

3

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

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. 61/2002

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

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SECTION OFFICER (Judl.)

(See Rule 42 )

# ORDER SHEET

Original No. 61/2002 (T)  
Misc. Petition No.             
Contempt Petition No.             
Review Application No.           

Applicant(s) Tapan Chakraborty

Respondent(s) K. V. S. & Co

Advocate for Applicant(s) Mr. B. C. Das, Mr. S. Datta

Advocate for Respondent(s) Mr. K.N. Chandling for KRS  
Mrs. S. Samra, Adv. for Respondents.

Notes of the Registry	Date	ORDER OF THE TRIBUNAL
<p>This is application in form 5.3.02  C. P. No. 185/50 deposited  with 187/02 <i>D. Amfendine</i>  Dated .... 2.5.2002  <i>By Registrar</i>  <i>28/3/02</i>  <i>Is here order dtd 5/3/02</i>  <i>name of Mr. S. Sarma,</i>  <i>Adv. for Respondents</i>  <i>28/3/02</i></p>	<p>28.3.2002</p>	<p>The case has come here on transfer  from the High Court.  Pleadings are complete. The case may  now be listed for hearing.  Heard Mr. M.Chanda, learned counsel  on behalf of Mr. S.Dutta, learned counsel  for the applicant and also Mr. S.Sarma, lear-  ned counsel for the Respondents.  List on 28.3.2002 for hearing. Office  to show the name of Sri S.Sarma, as counsel  for the Respondents.  <i>K. S. Sharma</i>  Member  <i>[Signature]</i>  Vice-Chairman</p>

28.3.2002

Heard Mr.S.Ali, learned Sr.counsel for the applicant. List the case on 8.4.2002 for hearing in presence of the C.G.S.C.

~~Member~~

~~Vice-Chairman~~

(2)

28.3.2002

None appears may be due to  
Hold Festival. List the again on  
24.4.2002 for hearing.

INVESTIGATION REPORT

Member

Vice-Chairman

bb

24.4.02: There is no Dn'sia Reman today.  
The case is adjourned to 13/5/02.  
Also  
A'K's  
24.4.

13.5.02

None appears for the applicant.  
List on 17.5.02. The respondents may  
file further instructions.

Member

Vice-Chairman

lm

17.5.02

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

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

Member

Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL ::  
GUWAHATI BENCH.

O.A./~~XXX~~ NO. . . . . \* 61 . . . . . of 2002.

DATE OF DECISION 17-5-2002.

Sri Tapan Kumar Chakraborty APPLICANT(S)

Sri S. Dutta, ADVOCATE FOR THE APPLICANT(S)

- VERSUS -

Union of India & Ors. RESPONDENT(S)

Sri S. Sarma ADVOCATE FOR THE  
RESPONDENTS.

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

THE HON'BLE MR K.K. SHARMA, ADMINISTRATIVE MEMBER.

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

5.

Judgment delivered by Hon'ble Vice-Chairman.

5

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 61 of 2002.

Date of Order : This the 17th Day of May, 2002.

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

THE HON'BLE MR K.K.SHARMA, ADMINISTRATIVE MEMBER.

Shri Tapan Kumar Chakraborty,  
son of Late Motilal Chakraborty,  
Resident of Kanpur Part-II,  
Silchar-5.

...Applicant

By Advocate Sri S.Dutta.

- Versus -

1. Kendriya Vidyalaya Sangathan,  
represented by the Chairman,  
Ministry of Human Resources,  
Govt. of India, Department of  
Education, Shastri Bhawan,  
New Delhi-1.
2. The Commissioner,  
Kendriya Vidyalaya Sangathan,  
18, Institutional Area,  
Shaheed Jeet Singh Marg,  
New Delhi-16.
3. The Joint Commissioner (Admn.)  
Kendriya Vidyalaya Sangathan,  
18, Institutional Area,  
Shaheed Jeet Singh Marg,  
New Delhi-16.
4. Sri Puran Chand,  
Joint Commissioner (Acad),  
Kendriya Vidyalaya Sangathan,  
18, Institutional Area,  
Saheed Jeet Singh Marg,  
New Delhi-16.
5. The Deputy Commissioner (Admn.)  
Kendriya Vidyalaya Sangathan,  
18, Institutional Area,  
Saheed Jeet Singh Marg,  
New Delhi-16.
6. Sri V.K.Gupta,  
Assistant Commissioner (Admn.)  
Kendriya Vidyalaya Sangathan,  
18, Institutional Area,  
Saheed Jeet Singh Marg,  
New Delhi-16.

7. Union of India.  
By Advocate Sri S.Sarma.

...Respondents

O R D E R

CHOWDHURY J.(V.C)

has

The matter /reached this Tribunal on transfer. A Writ Petition was preferred before the High Court basically assailing the legitimacy of the initiation of a departmental proceeding under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules 1964 vide memo No.F.4-1/89/KVS (Vig) dated 17.9.97. By the aforesaid memo the authority served upon the applicant the statement of article of charges alongwith the statement of imputation of misconduct or misbehaviour. The statement of article of charges are reproduced below :

\*That S/Shri S.K.Thakur and Tapan Kumar Chakraborty while functioning as Supdt.(Admn.) and Upper Division Clerk, Kendriya Vidyalaya Sangathan, Regional Office, Calcutta during the year,1987 and 1988 failed to observe the recruitment rules for the post Upper Division Clerks for Kendriya Vidyalaya to the extent that both in collusion with each other had put up the wrong proposal by giving the wrong upper age limit of 25 years as prescribed in the Recruitment Rules and Article 45 of the Education Code for Kendriya Vidyalaya causing irregular appointment of seven candidates who were beyond the prescribed age limit for the post.

The aforesaid acts on the part of S/Shri S.K.Thakur and Tapan Kumar Chakraborty constitutes misconduct which is in violation of instructions laid down by the Sangathan for the purpose and Rule-3(1) (i) (ii) and (iii) of Central Civil Services (Conduct)

X

Rules, 1964 as extended to the employee of the Sangathan.

ARTICLE II

The said Shri A.K.Thakur and Shri Tapan Kumar Chakraborty, while functioning as Supdt.(Admn.) and U.D.C. respectively during the said period in Regional Office, Calcutta increased the number of vacancies of U.D.Cs from 6 to 10 to be filled up by direct recruitment, to do favour to the candidates who were otherwise eligible for the post of U.D.C.

These act on the part of s/Shri A.K.Thakur and Tapan Kumar Chakraborty constitutes misconduct which is in violation of Rule 3(1) (i) (ii) and (iii) of Central Civil Services (Conduct) Rule, 1964 as extended to the employees of the Sangathan."

The applicant submitted explanation denying and disputing the allegations. In the written statement the applicant had  
/also assailed the legitimacy of issuance of a charge sheet after a long lapse of ten years. The applicant some times thereafter moved the Writ Petition before the High Court assailing the legitimacy of the purported disciplinary proceeding. The applicant stated and contended that the proceeding was initiated with an improper motive only to harrass the applicant. The applicant also stated that he was merely a cog on the wheel and he was only working as a ministerial staff. His only duty was to place the materials on record with his note which was to be approved or rejected by the higher authority. In the instant case the matter was processed through the level of Section Officer, Senior Administrative Officer and Assistant Commissioner and thereafter the matter reached the headquarter level and then advertisement was issued. In the application the

applicant also contended that long before the initiation of proceeding in September 1997 the respondents authority took steps for appointing Enquiry Officer and Presenting Officer and as a matter of fact by order dated 8.1.97 the authority appointed C.R.Khurana, Senior Administrative Officer, KVS Headquarter, New Delhi as Enquiry Officer and Sri V.Kumar, Section Officer, KVS, New Delhi as Presenting Officer.

2. The respondents submitted their affidavit before the High Court. The High Court by its order dated 17.8.98 stayed the departmental proceeding initiated against the applicant. In the order the High Court also observed that the respondents were under obligation to hold fresh enquiry and initiate disciplinary proceeding against all the persons involved including the officers who were responsible for taking the final decision approving terms of the advertisement. When the matter reached for hearing Mr S.Sarma, learned counsel appearing on behalf of the respondents stated that the authority already took steps in terms of the High Court order and issued charge sheet against some individual. At our instance the respondents submitted an application stating the additional facts wherein it was stated that respondents issued charge sheet against Shri V.K.Gupta, former Assistant Commissioner(admn), Sri G.C.Attal, Admn.Officer and Sri POuran Chand, Joint Commissioner(Academic) vide order dated

contd..5



5.10.97 and 13.12.99. Mr S.Sarma, learned counsel for the respondents also placed before us the memo dated 10.4.2001 alongwith some documents. From the said documents it transpires that the disciplinary proceeding were initiated against Shri V.K.Gupta, G.C.Attal and Puran Chand. A notice dated 5.10.97 was issued by the Chairman and Disciplinary Authority, KVS proposing to take action against Sri Puran Chand under Rule 16 of CCS(CCA) Rules 1965. A statement of imputation of misconduct or misbehaviour on which action is proposed to be taken was also enclosed. Sri Puran Chand was also given an opportunity to make such representation as he may wish to make against the proposal. The full text of the said memorandum is reproduced below :

"Shri Puran Chand, Jt.Commissioner(Acad) in KVS(Hqrs.) formerly Asstt.Commissioner, KVS, RO, Calcutta is hereby informed that it is proposed to take action against him under Rule 16 of Central Civil Services (Classification, Control and Appeal) Rules, 1965. A statement of imputation of misconduct or misbehaviour on which action is proposed to be taken as mentioned above, is enclosed.

