on
behalf of respondents. mb

JS
28/4/03

6.6.2003

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

The Hon'ble Mr. R.K.
Upadhyay, Member(A).

Heard in part. List the case on 11.
6.2003 for further hearing.

Member

Vice-Chairman

bb

19.6.2003

Adjourned to enable the
respondents to produce the
connected record. List the case for
hearing on 19.6.03.

Member

Vice-Chairman

nkm

19.6.2003

Mr. M. Chanda, learned counsel
appearing on behalf of Mr. M.K. Mazumdar,
learned counsel for the respondents
prayed for adjournment on personal ground
of Mr. Mazumdar. Mr. Chanda, learned
counsel also stated that the learned
counsel for the KVS is yet to get holding
the records. The case is accordingly
adjourned.

19.6.2003

Since the Bench is
not continuing, the matter
is released from parthead.

Vice-Chairman

Put up again on 16.7.2003 for
hearing.

Member

Vice-Chairman

mb

16.7.2003. Present : The Hon'ble Mr. Justice D.
N. Chowdhury, Vice-Chairman.
The Hon'ble Mr. N.D. Dayal,
Member (A).

Prayer has been made on behalf of
Mr. M.K. Mazumdar, learned counsel for
the respondents for adjournment of the
case on personal ground. Prayer is
allowed.

List again on 28.7.2003 for
hearing.

Member

Vice-Chairman

mb

28.7.2003 Prayer has been made by Mr. S.Das,
learned counsel on behalf of Mr. M.K.
Mazumdar, learned standing counsel for
KVS for adjournment of the case on
personal ground. The case is accordingly,
adjourned. List on 20.8.2003 for
hearing.

Member

Vice-Chairman

mb

20/8/03. Post heard. List on 21/8/03
for further hearing with M.P.

By order

[Signature]
20/8

21/8/03 Hearing Concluded. Judgment
Reserved.

By order

[Signature]
21/8.


Office Note

Date

Tribunal's Order

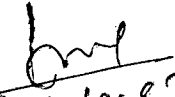
31.10.2003

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


Vice-Chairman

mb

As authorised by
the Hon'ble Member
(A) Mr. Prakashdas
judgment has
been delivered
by the Hon'ble V.C.
(Single Judge).


31.10.03

21.11.2003

Copy of the Judgment
has been sent to the
Office for issuing the
same to the Applicant
as well as to the L/A for
for the Report.
etc.

Office Note	Date	Tribunal's Order

(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura,
Mizoram & Arunachal Pradesh)

Civil Rule

$w.p.(e)$

No. 1308 of 2004

BA 359/02

SPU- vijay kumar yadav

Appellante

Petitioner

Versus

The union of India starts

Respondent

Opposite Party

Appellant

Mr. B. C. Das.

1.00

Petitioner

Mr. R. Ch. Paul.

MS. S. Roy.

Respondent

Mr. S. C. Riswos

1-000

Opposite Party

$$S.C..(K, v, S_1).$$

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	PRESENT -	WP(C) No. 1308/2004

THE HON'BLE CHIEF JUSTICE MR PP NAOLEKAR
THE HON'BLE MR JUSTICE A.H.SAIKIA

23-03-2004

Heard Mr BC Das, learned counsel for the petitioner.

The petitioner's services have been terminated in exercise of power under Article 81(b) of the Education Code which reads as under :-

"81(b) Termination of services of an employee found guilty of immoral behaviour towards students.

Where ever the Commissioner is satisfied after such a summary enquiry as he deems proper and practicable in the circumstances of the case that any member of the Kendriya Vidyalaya is prima facie guilty of moral turpitude involving sexual offence or exhibition of immoral sexual behaviour towards any students, he can terminate the services of that employee by giving him one month's or three months pay and allowances accordingly as the guilty employee is temporary or permanent in the services of the Sangathan. In such cases procedure prescribed for holding enquiry for imposition major penalty in accordance with CCS (CCA) Rules, 1965 as applicable to the employees of the Kendriya Vidyalaya Sangathan shall be dispensed with provided that the Commissioner is of opinion that it is not expedient to hold regular enquiry on account of serious embarrassment to the student or his guardians or such other practical difficulties. The Commissioner shall record in writings the reasons under which it is not reasonably practicable to hold such enquiry and he shall kept the Chairman of the Sangathan informed of the circumstances leading to such termination of services."

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
	2	23	4

It is apparent from the said Article that the authority has been authorized to exercise the power when pre-conditions under the Article are satisfied which confers the power on the authority to dispense with the procedure prescribed for holding enquiry before imposing a major penalty in accordance with CC (CCA) Rules. After conducting three enquiries and after giving proper notice to the petitioner on receiving written complaint of mis behaviour of the petitioner with the girl students of Class VII, VIII and IX, in three enquiries conducted by different bodies the petitioner was found to be guilty of mis behaviour and misconduct of physical assault of the girl students of Class VII, VIII and IX of the school.