Shri Puran Chand is hereby given an opportunity to make such representation as he may wish to make against the proposal.

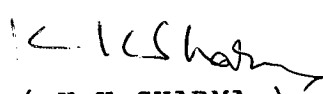
If Shri Puran Chand fails to submit his representation within 10 days of the receipt of this Memorandum, it will be presumed that he has no representation to make and orders will be liable to be passed against Shri Puran Chand exparte.


The receipt of this memorandum should be acknowledged by Shri Puran Chand."

3. We are not sure whether in fact any further proceeding was initiated against Puran Chand. Mr S.Duta, learned counsel for the applicant at this stage submitted that in facts and circumstances there is no justification for continuance of the proceeding and accordingly prayed for quashing of the proceeding. On consideration of all the aspects of the matter, we are however, not inclined to pass any order at this stage. We feel that the matter requires first to be decided by the authority. We also feel that the proceeding need to be resolved expeditiously. We accordingly direct the respondents to conclude the proceeding with utmost despatch, preferably within three months from the date of receipt of the order. The applicant will be at liberty to raise all the issues he has raised already, as well as any other relevant issues.

With these the application stands disposed of. Needless to state that it would always be open to the applicant to move for appropriate remedial action before the appropriate forum in accordance with law, if such occasion arises.

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

  
( K.K.SHARMA )  
ADMINISTRATIVE MEMBER

  
( D.N.CHOWDHURY )  
VICE CHAIRMAN

# IN THE GAUHATI HIGH COURT

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

## CIVIL APPELLATE SIDE

Appeal from

Civil Rule

No. 931 of 19 98

Shri Tapan Kr. Chakraborty

Appellant

Petitioner

Versus

K vs E ors

Respondent

Opposite-Party

Appellant  
For  
Petitioner

Mr. B. C. Das,  
Mr. S. Datta, Adv.

Respondent  
For  
Opposite-Party

C. G. D. C.  
Mr. K. N. Choudhury.

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

26.2.98.

BEFORE

THE HON'BLE MR JUSTICE BN SINGH NEELAM

Heard Mr BC Das, the learned counsel for the petitioner Sri Tapan Kumar Chakraborty filing this writ petition challenging the initiation of the departmental proceeding by furnishing him the charge Memo started on 17.9.97 with regard to the alleged act of the present petitioner said to have been committed as submitted, in 1987 when he was UDA attached to Calcutta office and submitting a note showing inflated number of vacancies and upper age limit.

Let a notice of motion issue calling upon the respondents to show cause as to why a Writ shall not be issued, as prayed for; and why

Noting by Office or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
<p><u>26.2.98.</u></p>			<p>such other further order or orders should not be passed as to this court may deem fit &amp; proper.</p> <p>Notice is made returnable within 4(four) weeks.</p> <p>The learned counsel for the petitioner as to take steps within two days from today.</p> <p>Mr KN Choudhury, the learned counsel appears and accepts notice on behalf of the respondents No.1 &amp; 7, no notice need be sent.</p> <p>The learned counsel for the petitioner as to take steps for service of notice upon the rest of the respondents.</p> <p>There is a prayer for grant of interim relief for suspending the departmental proceedings.</p> <p>Both the sides lawyers are heard on this point.</p> <p>I don't feel inclined at this <sup>stage</sup> to grant any interim relief. After returnable date, the petitioner is at liberty <sup>when</sup> as to raise the point after both the sides lawyers <sup>are</sup> heard and necessary orders shall be passed after hearing both the sides lawyers.</p> <p style="text-align: right;">JUDGE</p> <p>na/</p> <p>20/2/98</p> <p>BEFORE The Hon'ble Mr. Justice D.M. Choudhury.</p> <p>NO representation. party after 3 weeks. time <del>extended</del>.</p> <p style="text-align: right;">JUDGE SAURASHI HIGH COURT</p> <p>15/3</p> <p>called by order</p>

Inventive of motion  
BOLD RETURNABLE 4  
weeks.

C 27/2  
H 2/3

Noting by Office or Advocate

Serial  
No.

Date

Office notes, reports, orders or proceeding  
with signature

20.4.1998

-Before-

The Hon'ble Mr. Justice D.N. Chowdhury

ORDER

Heard Mr. B.C.Das, learned counsel for the petitioner. The respondents are represented by Mr. K.N.Choudhury, learned Sr. Central Govt. Standing Counsel.

Post this case for further orders on 23.4.98 showing the name of the parties including the name of ~~the~~ Mr. K.N.Choudhury as counsel for the respondent.

  
Judge

kb

BEFORE:

HON'BLE MR JUSTICE DN CHOWDHURY.

23-4-98

Heard Mr BC Das, learned counsel for the petitioner and Mr KN Choudhury, learned Sr. Central Govt. Standing Counsel appearing for the respondents.

Let the records be called for.

Let a rule issue calling upon the respondents to show cause as to why a writ, as prayed for, should not be issued; and/or why such further order(s)/direction(s) as to this Court may seem fit and proper should not be issued.

No further notice need be issued to the respondents.

Contd. ..PTO

(4)

Noting by office or  
Advocate.

Serial

Date

Office notes, reports, orders, or proceeding  
with signature.

Contd.  
(23-4-98)

Mr KN Choudhury, learned Sr. CGSC, prays  
for three weeks' time for filing affidavit.  
Post this matter after three weeks for further  
orders.

Mr BC Das, learned counsel for the petiti-  
oner has prayed for an interim direction <sup>on</sup> to the  
respondents restraining them from proceeding with  
the enquiry. I am not inclined to pass any such  
order at this stage. However, if the situation  
so demands, it will again be taken into conside-  
ration after three weeks on filing of the  
affidavit by the respondents.

JUDGE

ncd

Post after 3 weeks  
for further orders

29/4.  
A

C.R. 931/98

55

By office or Advocate.	Serial	Date	Office notes, reports, orders, or proceeding with signature.
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21-5-98

BEFORE

The Hon'ble Mr. Justice H.K.K. Singh

List this case on 28/5/98  
by showing the name of the learned  
Central Govt. Standing Counsel for  
the respondent.

H.K.K.

Judge

Gauhati High Court

22

FILED ON 28-5-98  
by showing the name  
of Ld. C.G.S.C.

22/5  
AC

28-5-98

BEFORE

The Hon'ble Mr. Justice H.K.K. Singh

List this case on 1.6.98 showing  
the name of C.G.S.C. for the respondent.

H.K.K.

Judge

Gauhati High Court

22

6

C.R. 931/98

Noting by Office or Advocate

Serial No.

Date

Office notes, reports, orders or proceeding with signature

1-6-98

BEFORE  
The Hon'ble Mr. Justice N.C. Jain

Learned counsel for the petitioner submits that this matter be listed on 5-6-98.

I order accordingly.

*m*

Judge  
Gauhati High Court

FIKED ON 5-6-98

*1-6-98*

19-6-98

Exist the matter after vacation.

*P/O*

2-5-98

BEFORE  
The Hon'ble Mr. Justice

A.K. Patra

Let this matter be 12-5-98 as per paper for.

*a*

Judge  
GUARATI HIGH COURT

*21/8/98*  
*HC 25/6*

*B*

FIKED ON 12-8-98

*2*



C.Rule No- 931/98

17

Eng by Office or Advocate	Serial No.	Date	Office notes, reports, orders or proceeding with signature
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18-8-98

Before.

Hon'ble Mr Justice A.P.Singh.

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

It appears that the petitioner was posted as U.D.Asstt. he made certain note for the benefit of perusal by his superiors. In regard to advertising certain vacancies, the said note was to be finally approved by the respondent no.6.the Assistant Commissioner.It was after his approval that the advertisement was issued and appointments were made. As per the charge , the petitioner is said to be guilty enlarging the age limit for recruitment to the post and have also enhanceing the number of vacancies. If , what is said against the petitioner is correct then all the authorities including the respondent no.4 and 6 who were the relevant officers to finally approved should also have been roped in discharge.It also however appears that only the petitioner and another Class.III Officer, namely, the Office Superintendent have been made answerable for illegality resultin in the illegal appointment. These alone would not reveal the actual role played by the officers in making illegal appointment The respondents are therefore under obligation to hold fresh enquiry and initiate disciplinary proceeding against all the persons concerned including the officers who were responsible for taking the final decision approving terms of the advertise-ment.

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

  
Judge.

Ahmed/-

Communicate the stay

19/8

18/9/98

8

8

Noting by office or  
Advocate.

Serial

Date

Office notes, reports, orders, or proceeding  
with signature.

26.8.98

Order of

23.4.98

17.8.98

communicated

to record

called.

*[Signature]*  
26/8/98

At 28-8-98

An affidavit-in-opposition

on behalf of the

respondent nos-1 to 6

has been filed on

13-8-98 and the

same is placed on

record.

*[Signature]*  
28/8/98

CR 931/98 19 ③

Noting by office or  
Advocate.

Serial

Date

Office notes, reports, orders, or proceeding  
with signature.

Respectable Mr Justice D N Choudhary

21/10/98

None appears for  
the petitioner, the  
case is otherwise  
ready for hearing.  
Office to post the  
matter for hearing  
in the month of  
January, 1999.

Post for hearing in the  
month of January 1999.

23/1/99  
A. G. P.

Judge.  
KARNATI HIGH COURT

2

Date .

Office notes, reports, orders or proceeding  
with signature

Civil Rule No.931/98.

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

BEFORE  
THE HON'BLE MR JUSTICE RANJAN GOGOI

6/2/2002:- The learned counsel for the parties are agreed that the subject matter of the writ petition lies within the jurisdiction of the Central Administrative Tribunal, Guwahati. Accordingly the record would be transmitted to the said Tribunal for registration of a fresh case by the Tribunal and for proceeding in the matter in-accordance with law.

*su*  
JUDGE.

a.m.

*Transmitted to  
Central Administrative  
Tribunal  
immediately.*  
*[Signature]*  
*[Signature]*



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

DISTRICT : CACHAR

IN THE GAUHATI HIGH COURT

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

CIVIL RULE NO. 937 OF 1998.

Sri Tapan Kumar Chakraborty ... Petitioner

-Versus-

Kendriya Vidyalaya Sangathan  
and Others. ... Respondents

CODE : 10052 ( DISCIPLINARY & ENQUIRY  
PROCEEDINGS )

CATEGORY-

BENCH - B

I N D E X

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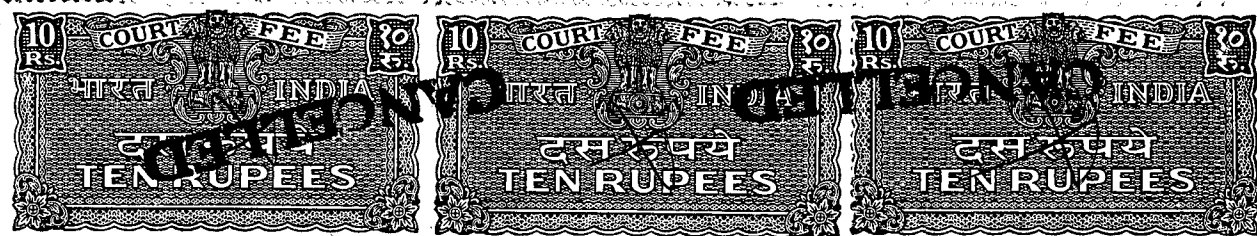
Filed by

( Advocate )

23  
Filed by:-  
Tapan Kumar Chakraborty  
Petitioner  
Through:-  
Surajit Dutta  
Advocate.







District : Cachar

IN THE GAUHATI HIGH COURT

(The High Court of Assam, Nagaland, Meghalaya, Manipur,  
Tripura, Mizoram and Arunachal Pradesh).

(Civil Extra-Ordinary Jurisdiction)

Civil Rule No. 93/198

To

The Hon'ble Sri M. Ramakrishna, B.A., B.L.,  
the Chief Justice of the Gauhati High Court  
and His Lordships other companion Justices  
of the said Hon'ble High Court.

In the matter of:-

An application under Article  
226 of the Constitution of  
India for issuance of a writ  
of or in the nature of certiorari  
and/or mandamus and/or any other  
writ, order or direction.

- And -

...contd...

Commissioner of Affidavits  
Gauhati High Court  
Cachar



In the matter of :-

Disciplinary proceeding initiated against the petitioner after a lapse of more than ten years by Memorandum of charges vide No.F.4-1/89/KVS (Vig.) dated 17.9.97 issued by the Commissioner of Kendriya Vidyalaya Sangathan, H.Q. New Delhi.

- And -

In the matter of :-

Charge sheet dated 17.9.97 issued by the Commissioner of Kendriya Vidyalaya Sangathan, H.Q. New Delhi, vide letter No. F.4-1/89/KVS(Vig.) alleging certain irregularities occurring in the year 1987-88.

- And -

In the matter of :-

Enforcement of petitioner's fundamental, and legal rights.

- And -

Contd.....



26

- 3 -

In the matter of:-

Violation of the provisions of  
Article 14 and 16 of the Consti-  
tution of India.

- And -

In the matter of:-

Sri Tapan Kumar Chakraborty,  
son of Late Motilal Chakraborty,  
Resident of Kanapur Part-II,  
Silchar-5.

..... Petitioner.

- Versus -

1. Kendriya Vidyalaya Sangathan,  
Represented by the Chairman,  
Ministry of Human Resources,  
Govt. of India, Department of  
Education, Shastri Bhawan,  
New Delhi-1.
2. The Commissioner,  
Kendriya Vidyalaya Sangathan,  
18, Institutional Area,  
Saheed Jeet Singh Marg,  
New Delhi-16.

X  
2

- 4 -

3. The Joint Commissioner (Admn.),  
Kendriya Vidyalaya Sangathan,  
18, Institutional Area,  
Saheed Jeet Singh Marg,  
New Delhi-16.

4. Sri Puran Chand, — Asst Comm  
Joint Commissioner (Acad),  
Kendriya Vidyalaya Sangathan,  
18, Institutional Saheed Jeet  
Singh Marg,  
New Delhi-16.

5. The Deputy Commissioner (Admn.),  
Kendriya Vidyalaya Sangathan,  
18, Institutional Area,  
Saheed Jeet Singh Marg,  
New Delhi-16.

6. Sri V.K. Gupta, — Sr Asst Comm  
The Assistant Commissioner (Admn.),  
Kendriya Vidyalaya Sangathan,  
18, Institutional Area,  
Saheed Jeet Singh Marg,  
New Delhi.-16.

7. Union of India.

The humble petition of the  
petitioner above named :-

Contd....

Most Respectfully Sheweth:-

1. That the petitioner is a citizen of India and resides at the address mentioned in the cause Title and as such he is entitled to all the rights and privileges guaranteed under the Constitution of India.
2. That your petitioner joined in the Kendriya Vidyalaya Sangathan as a Lower Division Clerk(L.D.C.) in the year 1978 and since then has been working for the said sangathan with an unblemished service record. The petitioner is at present working as an Assistant in the Regional Office of the said Sangathan at Silchar and the service condition of the petitioner is governed by the Education Code, Accounts Code & Administrative Circulars issued from time to time.
3. That this writ ~~xxxx~~ application is filed praying for quashing the disciplinary proceeding drawn up against the petitioner a ter a lapse of more than ten years centering round the issue of an alleged inflation of age limit in the draft text of advertisement prepared for filling up posts of Upper Division Clerks(U.D.C.) and alleged increase in the number of vacancies from six to ten through direct recruitment.

...contd...

4. That the petitioner begs to state that in the facts and circumstances narrated in the subsequent paragraphs the issues that would fall for consideration in this case by this Hon'ble Court are:-

- (i) Whether the disciplinary proceedings drawn up against the petitioner by issuance of a charge sheet after an inordinate delay of 10 years would be just and fair and would be liable to be quashed on the ground of delay ?
- (ii) Whether the disciplinary proceeding so drawn up against the petitioner would be liable to be quashed on the ground of malafide ?

5. That the respondent No.1, Kendriya Vidyalaya Sangathan, (for short the Sangathan) is completely controlled by Govt.of India. The Minister of Ministry of State or Dy. Minister in the Ministry of Education incharge of the Kendriya Vidyalaya Scheme is the Chairman of the Sangathan. The Vice-Chairman is an officer of the Ministry of Education especially nominated by the Govt.of India. The other members are appointed by the Govt.of India from amongst senior officers of the Ministries of Finance, Defence, works and Housing and Department of Personnel as well as distinguished

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- 7 -

educationist including representatives of the Central Board of Secondary Education, National Council of Education Research Training and State Governments. The respondent No.1, in view of the fact that it is funded and controlled by the Govt.of India and because of its discharging the function of the Govt.of India, is a State under Article 12 of the Constitution of India.

6. That, prior to his posting at Silchar Regional Office as Assistant, the petitioner was serving as U.D.C. in the Regional Office of the Sangathan at Calcutta. He alwa-ys performed his duties diligently and with utmost sincerity and devotion. The petitioner states that he is due for his promotion to the post of Superintendent(Admn.) by selection through departmental examination held on 10.8.96 and it is only to impede the same and protect~~ed~~ the vested interest of some persons that this disciplinary proceeding has been initiated over a frivolous and stale story.

7. That, during the year 1987, while the petitioner was serving as Upper Division Clerk(U.D.C.) in the Calcutta Regional Office of the Sangathan, there was requirement for filling up the posts of U.D.C.s in Kendriya Vidyalaya and as such an advertisement to that effect was required to be made. The petitioner at the relevant time was entrusted to prepare the draft copy of the advertisement and accordingly he prepared a handwritten draft where the upper age limit of the candidates for the post was fixed at 25 years. As the

Superintendent of the Regional Office was on leave, the draft alongwith a forwarding letter was put up to the Administrative Officer for approval. The Administrative Officer in his turn alongwith the then Assistant Commissioner Mr. P uran Chand made necessary correction in the handwritten draft and raised the upper age limit from 25 to 30 years in terms of circular No. F.22-17/82-KVS(Admn.) dated 3.5.84 and prepared a final typed draft which was sent to the Senior Administrative Officer at Delhi for vetting.