The exercise of power under Article 81(b) in the given circumstances, was found approval of the Central Administrative Tribunal, Guwahati Bench. We do not find any good or sufficient reason to interfere with the order passed by the Central Administrative Tribunal, Guwahati Bench. In view thereof, the appeal is dismissed.

Sd/- A.H. Saikia.
JUDGE.

Sd/- P.P. Naolekar.
CHIEF JUSTICE

Memo No.HC.XXI. 20,408-14 /R.M. Dtd. 9.11.05

Copy forwarded for information and necessary action to:-

1. The Union of India, represented by the Secretary to the Government of India, Department of Education, New Delhi.
2. The Commissioner of Kendriya Vidyalaya Sangathan, New Delhi.
3. The Vice Chairman Kendriya Vidyalaya Sangathan New Delhi.
4. The Joint Commissioner (Admn.) Kendriya Vidyalaya Sangathan, New Delhi.
5. The Assistant Commissioner Kendriya Vidyalaya Sangathan Regional Officer, Silchar.
6. The Principal Kendriya Vidyalaya, Lekhapani, Tinsukia, Assam.
7. The Central Administrative Tribunal, Guwahati, Assam.

20/11/06
Sd (J)

By order

St
Asstt. Registrar (I&E)
Gauhati High Court, Guwahati.

Chia H
05/10/05

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./~~XXX~~No. 1111 359 of 2002

DATE OF DECISION 31.10.2003

Shri V.K. Yadav

.....APPLICANT(S).

S. Dutta

.....ADVOCATE FOR THE
APPLICANT(S).

-VERSUS-

The Union of India and others

.....RESPONDENT(S)

Mr M.K. Mazumdar

.....ADVOCATE FOR THE
RESPONDENT(S).

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

THE HON'BLE MR K.V. PRAHALADAN ADMINISTRATIVE MEMBER

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

Judgment delivered by Hon'ble ~~Member~~ Vice-Chairman

Yes

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.359 of 2002

Date of decision: This the 31st day of October 2003

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

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

Shri Vijay Kumar Yadav
Physical Education Teacher (PET)
Kendriya Vidyalaya, Lekhapani,
Tinsukia, Assam.

.....Applicant

By Advocate Mr S. Dutta

- versus -

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

2. The Commissioner
Kendriya Vidyalaya Sangathan
New Delhi.

3. The Vice Chairman
Kendriya Vidyalaya Sangathan
New Delhi.

4. The Joint Commissioner (Admn.)
Kendriya Vidyalaya Sangathan
New Delhi.

5. The Assistant Commissioner
Kendriya Vidyalaya Sangathan
Regional Office,
Silchar.

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

.....Respondents

By Advocate Mr M.K. Mazumdar.

.....

O R D E R

CHOWDHURY. J. (V.C.)

The legality and validity of the order dated
2/3.5.2002 passed by the Commissioner of Kendriya
Vidyalaya Sangathan (KVS for short) is assailed in this
O.A. in the following circumstances:

The applicant at the relevant time was working as a Physical Education Teacher (PET for short) in the Kendriya Vidyalaya, Lekhapani. While serving as such the applicant vide notice dated 27.2.2002 was asked to submit his written reply as to why disciplinary action should not be initiated against him under Article 81 (b) of the Education Code for his misconduct with girl students. The notice indicated as to the receipt of written complaint from few girl students of Class VII, VIII and IX and their parents in respect of misbehaviour with those girl students by the applicant. The applicant submitted his reply denying and disputing his involvement. According to the applicant immediately after receipt of his reply the Principal of the Kendriya Vidyalaya summoned the applicant in his chamber and at his insistence Major Rohitesh Kumar, LOC 868 ATCOY interrogated the applicant till about 10-45 p.m. in late night alleging that the applicant was involved in misbehaviour with the girl students during the train journey from Lumding to Tinsukia during September 2002. The applicant denied his involvement. Major Rohitesh Kumar forcibly obtained his signature in some papers and allowed him to go. The applicant stated that similar round of interrogation was conducted by Major Rohitesh Kumar on 16.3.2002 in presence of Shri ET Arasu, Education Officer, KVS, RO, Silchar, Mrs L. Radharani, Principal, KV, Imphal and Mrs S. Krishnamachari, PGT (Bio), KV, Duliajan and the applicant was forced to admit the alleged act of misbehaviour and let him off after obtaining his signature. By the impugned order dated 2/3.5.2002 the applicant was arbitrarily terminated from service and charge was taken over from him on 6.4.2002. The applicant assailed.....

assailed the legality and validity of the order of termination.

2. The respondents submitted their written statement and denied and disputed the allegations. In the written statement the respondents asserted that in February 2002 a complaint was lodged before the Joint Commissioner on phone regarding misbehaviour of some staff of the KV, Lekhapani with some girl students. The authority conducted a preliminary enquiry on 27.2.2002 and 2.3.2002 by a committee consisting of Shri N.P. Singh, PGT (Hindi), KV, Lekhapani, Smt J.B. Gogoi, Music Teacher, KV, Lekhapani and Smt S.G. Sood, PRT, KV, Lekhapani. The committee examined several students of Class VII, VIII and IX. From amongst them, two students of Class VII and VIII complained that the applicant sexually abused them when they were returning from the venue of the Regional Sports and Games Meet 2001 and after that in the Vidyalaya Sports Room. The committee member with the Principal and the Chairman's nominee also visited the house of Kum Bhuva Gurung of Class VII and Kum Sangeeta Gogoi of Class VIII and statements of the parents and guardians were also obtained. Thereafter, the Chairman on receipt of the report from the Principal KV, Lekhapani ordered another inquiry by constituting a committee consisting of Major Rohitesh Kumar, Shri N.P. Singh and Smt S.G. Sood. The committee recorded the statements of the witnesses as well as the applicant and recommended for disciplinary action against the applicant. Considering the nature of the allegations a summary enquiry was conducted on 16 and 17 March 2002 by the Assistant Commissioner, Regional Office, Silchar by deputing a team consisting of Shri E.T. Erasu,

EO.....

EO, KVS, RO Silchar. Smt Radharani Devi, Principal, KV No.1, Imphal and Smt Shuba Krishnamachar, PGT (Bio), KV, Duliajan. The committee after detailed enquiry submitted its report on 19.3.2002 and found the applicant guilty of sexual abuse. The materials were placed before the competent authority and on perusal of the materials on record the competent authority passed the order dated 3.5.2002 terminating the service of the applicant. The applicant thereafter preferred an appeal and the Appellate Authority by its order dated 6.11.2002 after hearing the applicant rejected the appeal.

3. We have heard Mr S. Dutta, learned counsel for the applicant at length and also perused the records. The materials on record unerringly established the guilt of the applicant. The learned counsel for the applicant strenuously urged that the applicant was denied with a fair enquiry and the applicant was roped in in a malicious manner. The learned counsel submitted that the respondent authority though vested with the discretion to terminate or remove an employee the said discretion ought to have been exercised justly, reasonably and fairly. The learned counsel, referring to Article 81(b) of the Education Code contended that the rule conferred upon the authority to exercise power lawfully and reasonably and dispensing of enquiry was not to be lightly made. The learned counsel also submitted that the condition precedent for exercise of power under Article 81(b) since absent it was unlawful on the part of the respondents for resorting to the said Article and terminate the service of the applicant in an illegal fashion. Before addressing the question we must make it clear that the vires of Article 81(b) is not in question.....

question. Article 81(b) reads as under:

"81 (b)" Termination of services of an employee found guilty of immoral behaviour towards students.

Whereever the Commissioner is satisfied after such a summary enquiry as he deems proper and practicable in the circumstances of the case that any member of the Kendriya Vidyalaya is prima facie guilty of moral turpitude involving sexual offence or exhibition of immoral sexual behaviour towards any student, he can terminate the services of that employee by giving him one month's or three months' pay and allowances accordingly as the guilty employee is temporary or permanent in the services of the Sangthan. In such cases procedure prescribed for holding enquiry for imposition major penalty in accordance with CCS (CCA) Rules, 1965 as applicable to the employees of the Kendriya Vidyalaya Sangthan shall be dispensed with provided that the Commissioner is of opinion that it is not expedient to hold regular enquiry on account of serious embarrasshment to the student or his guardians or such other practical difficulties. The Commissioner shall record in writings the reasons under which it is not reasonable practicable to hold such enquiry and he shall keep the Chairman of the Sangthan informed of the circumstances leading to such termination of services."

4. The above provision has armed the authority to exercise the power when the pre-conditions mentioned therein are satisfied. It conferred the power on the authority to dispense the procedure prescribed for holding enquiry in imposing major penalty in accordance with CCS (CCA) Rules, where the competent authority, namely the Commissioner is satisfied that it is not expedient to hold a regular enquiry on account of the serious embarrasshment to the students guardians such other practical difficulties. In such cases the Commissioner is to record in writing the reasons under which he finds it not reasonable to hold such enquiry. The Commissioner is authorised to exercise the power after a summary enquiry as he deems proper and practicable in the circumstances of the case and on arriving at a finding in such a summary enquiry that the member of the Vidyalaya is prima.....

prima facie guilty of moral turpitude involving sexual offence or exhibition of immoral sexual behaviour towards the students. The satisfaction is that of the Commissioner.

5. In the case in hand, the applicant was intimated by notice dated 27.2.2002 as to receipt of the written complaint from few girl students and their parents in respect of misbehaviour with those girl students. The applicant was also asked to submit his reply as to why disciplinary action should not be initiated against him under Article 81(b) of the Education Code.