A copy of the aforesaid circular dated 3.5.84 is annexed herewith as ANNEXURE-I.

8. That the then senior Administrative Officer Mr. V.K. Gupta, after thorough scrutiny of the draft proposal, finally approved the draft format for advertisement without any objection and by his letter dated 26.11.87 requested the then Assistant Commissioner Mr. Puran Chand at Calcutta to take further action in accordance with Article 39 of the Education Code for Kendriya Vidyalaya. It is stated that Article 39 of the Education Code prescribes the procedure of recruitment and there was no objection regarding the increase in upper age limit during their scrutiny before passing the order of approval at the relevant point of time as it was found in accordance with rules. The petitioner begs to state that after obtaining the necessary approval the then Assistant Commissioner at Regional Office Calcutta, Mr. Puran Chand, vide his letter dated 1.1.88 sent the format to the Employment News for advertisement.



The copies of the aforesaid letter dated 26.11.87 and 1.1.88 are annexed herewith as ANNEXURE-2 & 3 respectively.

9. That the petitioner states that the advertisement thereafter was duly published in the Employment News in pursuance to which the intending candidates made their respective applications. The applications were scrutinised and the eligible candidates were called for written test and oral interview. After going through all these process the final select list was prepared and appointments were made. The entire process was completed by October, 1988.
10. That thereafter it appears that the higherups in the Sangathan took objections to the said increase of age limit on the pleas that the said circular prescribing upper age limit as 30 years was not applicable and directed fixing of responsibility. In pursuance thereof the Commissioner issued a letter on 2.6.89 to the Asstt. Commissioner, Calcutta asking him to explain as to why the upper age limit in the earlier advertisement was quoted as 30 years. In his reply dated 16.6.89 the Asstt. Commissioner stated that the irregularity had occurred initial stage when the concerned U.D.C. had put up the draft text for advertisement for approval by the then Asstt. Commissioner.

A copy of the reply of the Asstt. Commissioner 16.6.89 is annexed herewith as Annexure-4.

...contd...

11. That in the meantime the then Asstt. Commissioner Mr. Puranchand was promoted as Deputy Commissioner (Admn.). It may be reiterated that this Asstt. Commissioner Mr. Puranchand at the relevant time and the then Administrative Officer raised the upper age limit and the same was approved by Sri V.K. Gupta, Senior Administrative Officer and Headquarter. At the turn of events, became apprehensive that they might also be booked on the charge and so wielded their powers and influence to extricate themselves from the same and find a scapegoat, the petitioner who was the concerned U.D.C. at that point of time. They therefore, made every possible endeavour to rope in the petitioner.

12. That with that oblique motive the then Deputy Commissioner (Admn.) Mr. Puranchand, by his letter dated 26.6.89, asked the Asstt. Commissioner, R.O. Calcutta to name the dealing hand who had put up the draft for advertisement. The Asstt. Commissioner, thereafter, carefully looked into the file and came to the opinion that nobody could be pinpointed. He, therefore, by his reply dated 25.8.89 categorically mentioned that the dealing hand could not be pinpointed as the typed draft bore ink writings in more than one hand.

Copies of the letters dated 26.6.89 and reply dated 25.8.89 are annexed herewith as Annexure 5 and 5A respectively.

...contd...

13. That, in the meantime, in the year 1988, some of the colleagues of the petitioner were given ad-hoc promotion to the post of Assistants who were juniors to the petitioner, but the petitioner was singled out and not given promotion due to the vindictive and oblique attitude of his superiors. During the year 1990-93 those ad-hoc promotions were confirmed and there were vacancies which were filled up denying the petitioner his due promotion. Instead he was transferred to the Patna Regional Office from Calcutta Regional Office by order dated 5.1.90.

14. That, the petitioner challenged the aforesaid transfer order, being C.O.No.2687(w)/90 before the Hon'ble Calcutta High Court. The petition was however, disposed of with a direction on 15.3.90 that the petitioner would file a representation to the authorities and the authorities would upon sympathetic consideration pass a reasoned order and untill such disposal, the transfer order would remain in abeyance.

15. That after the passing of the aforesaid order by the Hon'ble Calcutta High Court, the petitioner went to join his office at Calcutta. He also filed a representation on 6.4.90 to the Deputy Commissioner (Admn.) and another two on 6.9.90 and on 2.5.90 to the Commissioner. But neither the petitioner was allowed to join nor his representations were disposed of under these circumstances, he filed a contempt petition in the Hon'ble Calcutta High Court.

Thereupon, the then Deputy Commissioner (Admn.) Mr. Puranchand disposed of an earlier representation of the petitioner

dated 24.2.90 ~~and~~ on 26.4.90 and submitted before the Court that his representation had already been disposed of whereupon the Hon'ble Calcutta High Court dripped the contempt proceeding. However, on being pointed out by the petitioner that the disposal was of an earlier representation, the Hon'ble Court recalled its earlier order, revived the earlier writ application granting stay thereupon and initiated a fresh contempt proceeding.

16. That subsequently, the Commissioner disposed of the representation dated 6.4.90 of the petitioner on 30.8.90 rejecting the same on the plea that he was suspected to have his hand in the alleged unauthorised inflation of the age limit and it would be improper to keep him in Calcutta where he would have an access to records. After this, the representation of the petitioner dated 2.5.90 was also disposed of by the Commissioner on 17.10.91 rejecting the same surprisingly on the ground that the petitioner was suspected to have forged the age limit in the advertisement for the recruitment of the U.D.C.s. It was evident that inspite of the clarification of the Assistant Commissioner that ~~no~~ no body could be pinpointed, the authorities being actuated by bias and oblique motive held the petitioner responsible for the said irregularity.

17. That thereafter, the Chief Vigilence Officer issued a memorandum to the petitioner on 10.1.91 asking him to

- 13 -

to explain the irregularity, that cropped up during 1987-88 regarding the preparation of draft advertisement. The petitioner immediately after receipt of the aforesaid memorandum sent his reply on 22.1.91 explaining the circumstances and denying his involvement in the matter in any way.

The copies of the memorandum dated 10.1.91 and reply dated 22.1.91, are annexed herewith as ANNEXURE 6 & 6A respectively.

18. That in the meantime the petitioner became eligible for regular promotion to the post of Assistant which was denied to him. In the year 1992, a departmental examination was held for filling up the post of Assistant through direct recruitment. Be it mentioned that the post is filled up both by regular promotion and by direct recruitment through departmental examination. The petitioner appeared in the examination ~~xxThe petitioner appeared in the~~ and was placed at Sl.No.2 in the Select Panel. But again the petitioner was denied his due promotion and instead the candidate at Sl.No.3 was offered promotion. Upon a representation to that effect it transpired that a sealed cover procedure had been adopted which would not have been done in this case as there was no charge framed or issued to him.

...contd...

19. That in April 1993, the petitioner came to know from the Assistant Commissioner, Calcutta that the Deputy Commissioner (Admn.) by his letter dated 12.4.93 had informed that a disciplinary proceeding was being contemplated against him and so he could not be promoted and his case for promotion would be considered after the outcome of the proceeding.

A copy of the aforesaid letter dated 12.4.93 is annexed herewith as ANNEXURE-7.

20. That thereafter, the petitioner in the aforesaid circumstances approached the Hon'ble Calcutta High Court in C.O. 246 (writ) of 1994 praying, inter alia, for a direction to promote him to the post of Assistant. In that case, the respondents appeared and filed affidavit wherein they contended, inter alia, that the promotion of the petitioner was considered by the D.P.C. held on 22.1.92 and 7.1.93 but his name was kept pending for want of A.C.R. and again his name was recommended by the D.P.C. on 27.2.93 but the same being kept under sealed ~~en~~cover as disciplinary proceedings were pending against him, his promotion could not be considered. It was also contended by the respondents that his case would be considered by the respondents if he was from the charges and till such exoneration his case could not be considered. The aforesaid writ application is still pending before the Hon'ble Calcutta High Court.

...contd...

21. That during the pendency of the aforesaid application before the Hon'ble Calcutta High Court the Asstt. Commissioner took up the matter because he held the opinion that in fact no disciplinary proceeding was pending against the petitioner and ~~that~~ to deny him promotion by adopting sealed cover procedure would be a injustice to him. Moreover the petitioner could not be held responsible for the said irregularity and as such no disciplinary proceeding could be contemplated against him. Further he found the A.C.R's in favour of the petitioner. He, therefore, persistently recommended the petitioner case for promotion in the Head ~~Quater~~ quarter.

Copies of such letters are annexed herewith as Annexure 7A, 7B, 7C and 7D.