6. Mr S. Dutta, the learned counsel for the applicant, submitted that the applicant was not provided with any opportunity to explain his case in a reasonable manner. We have already indicated the extent and contents of the provisions of Article 81. Article 81(b) does not envisage a full dressed enquiry. the record of the proceedings which were placed before us clearly indicate that the enquiry was conducted in at least three stages. The applicant was also associated with the enquiry. On perusal of the materials including the statement of the girl students, it cannot be said that there was no material before the Commissioner to reach at the satisfaction. We are not an appellate authority. As alluded, Article 81(b) is an exception devised to protect and preserve the modesty and privacy of girl students and also to ensure to safeguard their interests from the harassment and unwanted exposure in a full dressed enquiry. From perusal of the fact situation it, therefore, cannot be said that it was arbitrary on the part of the Commissioner to reach the conclusion not to conduct a full fledged enquiry under the rules. On perusal of the materials we are satisfied that.....

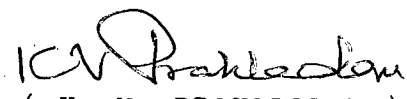
that the Commissioner, respondent No.2, took a right decision not to conduct any enquiry and thereby endangering/jeopardising the decency, dignity as well as privacy of the girl students. As indicated in the rule there was also no requirement to provide a full dressed enquiry as argued by Mr S. Dutta. When the requirement of Article 81(b) was fulfilled there was no legal necessity for holding a full-fledged enquiry on the face of the materials on record. Mr S. Dutta further submitted that by notice dated 27.2.2002 the applicant was already imposed a minor punishment as envisaged under Rule 16 of CCS(CCA) Rules, therefore there was no scope for exercising the power under Article 81(b) of the Code. The aforesaid argument does not hold water. The notice dated 27.2.2002 was only a notice asking the applicant to submit his written reply as to why disciplinary action was not to be initiated against him under Article 81(b) of the Code for the alleged misconduct. The said notice cannot be said to be an order imposing a minor penalty under Rule 16. Mr S. Dutta also submitted that the applicant was denied justice and fair play.

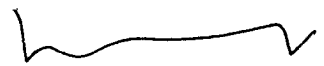
7. Mr M.K. Mazumdar, learned counsel for the respondents seriously opposed the application and fairly placed before us the records. On perusal of the records we do not find any injustice done to the applicant. The applicant was implicated by the students in all the three enquiries. The nature of the materials revealed from the records clearly revealed that the applicant was prima facie guilty of moral turpitude involving sexual offence/exhibition of sexual misbehaviour towards students. The conduct exhibited by the applicant seemingly was an act of immoral sexual behaviour towards the girl students. No

illegality.....

illegality or infirmity is discernible calling for interference under Section 19 of the Administrative Tribunals Act, 1985.

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

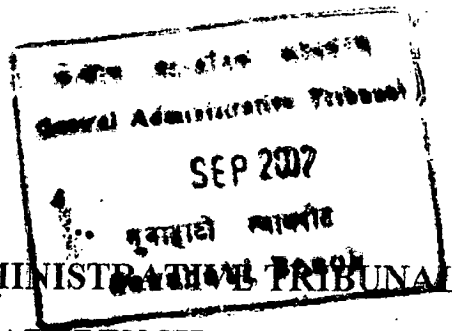

(K. V. PRAHALADAN)
ADMINISTRATIVE MEMBER


(D. N. CHOWDHURY)
VICE-CHAIRMAN

nkM

I hereby authorize Hon'ble Mr. Justice
D.N. Chowdhury, Vice-Chairman of this Bench to pronounce
the Judgments in O.A. Nos. 357 & 359 of 2002.

K.V. Prahladan
(K.V. Prahladan)
Administrative Member



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 359 /2002

Sri Vijay Kumar Yadav : Applicant

- Versus -

Union of India & Others : Respondents.

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Filed by

S. S. S.

Advocate

Date 29.07.02

Vijay Kumar Yadav

Filed by:-
Sudip Kumar Deka
Advocate
22.07.02
22

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

O. A. No. 359 /2002

BETWEEN

Sri Vijay Kumar Yadav
Son of late Babulal Yadav
Physical Education Teacher (PET)
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 Vidyalaya Sangathan
18 Institutional Area, Shaheed Jeet Singh Marg,
New Delhi-110016
3. The Vice Chairman
Kendriya Vidyalaya Sangathan
18 Institutional Area, Shaheed Jeet Singh Marg,
New Delhi-110016
4. The Joint Commissioner (Admn.)
Kendriya Vidyalaya Sangathan
18 Institutional Area, Shaheed Jeet Singh Marg,
New Delhi-110016

Vijay Kumar Yadav

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.

- 4.2 That the applicant is a Graduate in Arts and Master in Physical Education. He initially joined under the services of the respondents as Physical Education Teacher (for short, PET) with effect from January 2nd, 1999 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 on September 6th 2001, the applicant went to KV, Masimpur as an Escort to the Boys' Team of KV, Lekhapani who went there to participate in the Regional Sports Meet which was held at Panchgram. He mentioned that the Girls' Team of KV, Lekhapani was escorted by Smti. Jula Borah Gogoi (Music Teacher, KV Lekhapani). The respective teams participated in the Sports Meet and returned to Tinsukia by September 11th 2001.
- 4.5 That suddenly on 28.02.02, the respondent no. 6, served a memorandum bearing no. F.PF/VKY/KVL/2002-02/996 dated 27.02.02 upon the applicant alleging misbehaviour on his part towards few girl students. By the said memorandum, the applicant was strongly warned for his alleged misbehaviour 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

Vijay Kumar Jada

be initiated against him. The said memorandum though mentioned about complaints from girl students, it did not accompany either of such complaints.

A copy of the said memorandum dated 27.02.02 is annexed herewith as **Annexure - 1.**

- 4.6 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 28.02.02 to the Respondent no. 6.

A copy of the said reply dated 28.02.02 is annexed herewith as **Annexure - 2.**

- 4.7 That surprisingly on the same day, immediately after receipt of the reply, the Respondent no. 6 summoned the applicant in his chamber 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 from about 10.45 PM till late night and alleged him to have misbehaved with the girl students during their Train Journey from Lumding to Tinsukia during September 2001. But since the applicant denied of having committed any such misbehaviour as alleged, the said Major Rohtash forcefully obtained his signatures on some papers and let him go.

Vijay Kumar Zadoo

4.8 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 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 of misbehaviour and he was let off after taking his signatures on some papers.

4.9 That in the mean time on 02.03.02, the Respondent no. 6 issued a memorandum to Smti Jula Borah Gogoi who escorted the Girls' Team during September 2001 to the Regional Sports Meet. By the said memorandum, the Principal sought an explanation from Smti Gogoi on the issue whereupon the latter submitted her reply stating, inter alia, that she was vigilant enough during the journey nothing untoward happened during the said journey.

A copy of the said reply dated 04.03.02 is annexed herewith as **Annexure - 3.**

4.10 That surprisingly thereafter on 06.04.02, the respondent no. 6 issued an order to the applicant and forced him to hand over the charge of the Physical Education Department to one Sri MC Agarwal, PRT. The applicant felt a victim of the circumstances and had to hand over the charge as ordered to him.

Vijay Kumar Jada

A copy of the certificate dated 06.06.02 issued by the respondent no. 6 is annexed herewith as **Annexure - 4.**

4.11 That soon after the handing over of charge by him, 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 - 5.**

4.12 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 16.05.02 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 16.05.02 is annexed herewith as **Annexure - 6.**

4.13 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.

Vijay Kumar Jadhav

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4.14 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 27.02.02 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 thereafter amounts to putting the applicant to double jeopardy.

5.5 For that, the action of the respondents in compelling the applicant to hand over the charge is itself an instance of their oblique motive which has culminated into passing of the impugned order and therefore the impugned order is liable to be set aside and quashed.

Vijay Kumar Jadas

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.

Vijay Kumar Yadav

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 - 5) 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.
 - 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.

Vijay Kumar Yadav

11. Particulars of the I.P.O.

- | | |
|-------------------|--------------------|
| i) I. P. O. No. | 7G 575877 |
| ii) Date of Issue | 06.11.02 |
| iii) Issued from | } G.P.O., Guwahati |
| iv) Payable at | |

12. List of enclosures:

As given in the index.

Vijay Kumar Jadao

VERIFICATION

I, Sri Vijay Kumar Yadav, S/O Late Babulal Yadav, aged about 31 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 29th day of July, 2002.

Vijay Kumar Yadav

Annexure - 1

KENDRIYA VIDYALAYA
LEKHAPANI-786180, Silchar Region (Assam)

Ref. No. _____

Date _____

F.PF/VKY/KVL/2001-02/996

Date: 27.2.2002

MEMORANDUM

With reference to the written complaint received by the undersigned from few girl student of class VII/VIII/IX and their parents in r/o misbehaviour with those girl students by Sh Vijay Kumar Yadav, PET, of this vidyalaya,

- i) he is hereby strongly warned for exhibiting a doubtful character/guilty of immoral behaviour towards girl student while discharging his routine duties in the vidyalaya.
- ii) He is asked to submit a written reply, before 1.40 PM on 28-2-2002, 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 Vijay Kumar Yadav,
PET,
KV, Lekhapani

Sd/-Illegible
Principal
Kendriya Vidyalaya
Lekhapani-786180

Copy to:

1. The Chairman, VMC, KV, Lekhapani
2. The AC, KVS (SR), Silchar
3. Personal File

PRINCIPAL

Vijay Kumar Yadav

Annexure - 2

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

Sub: - Memorandum No. F.PF/VKY/KVL/2002-02/996 dated 27.02.02

Sir,
I, Vijay Kumar Yadav, PET - KV Lekhapani is to say the following few lines to your kind information and consideration.