22. That the above view of the Asstt. Commissioner was ~~accepted~~ accepted by the authorities at the Head quarter of the Sangathan. Thereafter the sealed cover was opened and the petitioner was offered the promotion posting him to the post of Assistant at Silchar Regional Office. The offer of appointment, in this respect, was issued on 15.9.95 by the Senior Administrative Officer. The petitioner who ought to have been posted at Calcutta itself, however accepted the offer of promotion with objection and joined at Silchar Regional Office. He however, made a representation for posting him at Calcutta Regional Office. It may be stated that there is still vacancy existing at Calcutta R.O. for the last three years.

...contd...

A copy of the offer of appointment dated 15.9.95 is annexed herewith as Annexure-8.

23. That thereafter, on the basis of his earlier representation, for retrospective promotion and posting at Calcutta, the petitioner was given the benefit of seniority but without any financial benefit. For further promotion to the post of Superintendent (Admn.) through direct recruitment the petitioner appeared at the departmental examination held on 10.8.96 and is understood to have been placed at Sl.No.3. Be it mentioned that the number of vacancies was declared in the advertisement as two(2) but likely to increase and subsequently it was increased ~~and~~ to six also. By now, the first two(2) selecties have already been given promotion as Superintendent and obviously the petitioner being the next man in the panel is due for promotion.

24. That the petitioner begs to state that thereafter all a sudden a charge sheet has been issued against him vide letter No. F.4-1/89/KVS(Vig.) dated 17.9.97 which contains two charges and statement of imputations. The charge sheet reads as under:-

...contd...



ARTICLE - I

That S/Shri A.K.Thakur and Tapan Kumar Chakraborty while functioning as Supdt. (Admn.) and Upper Division Clerk, Kendriya Vidyalaya Sangathan, Regional Office, Calcutta during the year, 1987 and 1988 failed to observe the recruitment rules for the post of Upper Division Clerks for Kendriya Vidyalayas to the extent that both in collusion with each other had put up the wrong proposal by giving the wrong upper age limit as 30 years for U.D.C. as against the prescribed age limit of 25 years as prescribed in the Recruitment Rules and Article 45 of the Education Code for Kendriya Vidyalayas causing irregular appointment of seven candidates who were beyond the prescribed age limit for the post.

The aforesaid acts on the part of S/Shri A.K. Thakur and Tapan Kumar ~~Chakr~~ Chakraborty constitutes misconduct which is in violation of instructions laid down by the Sangathan for the purpose and Rule-3(1)(i)(ii) and (iii) of Central Civil Services (Conduct) Rules, 1964 as extended to the employee of the Sangathan.

ARTICLE- II

The said Shri A.K.Thakur and Shri Tapan Kumar Chakraborty, while functioning as Supdt. (Admn.) and U.D.C. respectively during the said period in Regional Office, Calcutta increased the number of vacancies of U.D.C.s from

...contd...

6 to 10 to be filled up by direct recruitment, to do favour to the candidates who were otherwise eligible for the post of U.D.C.

These act on the part of S/Shri A.K.Thakur and Shri Tapan Kumar Chakraborty constructs misconduct which is in violation of Rule-3(i) (ii) and (iii) of Central Civil Services (Conduct) Rules, 1964 as extended to the employees of the Sangathan.

A copy of the charge sheet is annexed herewith as ANNEXURE-9.

25. That the petitioner submitted his reply to ~~an~~ charge sheet on 10.10.97 denying and refuting both the charges. Regarding the first charge, he stated that at the time of preparation of the draft, the then Superintendent (Admn.) Sri A.K.Thakur was on leave and as such the handwritten draft was put up before the then Administrative Office along with a forwarding letter. But, ultimately a draft format was prepared and typed making necessary correction by the then Administrative Officer. The said draft format duly typed was sent to the Senior Administrative Officer for vetting before its publication in the newspaper. With regard to the ~~x~~ second charges, the petitioner stated that in his note he submitted the information showing the vacancy position

...contd...

and the same was put up before the Assistant Commissioner to assess the actual numbers of candidates to be called for the interview. It was also contended by the petitioner that it was not at all in his knowledge as to how ten(10) candidates were selected. It may be stated that this allegation was for the first time made out against the petitioner and this was never raised earlier at any point of time.

The petitioner states that the charges framed against him are frivolous, illegal, vexatious and unfounded. These are levelled against him malafide apparently to disentitle him the promotion which is due to him.

A copy of the reply to charge sheet dated 10.10.97 is annexed herewith as ANNEXURE-10.

26. That immediately after issuance of the charge sheet dated 17.9.97, the Commissioner informed the petitioner vide letter dated 8.1.97 about appointing a Inquiry Officer to inquire into the matter and a presenting officer to present the cases before the Inquiring Authority. The said letter dated 8.1.97 was received by the petitioner at Calcutta on 27.1.98 while he was on leave.

A copy of the aforesaid letters dated 8.1.97 are annexed herewith as ANNEXURE-11, & 11A respectively. *Sanja*

27. That the petitioner begs to state that the present

proceeding has been initiated after a lapse of more than then years. The alleged irregularities which is the subject matter of the proceeding dates back to the year 1987. The authorities were aware of those irregularities, if any. It does not stand to reason that the authorities would require so much time to initiate the proceeding. Rather, they were clearly of the view that the petitioners involvement could not be pin pointed. There-fore it is unreasonable to think that any disciplinary proceeding was even contemplated against the petitioner that would take ten years to culminate in the issuance of the charge sheet. The disciplinary proceeding is therefore vitiated by inordinate delay and as such liable to be quashed. In that view, it would in the interest of Justice.

28. That the petitioner begs to state that from the facts and circumstances and the correspondences mentioned hereinabove, it appears that at no stage disciplinary proceeding against the petitioner was contemplated. Even if, there be any doubt, it was clarified by the explanation in reply to the memorandum dated 10.1.91. Thereafter, also when the sealed cover was opened and the petitioner was given his due promotion with retrospective seniority, the matter came to a close. It would therefore be an arbitrary exercise of power to dig up the old and closed issue again and initiate the instant proceeding on the self same facts. In that view it would be unjust and unfair to permit the disciplinary proceeding to be proceeded with and thus liable to be quashed.

Contd....

29. That the petitioner begs to state that the delay of a period of ten years is a considerable delay and because of this the vital records and documents pertinent to the case have not been made available denying him to make an effective reply. Although the petitioner has replied to the chargesheet, he contended that he was not in a position to make an effective reply because he could not recollect everything in toto after a gap of so many years. That being the position, the petitioner would be prejudiced in defending himself in the inquiry which would be against the rule of law. Therefore, the disciplinary proceeding is liable to be quashed on this ground alone.

30. That the petitioner begs to state that from the initial stage, the petitioner has been singled out and victimized for no fault of his own. The other officials who were responsible, as stated hereinabove, for increasing the age limit and also the number of vacancies have been spared and have not been touched at all. The petitioner was working at the bottom end of hierarchy and he has been made the scapegoat only to shield and guard the interest of the higher officials who shouldered greater responsibilities for the alleged irregularities, if any. The chain of events that have taken place clearly points out that the instant disciplinary proceeding has been initiated malafide with ulterior motive.

31. That the petitioner states that the facts alleged in the charges are so trifling and frivolous that they have no substance constitute any misconduct so as to start a ~~disciplinary~~ disciplinary proceeding against

Contd....

the petitioners. Even if there be anything, those irregularities have been cured by the subsequent process of recruitment and appointment. Moreover no loss or damage to the Sangathan has been attributed due to the said alleged irregularities. The petitioner therefore, cannot be subjected to a disciplinary proceeding on that count.

32. That as stated hereinabove, the petitioner is due for promotion to the post of Superintendent (Admn.). He is next in the panel and there are vacancies which are likely to be filled up any time. It is with a view to debar him from further promotion that the instant disciplinary proceeding has been initiated so that his promotion can be withheld on the ground of pendency of disciplinary proceeding.

33. That the petitioner begs to submit that the instant disciplinary proceeding after an undue delay of more than ten years is unjust and unfair and as such liable to be quashed.

34. That the petitioner submits that at least after the closure of the issue in view of the promotion of the petitioner, the instant proceeding over an old and stale matter is illegal and unjust and as such the instant proceeding is liable to be quashed.

35. That the petitioner submits that the delay would prejudice the petitioner in defending himself effectively and as such continuation of the proceeding would be arbitrary and unreasonable.

Contd....

36. That the petitioner submits that the instant proceeding is actuated by malafide and as such the charges are liable to be quashed.

37. That the petitioner submits that irregularities, if any have been committed by those higher officials as ~~xxxxxx~~ mentioned herein-above who have been spared but the petitioner roped in which is violative of Article 14 of the Constitution of India.


38. That the petitioner submit that the initiation of the proceeding in the facts and circumstances of the case is illegal and arbitrary and violative of Article 14 of the Constitution of India.

39. That, in any view of the matter, the disciplinary proceeding and its continuation is bad in law and as such liable to be quashed.

40. That the petitioner states that the instant disciplinary proceeding is exfacie bad in law and liable to be quashed. The petitioner has a strong prima facie case to succeed in the petition. It therefore, the proceeding is allowed to continue during the pendency of this petition he would suffer irreparable loss and injury. It would therefore be in the interest of justice to stay further proceedings as an interim measure.

41. That the petitioner has no other alternative and efficacious remedy available to him but to approach this Hon'ble Court and the remedy sought for in this case would be just, adequate and complete. The petition is made bonafide and in the interest of Justice.

Contd....

  
Commissioner of Affidavits  
Gauhati High Court  
Gauhati

In the premises aforesaid it is thus prayed that your Lordships would be pleased to admit this application, call for the records, issue rule calling upon the respondents to show cause as to why:

(a) a writ of certiorari should not issue quashing the disciplinary proceeding initiated vide letter No.F-4-1/89-KVS(Vig) dt.17.9.97 issued by the ~~General~~ Commissioner of the Sangathan;

-And-

(b) a writ of mandamus should not issue directing or commanding the respondents to drop the disciplinary proceeding itself;

- And -

(c) a writ of like nature directing or commanding the respondents to transfer the petitioner to Calcutta Regional Office and consider his case for promotion to the post of Superintendent (Admn.) and upon consideration of the same post him at Calcutta Regional Office.

- And -

Cause or causes being shown and upon hearing the parties be pleased to make the rule absolute with cost of the

...contd...



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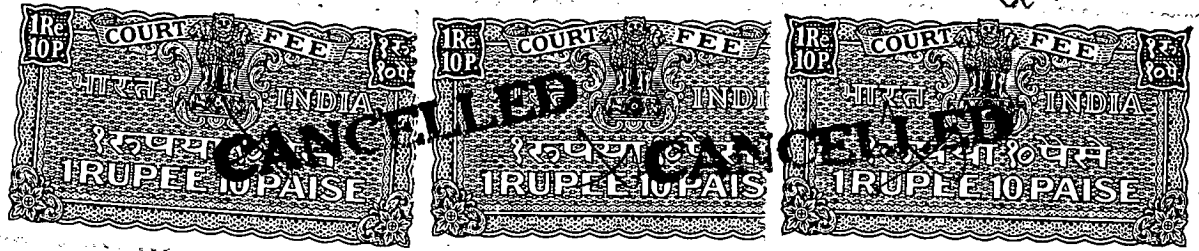
- 25 -

proceeding and/or pass any other or further order or orders as Your Lordships may deem fit and proper.

- And -

Pending hearing of the rule be further pleased to pass an order staying the further continuance of the disciplinary proceeding commenced in pursuance of the charge sheet dated 17.9.97 and direct the respondents not to fill up the vacant post of Assistant at Calcutta Regional Office by any other candidate except the petitioner till disposal of this case.

And for this act of kindness, the petitioner shall ever pray.



# A F F I D A V I T.

I, Shri Tapan Kumar Chakraborty, Son of late Motilal Chakraborty, aged about 42 years, resident of Kanakpur Part- II, Silchar- 5 , P.O. & P.S. Silchar, in the district of Cachar, by occupation Service, do hereby solemnly affirm and say as follows :-

1. That I am the petitioner in the instant case and as such acquainted with the facts and circumstances of the case.
2. That the statements made in this affidavit and in paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 20, 23, 25, 27, 28, 29, 30, 31, 32, 40, and 41 of the accompanying petition are true to my knowledge while those made in paragraphs 17, 19, 21, 22, 24 and 26. being matters of records are true to my information derived therefrom and the rest are my humble submissions before this Hon'ble Court.

And I sign this affidavit on this 26th day of February, 1998 at Guwahati.

Identified by :-

*Rijush Kanta*  
Advocate's Clerk.

*Tapan Kumar Chakraborty*  
DEPONENT.

Subscribed and sworn to before me on this 26th day of February, 1998 at Guwahati.  
I, *D. N. A.*, a person known to me, do hereby certify that I read over and explained the contents of the declaration and that the declarant seemed to understand them.

Commissioner of Affidavits  
Cachar High Court  
Guwahati

26/2/98

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ANX-1

KENDRIYA VIDYALAYA SANGATHAN  
NEW MEHRAULI ROAD  
NEW DELHI-110067.

No.F.22-17/82-KVS(Admin.)

Dated: 3/5/84

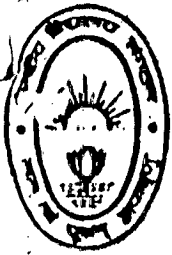
CORRIGENDUM

Age limit prescribed in this office circular of even number dated 24.4.1984 for recruitment to the post of UDC/Acotts. clerk may please be read as 18-30 years instead of 18-25 years. Eligible candidates may apply through proper channel to reach their applications in this office latest by 14.5.1984.

( L.M. JOSHI )  
SECTION OFFICER

Copy to:-

1. All the Acs, KVS R.Os - with a request to circulate it among the LDCs of the Regional Office.
2. All section at the Sangathan(HQ) for similar action.



पत्रांक  
No F. 2-13/86-KVS/12-1

केन्द्रीय विद्यालय संगठन  
KENDRIYA VIDYALAYA SANGATHAN  
नया महरौली मार्ग New Mehrauli Road  
नई दिल्ली-110 067 New Delhi-110 067

दिनांक  
Dated 26-11-87

The Assistant Commissioner  
Kendriya Vidyalaya Sangathan  
Regional Office Calcutta.

Subject:- Filling up posts of UDCs in Kendriya Vidyalayas through direct recruitment.

Sir,

I am to refer to your letter No. F.21.15/87-KVS (Cal)/3190 dated 19.10.87 on the subject noted above and to request you to take further action in this matter in accordance with the instructions given in the Article -39 (Recruitment) of the Education Code for Kendriya Vidyalayas.

Yours faithfully,

(V.K. GUPTA)  
SR. ADMINISTRATIVE OFFICER

3m TC for  
A R  
4.12.87

6826  
4/12/87

ANNEXURE - 3.

F.21-15/85-KVS (Cal)/4407

Date : 01-01-88.

To  
The Circulation -cum-Advt. Manager,  
Employment News,  
East, Block-IV.,  
Level -7, R.K.Puram,  
New Delhi.- 110 066.

Sub : Inscription of advertisement in  
Employment News.

Sir,

As you may be aware, the Kendraiya Vidyalaya Sangathan with its headquarters at New Delhi and 15 regional offices including Regional Office Calcutta located in different territories of India is an autonomous organisation under the Ministry of Human Resource Development to impart uniform education to different categories of children through the Kendriya Vidyalaya spread all over the country. Regional Office Calcutta as its administrative jurisdiction over the Kendriya Vidyalayas located in different parts of West Bengal and includes a Kendriya Vidyalayas of Bihar (except North Bengal). At present we are required to make recruitment to the post of Upper Division clerks in the Kendriya Vidyalayas.

In this connection, we enclose herewith the text of advertisement for its publication in your weekly magazine 'The Employment News' with the request that the same may please be inserted in one of its column as early as possible but latest in the issue meant for 4th week of January 19988.

Further, you are requested to sent your bill in triplicate along with a paper cutting, of the publication as soon as the advertisement appears in your magazines for payment purposes.

Yours faithfully,

( Puran Chand )

ASSISTANT COMMISSIONER

Copy to :

Mr. V.K.Gupta, Sr. Admn. Officer, KVS, New Delhi,  
with reference to his letter No. F.2-13/86-KVS/RPI  
dated 26-11-87.

ASSISTANT COMMISSIONER

ANNEXURE - 4.

Kendriya Vidyalaya Sangathan  
Regional Office  
P161/1 VIP Road,  
Ultadanga  
Calcutta 700054

No.26-35/89/KVS(Cal)

16 June '89

To,  
The Commissioner,  
Kendriya Vidyalaya Sangathan  
New Mehrauli Road,  
New Delhi - 110067.

Subject : Recruitment of UDCs in 1987-88

Sir,

Reference your letter F-1/88/KVS- DC (Admn)  
dated 2 June'87.

2. Facts of the case are as follows :-

- a) The Case pertains to the year 1987-88.
- b) Regional Office Calcutta advertised direct recruitment of UDCs in Employment News dated 16 January' 88.
- c) In the said advertisement the maximum age limit was laid down as thirty years as on 31 December 87 with relaxation applicable to specific categories.
- d) The above said age limit is not in agreement with the permissible maximum age limit laid down in KVS letter No.F.2-13/86-KVS/RP-1 dated 20 February 82 as this policy letter lays down the upper age limit of twenty five years.

Contd.....2/-

ANM - 4

: 2 :

- e) Written test and interview of the applicants was cancelled on 18 June 88 and 30 August' 88 respectively.
  - f) After the interview, thirteen applicants were selected as qualified and placed in the panel for appointment as UDCs.
  - g) Seven of the above-said selected candidates were over ~~age~~ age (above Twenty- five years) and Six others were within the correct age limit (upto twenty five years).
  - h) Six out of the seven overaged candidates mentioned above were offered the appointments of UDC and they joined their appointments.
- ix
- 3. Photostat copy of the advertisement in Employment News dated 16 January 88 is attached herewith.
  - 4. The root of the irregularity in selecting overaged candidates lies in the initial stage when the deling UDC put up draft text for the advertisement for approval by the then Asst Commissioner. The UDC mentioned in the draft text. for the advertisement that maximum age limit presented was thirty years as on 31 December, 87.
  - 5. It is strongly ~~xxx~~ recommended that an inquiry may be ordered forthwith to pinpoint the responsibility for the various irregularity.