1. I treat accept all the students of this Vidyalaya as my brother, sister, son and daughter. I have done my duty sincerely without any misbehaviour with any of the girl students of this Vidyalaya. In spite, I have been charged with misbehaviour with the girl students.
2. Being the only PET of this Vidyalaya, having good intention and benefit for the students, I trained the children to represent in the regional meet. Some of them have bagged medals also.
3. Finally I would like to beg your good self that I have not committed any sin or misbehaviour which may spoil my reputation or that of the Vidyalaya. With confidence I state that the charges made against me are baseless and no truth in this.

Thanking You,

Yours faithfully
Sd/- V. K. Yadav
PET, KV Lekhapani.

Received one copy

Sd/- Illegible, UDC

28.02.02

Vijay Kumar Yadav

Annexure - 3

To,

The Principal
KV Lekhapani
Tinsukia, Assam

Respected Sir,

As per your memorandum dated 2/3/02 FPF/JBG/KVL/2001-2002, I would like to bring the following few points to your kind information that we did not have any reservation on the train while returning back from Lumding to Tinsukia with the girl students.

After requesting the T. T. we were adjusted on the same coach but on the different seats. 5 (five) girls were sitting with me while the other three were in the adjoining coupe along with the other passengers.

I was sitting in such a seat that from where I could see and control all of them. We were allotted individual berth as when the passengers vacated on the way.

I was keeping a constant watch on the students, nevertheless, I had to go to the toilet. Throughout my duty, I was with them and neither such thing has happened nor it has been reported to me by any girl student till now or by their parents till 27.02.02.

I am very much surprised and shocked to hear such an allegation all of sudden after 6 (six) months.

I was carrying out of my duty sincerely. If they had any problems they should have reported me immediately that I would have reported the same to the Principal immediately.

So in reply to this memorandum I would say that to my knowledge no such incident has happened during my escorting duty to the Regional Sports Meet 2001-02 held in Panchgram, Silchar.

Thanking You,

Dated 4/3/2002

Yours faithfully

Sd/- Mrs. J. B. Gogoi
Music Tr. KV Lekhapani

Vijay Kumar Jada

Annexure - 4

KENDRIYA VIDYALAYA
LEKHAPANI.
Dist. Tinsukia (Assam)
PIN -786180

Ref. No. C-13/KVL/2002-03/

Date: 06.6.2002

CERTIFICATE

Certified that as per the office order dated 6.4.2002, page no 14 of the order book, Sh V.K. Yadav, the then PET handed over the charge of "Physical Education Department" to Sh. M.C. Agrawal, PRT.

Sd/- Illegible

The Principal
Kendriya Vidyalaya
Lekhapani - 786180

Vijay Kumar Yadav

Annexure - 5

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 V. K. Yadav, PET, Kendriya Vidyalaya Lekhapani is guilty of immoral conduct towards girl students of the Vidyalaya, viz Bhuva Gurung and Sangetha Gogoi of classes VII & VIII respectively during their train journey from Lumding to Tinsukia in September 2001.

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 V. K. Yadav, PET is guilty of Moral Turpitude involving sexual offence and exhibition of immoral sexual behaviour towards these 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 case, as the same may cause serious embarrassment to the said student and their parents.

The evidence on record establishes the guilt of the aforesaid Sh V. K. Yadav, PET 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 V. K. Yadav, PET with immediate effect.

Sh V. K. Yadav, PET 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 V. K. Yadav, PET, Kendriya Vidyalaya, Lekhapani
2. The Principal, Kendriya Vidyalaya, Lekhapani with the direction that the Pay & Allowances of Sh V. K. Yadav, PET, 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

S. N. S.
Advocate

Vijay Kumar Yadav

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

Annexure - 6

Date : 16.05.02

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 28.02.02, I received a Memorandum bearing No. F.PF/VKY/KVL/2001-02/996 dated 27.02.02 from the Respondent no. 6 alleging misconduct on my part towards few girl students of class VII/VIII/IX. By the said memorandum, I was also strongly warned for my alleged misconduct etc. and was further directed to submit my reply thereto before 1.40 PM on 28.02.02, 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, O/C 868 AT Coy (who is also husband of Mrs. Gunjan Kumar, Contractual Teacher, PRT) interrogated me on 28.2.2002 at about 10.45 P.M. till late night in the Vidyalaya Campus and forcefully got my signature in some papers the contents whereof were not made known to me.

Vijay Kumar Yadav

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. Krishna 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.

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 during their train journey from Lunding to Tinsukia in September 2001. It is categorical stated that no such misconduct was ever committed by me. During the said journey the Girl students were under the guidance of Smti Julia Bora Gogoi, Music Teacher of the Vidyalaya who was the In charge of the Girl's Team. And no report of misconduct or misbehavior by me was ever lodged against me by the said in-charge of the Girl's team. 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 two peons and one teacher (PRT) 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.

In this context, I may also add that on an earlier occasion I was ruthlessly beaten up by the Army Personnel on my mere fault that I had come out to rescue my earlier Principal who was being roughed up by the Army Personnel. It seems that the Army Personnel have now taken the revenge on me acting in connivance with the Principal of the School.

Vijay Kumar Yadav

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.

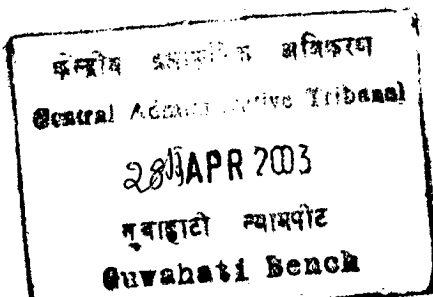
And for this act, I shall remain ever grateful to you.

Yours faithfully,

Enclo : As stated above.

(VIJAY KUMAR YADAV)
Physical Education Teacher,
Kendriya Vidyalaya, Lekhapani,
Tinsukia, Assam.

Vijay Kumar Yadav



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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Filed by 1st Respondent
Through M.K. Majumdar
Advocate
28/04/03

O.A. NO. 359/2002

Sri Vijay Kumar Yadav

.. Applicant

- Versus -

Union of India & Ors.

.. Respondent.

IN THE MATTER OF :

Written statement on behalf
of respondents.

- AND -

IN THE MATTER OF :

Order passed in Misc Petition
No. 164/2002 dated 29/11/02

- AND -

IN THE MATTER OF :

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

.... Deponent.

The humble written statement
of the Respondents are as follows :-

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

contd....p/2.

Filed in the Court
on 28/4/2003
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Respondent and 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 the official Respondents.

2) That the Respondents states that, the statement and averments made in the Original Application are totally denied. The statements which are not borne out of record are denied. The Respondents further states that the statements which are not specifically admitted may be deemed to be denied.

3) That Respondents states that, before controverting the statements and averments made in the above application, the Respondents craves leave of this Hon'ble Tribunal to submit the following facts of the case in brief for appreciation.

FACTS OF THE CASE :

3.(1) Shri V.K. Yadav, PET was working at Kendriya Vidyalaya, Lekhapani since 2.1.1999.

In February, 2002 a complaint was lodged with the Joint Commissioner (Acad.) on phone regarding misbehaviour of some male staff of Kendriya Vidyalaya, Lekhapani with some girl students.

3.(2) The Princplal, Kendriya Vidyalaya Lekhapani was directed to conduct a preliminary

contd....p/3.

inquiry and the same was conducted on 27.2.2002 and 2.3.2002 by a committee consisting of the following members.

- ✓ a. Shri N.P. Singh, PGT (Hindi), Kendriya Vidyalaya, Lekhapani.
- ✓ b. Smt. J.B. Gogoi, Music Teacher, Kendriya Vidyalaya, Lekhapani.
- ✓ c. Smt. S.G. Sood, PRT, Kendriya Vidyalaya, Lekhapani.

The committee called several students of Class VII, VIII and IX to enquire whether they had any problems with any male staff of the Vidyalaya.

Kum. Bhuva Gurung of Class VII and Sangeet Gogoi of Class VIII complained that Shri Vijay Kumar Yadav, PET ~~had~~ 'physically assaulted' them when they were ~~returning~~ returning from the venue of the Regional Sports and Games Meet 2001 and after that in Vidyalaya Sports Room. The Committee member with the Principal and the Chairman's Nominee also visited the house of Kum Bhuva Gurung of Class VII and Kum. Sangeeta Gogoi of Class VIII and statements of the parents and guardians were also recorded. The Committee concluded that the act of Shri Vijay Kumar Yadav, PET towards girl students was "an act of sexual offence and misbehaviour with the girl students."

3.(3) The Chairman VMC, on receipt of the report from the Principal K.V. Lekhapani ordered another

contd....p/4.

inquiry into the allegations made against the teachers by constituting a committee consisting of the following members :-

- a. Major Rohitash Kumar, LOC 868 ATCOY.
- b. Shri N.P. Singh, PGT (Hindi), KV, Lekhapani.
- c. Smt. S.G. Sood, PRT, KV, Lekhapani.

After inquiry from the students Kum. Sangeeta Gogoi (Class VII), Bhuva Gurung of Class VII and from their mother/guardian, the Committee came to the conclusion that Shri V.K. Yadav had 'victimized' Kum. Bhuva Gurung of Class - VII. His misconduct was intentional, planned and demeaning. The committee also recorded the statement of Shri Yadav. The Committee recommended disciplinary action against the effing employee.