Encl: One photo copy of  
Employment News Advt.)

Yours faithfully,  
Sd/- Illegible  
Col M.L.SAPRU (Rtd)  
Asstt.Commissioner.

ANNEXURE - 5.

KENDRIYA VIDYALAYA SANGATHAN  
New Mehrauli Road,  
New Delhi - 110 067.

No.F.1/88/KVS- D.C.(Admn.)

Dated : 26-6-89.

To,  
Col.M.L. Sapru,  
Assistant Commissioner,  
Kendriya Vidyalaya Sangathan,  
Calcutta Region.

Subject : Recruitment of UDCs in 1987-88.

Sir,

With reference to your letter No.26-35/89-KVS (Casl) dated 16 June, 1989 you are requested to intimate the following points for further action at this end :-

- i ) If any approval was obtained from K.V.S. in regard to advertisement of the UDCs for Kendriya Vidyalayas.
- ii) The panel for UDC was get approved from K.V.S. or not.
- iii ) Why the offer was given to 6 candidates against the 4 vacancies declared ?
- iv ) The name of the dealing hand who put up the draft for advertisement for approval of the Assistant Commissioner.

It will be appreciable if the photo-copies are also enclosed. The concerned file may be kept in personal custody.

Yours faithfully,  
Sd/- Illegible  
( PURAN CHAND )  
Dy. Commissioner ( Admn.)



ANNEXURE - 5 A

Kendriya Vidyalaya Sangathan  
Regional Office  
P161/1, VIP Road, Ulladanga  
Calcutta - 54

No.26-35/89/KVS (Cal)/1864      Dated : 25 August'89

To,  
Sri Puran Chand  
Dy Commissioner  
Kendriya Vidyalaya Sangathan  
J N U Campus,  
New Mehrauli Road,  
New Delhi- 110067.

Subject : Recruitment of UDCs in 1987-88.

Sir,

Reference your letter F.1/88/KVS- DC(Admn)  
dated 26-6-89.

2.      Repoies to the queries raised in the letter  
under reference, based on our office records, are  
as follows :

(a)      Query :

" If any approval was obtained from KVS  
in regard to advertisement of the UDCs  
for Kendriya Vidyalayas"

Reply .

Vide this office letter No.F.21-15/87-KVS  
(Cal)/3190 dated 19 Oct'87 (to which draft  
of Advertisement No.1 regarding advertisement  
of the UDCs was attached) DVS(HQ) was  
approached for approval. DVS(HQ) vide their  
letter No.F.2-13/86-KVS/RP-1 dated 26 Nov'87  
advised to take further action in this  
matter in accordance with the instructions  
given in Article 39 (Recruitment) of the  
Education code for Kendriya Vidyalayas.

Contd.....2/-

: 2 :

There is no mention of approval of the draft of the advertisement in KVS (HQ) Letter No.F2-13/86 - KVS/RP-1 dated 26 Nov'87.

(b) Query:

" If the panel for UDCs was got approved from KVS or not "

Reply :

There is no correspondence available in the records of this office regarding obtaining of approval from KVS (HQ) for the panel of UDCs. Therefore it cannot be affirmed that the panel for UDCs was got approved from KVS (HQ).

(c) Query :

"Why the offer was given to Six candidates against the four vacancies declared "

Reply :

The figures mentioned in the query are not correct. The number of posts mentioned in the advertisement is 4 General, 1 SC and 1 SC (Total 6 ).

When the draft of the advertisement was sent to KVS(HQ) on 19 Oct,87, the existing vacancies of UDCs in Calcutta Region were fourteen and 40 % of 14 vacancies reckons at 06. Thus quota for direct recruitment was limited to six UDCs only and only six posts of UDCs were mentioned in the Employment News advertisement dated 16 January'88.

Actually ten UDCs were appointed against the advertisement for six UDCs and six out of the ten UDCs appointed were above the age of twenty-five years.

Contd.....3/-

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ANX- 5 A

: 3 :

(d) Query:

"The name of the dealing hand who put up the draft for advertisement for approval of the Assistant Commissioner"

Reply.

The name of the UDC who put up the draft for advertisement for approval of the Asstt. Commissioner CAN NOT be pin-pointed because the typed draft of advertisement has ink-writings in more than one hand. Therefore an inquiry is required to be ordered by KVS (HQ) to clarify the above query.

2. Photostat copies of the following documents are enclosed herewith:
- (a) KVS (HQ) Letter No.F.2-13/86-KVS/RP-1 dated 26 Nov'87.
  - (b) Draft advertisement for posts of UDCs in 1987-88 which was put up to Asstt.Commissioner.

Yours faithfully ,  
Sd/- Illegible  
Col M.L. SAPHU (Retd)  
Asst. Commissioner,

Enclosures : Two.

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ANXURE - 6

Telegram :KEVISANG

K E N D R I Y A V I D Y A L A Y A S A G A T H A N

New Muhrauli Rd.  
New Delhi-67.

No. F. A. 1/89-KVS(Vig)

Dated 10.1.1991.

Registered  
Confidential

M E M O R A N D U M

It has been to notice that during the year 1987-88 seven Upper Division Clerks for Kendriya Vidyalayas of Clacutta Region were recruited in contravention of the age - limit prescribed in the recruitment rules for the post. It has further been reveled that the entire process of redruitment was handed by Shri Tapan Chakraborty, UDC. As a result of h is faulty handling of the recruitment process the maxium age -limit for the post of UDCs in Vidyalayas was shown as 30 years in contravention of the relevant recruitment rules which pæscribes the maxium age- limit upto 25 yrs. Owing to this faulty prescription inthe advertisement those over - aged UDCs were recruited who, as per the recruitment rules were not aligible for conaideration. This action on the part of Shri Chakraborty is a serious lapse cauaing amberrassment to the KVS which calls for deterrent departmental action.

However , before any action is initiated against him Shri Chakraborty is hereby called upon to explain the circumstances leading to his alleged one/ isation and lapses causing recruitment of the UDCs whose candidatures were ab-initio void. -

Contd.....2/-

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: 2 :

His reply should reach the undersigned within 10 days of the receipt of the memorandum failing which it will be assumed that Shri Chakraborty had nothing to say in his defence and necessary departmental action will be initiated against him in terms of the CCS (CCA) Rules, 1965 as extended to the employees of the Kendriya Vidyalaya Sangathan.

(S.P. Datta)

Chief Vigilance officer

Shri Tapan Kr. Chakraborty,  
UDC, Kendriya Vidyalaya  
Regional officer  
Calcutta.

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ANXURE -6 A

Registered with A/P

To  
The Chief Vigilance Officer,  
Kendriya Vidyalaya Sangathan,  
New Delhi -67.

Subject: Memorandum.

Reference : F.4-1/89-xvs (Vig.) dtd.10.01.91.

Sir,

The above memorandum received by the undersigned on 15.1.91 covers the following three points and as desired itemwise reply is submitted below.

1. The entire process of requirement was handled by Sri Tapan Chakraborty, UDC.
2. Due to his faulty handling of the recruitment process the maximum age- limit for the post of UDCs in vidyalaya was shown as 30 years in contravention of the relevant recruitment rules which prescribe the ~~maximum age limit upto 30 yrs.~~ ~~xxxxxxx~~ maximum age limit upto 25 yrs.
3. Recruitment of over- age UDCs owing to this faulty prescription in the advertisement causing embarrassment to the KVS which calls for deterrent departmental action.

Reply of 1: Process of recruitment in K.V.S. R.O. Calcutta is as follows. Verbal or written order is issued by the A.O./ A.C. to the UDC incharge maintaining the file for putting up notice on the desired line.  
4 2 : Sri Tapan Chakraborty, UDC, in the particular instance was advised by the A.O. to put up a note for recruitment of UDCs in K.V.S:

Contd.....2/-

: 2,:

Being a dealing hand the undersigned's duty was restricted to putting up preliminary notes. In fact the entire recruitment process involved the following personnel.

- a) putting up of preliminary notes  
and partly processing of application for calling for the candidates for written test : Sri Tapan Kr. Chakraborty, UDC.
- b) processing of applications,  
typing, etc. : Sri P. Sen, UDC,  
Sri A. K. Chakraborty,  
jr. Steno.  
Sri B. Mullick, LDC,  
Sri B. C. Mondal, LDC.  
Sri N. Roy, LDC.
- c) Supervision : Sri A. K. Thakur, Supdt.  
Sri S. B. Ghosh, A.O.  
Sri Puran Chand, the  
then A.C.  
Sri S. N. Thakur, A.C.
- d) preparing Question,  
printing Question paper,  
conducting examinations,  
evaluating answer scripts,  
conducting interview,  
preparing select panel : Sri S. N. Thakur, A.C.  
Sri S. P. Bauri, E.O.  
Dr. J. Jagannathan, E.O.  
Teachers of different  
K. Vs detailed by  
the A.C.

Contd.....3/-

:3 :

e) Issuing offer of appointment,  
preservation of panel.

: Sri S.N. Thakur, A.C.  
Sri A.K. Thakur, Supdt.  
Sri P.Sen, UDC.