In view of the serious nature of allegation i.e. molestation of girl students by staff, a summary inquiry was conducted on 16th and 17th March, 2002 by Assistant Commissioner, Regional Office, Silchar by deputing a team consisting of the ~~for~~ following officers :-

- a. Shri E.T. Erasu, EO, KVS (RO Silchar).
- b. Smt. Radharani Devi, Principal, KV No. 1, Imphal.
- c. Smt. Suhba Krishnamachar, PGT (Bio)k, KV, Buliajan.

The Committee after detailed inquiry submitted its report on 19.3.2002 including that Shri V.K. Yadav, PET made advances and

contd....p/5.

unwelcome physical contact of a sexual nature with girl students amounting to sexual harassment.

On the basis of these reports and other material on record, the Commissioner, KVS came to the conclusion that Shri V.K. Yadav was prima-facie guilty of ~~imm~~ immoral conduct. Since it was not expedient to hold regular inquiry in the case as the same was likely to cause serious embarrassment to the students and their parents, he dispensed with the same and in exercise of the powers under Article 81 (b) of the Education Code for KVs, by his order dated 3.5.02 terminated the services of Shri V.K. YAdav.

Aggrieved by the termination order, Shri V.K. Yadav, PET filed an appeal to the Vice-Chairperson, KVS being the Appellate Authority. He was heard in person on 6.11.2002 by the Vice-Chairperson, Kendriya Vidyalaya Sangathan. Due to the fact that both the students Kum. Sangeeta Gogoi and Bhuvu Gurung have stood by the earlier statement and have expressed their disgust shows that Shri Yadav's advances were most unwelcome. Out of fear and shyness the young students were ~~aff~~ afraid to report the incidents to their parents. Hence the Vice-Chairperson upholds the order of the Commissioner.

Copy of the order is
annexed herewith.

contd....p/6.

4) That with regard to statement made in para 4.1 the Respondent does not forward any comment.

5) That with regard to the statement made in para 4.2 which is matter of facts and the Respondent does not forward any comment.

6) That with regard to statement made in para 4.3 and 4.4 the Respondent does not forward any comment.

7) That with regard to the statement made in para 4.5 and 4.6 the Respondent states that - The memorandum issued by the Principal has stated that Shri Yadav exhibited a doubtful/guilty of immoral behaviour towards girl students while discharging his routine duties in the Vidyalaya. The complaints were not supplied to him because Shri Yadav may create problems for the students or he may approach the guardians of the students to suppress the facts. In spite of that he did the same.

8) That with regard to the statement made in para 4.7 the Respondent states that - Chairman, VMC on getting information about the misconduct of Shri V.K. Yadav, PET had directed Major Rohtas along with two other teachers (i) Shri N.P. Singh, PGT (Hindi), Kendriya Vidyalaya, Lekhapani, (ii) Smt. S.G. Sood, PRT, Kendriya Vidyalaya, Lekhapani to conduct an

contd....p/7.

inquiry in to the allegations but regarding forcing him to sign on the papers as no relevance.

9) That with regards to the statement made in para 4.8 the Respondent states that - Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Silchar on examining the reports deputed the officers as under to conduct the summary inquiry ;

i) Shri E.T. Arasu, Education Officer, KVS, Regional Office, Silchar.

II) Mrs. L. Radha Rani, Principal, Kendriya Vidyalaya, Imphal.

iii) Mrs. S. Krishnamahari, PGT (Bio.), Kendriya Vidyalaya, Duliajan.

They had conducted the inquiry but Shri Yadav was not forced to admit the alleged act of misbehaviour or to put signature on the inquiry report papers

10) That with regard to the statements made in paragraph 4.9, 4.10, 4.11 and 4.12 the Respondent deny the correctness and states that -

The impugned order of termination was passed quite arbitrarily disregarding all canons of Law as mentioned in the Original Application filed by Shri Yadav is not correct. Three inquiries were conducted on the allegations and all reports brought prime facie of immoral conduct toward Shri Yadav with the girl student.

contd....p/8.

In the appeal filed by Shri V.K. Yadav, PET, to Vice-Chairperson, Kendriya Vidyalaya Sangathan, he was heard in person by the Vice-Chairperson but he could not prove his innocence. Accordingly Vice-Chairper uphold the order passed by the Commissioner under article 81 'b' of the Education Code for the Kendriya Vidyalayas dispensing regular inquiry as the same may cause serious embarrassment to the students and parents.

11) That the Respondent states that since the matter has been rightly dealt by the departmental Authority and the gravity of offence does not leave any room for leniency the Authority has to apply the judicious mind and passed the reasoned order.

In view of above submission the Hon'ble CAT may be pleased to dismiss the O.A. filed by Shri V.K. Yadav, PET.

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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 to 6 and 11 are true to my knowledge and those made in paragraphs 3.1-3.3, 7-10 are based on records.

28th April

And I sign this verification on this the day of 2003 at Guwahati.

Place : Guwahati

Sunder Singh Sehrawat
DEPONENT

Date : 28/04/03