According to the orders of the A.O. Sri Tapan Chakraborty put up a hand written draft advertisement preforma (wherein age limit for UDCs was show as 18-25 years) along with forwarding letter for approval to A.O. on 15.10.87. While processing the draft advertisement K.V.S. letter No. 22-17/82-KVS(Admn) dtd. 07.5.84 . indicating revision of upper age limit from 25 yrs to 30 years came to notice. The letter was show to the A.O & as desired by him the file containing the letter of KVS was left with him for his action. The file was handed over to Sri Chakraborty alongwith a typed revised draft format indicating therein the upper age limit upto 30 years duly flagged substituting the handwritten proposal submitted by Sri Chakraborty with the verbal instruction to insert the relevant letter number and date and other points, of any, thereon for his sending the file to the Assistant Commissioner for approval. The order was complied with and the file was given immediately to the A.O. for further action. The proposals further duly corrected and approved by the A.O. and A.C. were sent to the Sr. Administrative officer, K.V.S.H. - Otrs, under signature of the Assistant Commissioner for approval vide letter No.F.21-15/97- KVS (Cal )3190 dtd. 19.10.87.

Inresponse, through letter No, F.2-13/86-KVS(RP-I) dtd. 26.11.87 K.V.S., H.gtra. , advised to take further action in the matter as per art. 39 of Education code. No. objection had been made on the age or any other clause in the text of proposed advertisement.

Treating the said letter of K. V. S. H.Otrs as formal approval Sri Chakraborty was directed by the then A.C. and A.O. to put up the proposals for advertisement vide endorsement on the body of letter of K.V. S.

Contd.....4/-



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: 4 :

In compliance with the orders and instruction of the authorities, the proposals for advertisement alongwith forwarding letter were put up the A. C. through Supdt ( Admn ) and A.O. for approval . The draft proposals duly approved by the A.C. were sent to the Employment for publication with a copy to Sr. A. C.? K. V.S. H. Qtrs vide letter No. - F. 21-15/85 -KVS (Cal) 4407 dtd. 01.01 88.

Reply of : On receipt Ho .Qtrs approval only the advertisement was sent to the Employment News for publication . On receipt of the application Sri Chakraborty and other members of staff were entrusted to scrutinize the application and make out list and put up to officer concerned and as per orders of the officers candidates were called for written test. Answer paper were evaluated by the E. Os and teachers from Kendriya Vidyalaya. In the board of final selection the selection committee comprising of A.C., E.O. , principle , and other members made the final selection and the A.C. maintained the panel for further action.

The entire issue had all along been in the know of the officials at all leavels right from the dealing assistant to the A.C. at regional level, besides officials at H. Qtrs also, thereby leaving wider scope on the part of the officials both at regional & H. Qtrs office for guiding and correcting the alleged faulty handling, if any, at all. At no stage either by the officers at regional or H. Qtrs level advised any fault. As a loyal staff he always carried out the order, instructions of the authorities in true spirit and acted in terms of prescribed rules, directions, orders, advices issued by the authorities from time to time.

While the decision making autherity, Appointing Authority and all concerned higher authorities at regional office and head qutrs ~~xxx~~ ~~xx~~ ~~x~~ accorded approval of the proposal for advertisement, -

Contd.....5/-

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: 5 :

and in compliance with the orders of higher officers preliminary action only was taken by Sri Chakraborty as a dealing hand at a very lower level, how can he be attributed and held responsible for this ~~level~~,  
~~how can he be attributed and held responsible for~~

Sri Chakraborty's role in the process of recruitment appears to be at the lowest step and in the entire process an U. D. C. has any scope for applying his discretion and as such, he is not at all responsible for recruitment in question.

Yours faithfully,

(Tapen Kumar Chakraborty)  
Upper Division Clerk  
K.V.S. R.O. Calcutta.

Date 22/01/91

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ANNEXURE-7

COPY

KENDRIYA VIDYALAYA SANGATHAN

S.P.Datta.  
Dy. Commissioner (Admn),  
No.F.3-7/93-KVS(Estt-I)

18, Institutional Area  
Shadeed Jeet Singh  
Marg, New Delhi-16.

Dated : 12-4-93.

Dear Sri Gopalan,

1. Please refer to your D.C. letter No.8/WB/M/C/93 dated 25-1-93 regarding promotion of Shri Tapan Kumar Chakraborty, UDC as Assistant at K.V.S. R.O., Calcutta. I find that disciplinary proceedings are being contemplated against him. You will appreciate that as the rules, if disciplinary proceedings are contemplated against an officer, he/she cannot be promoted. On completion of the disciplinary case, his request for promotion Assistant will be considered in the light of the outcome of the proceedings and relevant rules on the subject. Kindly bear with me.

With regards,

Yours sincerely,  
Sd/- S.P.Datta.

Shri P.T.Gopalan,  
Addl.Private Secretary  
to the Minister of Coal India,  
NEW DELHI- 110001.

- Copy :- 1. The Assistant Commissioner, R.O. Calcutta with reference to his letter No.F-26-6/92 KVS(Cal)/4483 dated 16-2-93..
2. Personal file of Shri Tapan Kumar Chakraborty, UDC, RO, Calcutta.

Sd/- M.Swamidas,  
Section Officer (Estt-I),

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446  
ANNEXURE - I A

KENDRIYA VIDYALAYA SANGATHAN (CALCUTTA REGION)  
F161/1, V.I.P. Road, Ultadanga,  
Calcutta-700 064.

EXPRESS POST

Ref.No. F.26-6/94-KVS(CAL)/454

Date: 09.6.95.

To  
Sri V.K. Gupta,  
Sr. Administrative Officer,  
Kendriya Vidyalaya Sangathan,  
New Delhi-110 016.

Subj: Posting of Sri Tapan Kumar Chakraborty, UDC of KVS,  
R.O., Calcutta, for Assistant in R.O. Calcutta on  
promotion/selection.

Sir,

I am to refer to letter No. F.17/1C/Calcutta/94-KVS(RP-11)  
dated 26.01.95 of Sri J.D. Kalra, A.C. (Adm) & Central  
Grievances Officer addressed to this office with a copy  
endorsed to you on the subject cited above for expeditious  
settlement and conveying the decision to the applicant  
and to say that no communication to this effect has yet  
been received by this office in this regard.

In this connection it is pertinent to mention that  
order for promotion of Sri A.K. Thakur, Supdt. (Adm), to  
the post of Section Officer has already been issued from  
K.V.S. It is understood that the promotion of Sri Thakur  
was held up so far for his alleged involvement in the  
recruitment process of UDCs for Kendriya Vidyalayas in  
1987-88. A memorandum to this effect was also served upon  
him.

It transpires that after issuing memorandum on 10.1.91  
to Sri Chakraborty, UDC on the self-same issue, no further  
action was taken and no charge-sheet has yet been served  
upon him which may cause with-holding of his promotion.

In view of the above it is requested that the pending  
promotion case of Sri Tapan Kumar Chakraborty may be reviewed  
keeping in view of the fact of promotion of Sri A.K. Thakur.

An early action ~~xxx~~ is solicited.

Yours faithfully,  
86/2

Assistant Commissioner

Copy to:-

Sri J.D. Kalra, Asstt. Commissioner (Adm),  
& Central Grievances Officer,

Kendriya Vidyalaya Sangathan, New Delhi-16,  
... with the request to look into the matter

personally and settle the issue immediately.

Sri C. Bhoshanna,

Jt. Commissioner (Adm),

Kendriya Vidyalaya Sangathan,  
O. Delhi-16. ...

86/2  
Assistant Commissioner.

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ANX-7B

OFFICE NOTE

A.B.Sarkar,  
Asstt. Commissioner (Offg.)

Dated : 23.12.94.

&  
Regional Grievance Officer.

Ref. No. 26-6/94-KVS(CAL)/2735.

Sub : Posting of Sh Tapan Kr. Chakraborty UDC of KV SRO + Calcutta  
as Assistant in RO, Calcutta on promotion/selection.

Respected Madam,

I would like to bring to your kind notice that promotion of Sh. Tapan Kr. Chakraborty due from 1.8.88 has been lying pending at Headquarters. His juniors as per All India Seniority list No. 127 to 145 have already been offered promotion and posting to their choice place. Sri Chakraborty has been selected through departmental examination also for the post of Assistant held on July 1991. I understand that no charge sheet for any misconduct has yet been served upon him which may affect his promotion.

It transpires from record that against his transfer as UDC in RO Patna on public interest issued by KVS (HQ) on 5.1.90, he filed a writ petition. Hon'ble High Court, Calcutta issued stay order in the impugned transfer order. For non-compliance of court's order scrupulously double contempt petitions were filed which are pending for final hearing since August, 1990.

Again for non-issuance of offer of Assistant in R.O. Calcutta through promotion as well as selection writ petition was filed by him. Affidavit in opposition has also been filed. Final hearing is awaited. On the issue of promotion no order restraining the KVS to consider the promotion has been passed by the Hon'ble Court.

The preceding Asstt. Commissioners and also the undersigned after careful observation of the functioning of Sh. Chakraborty have repeatedly requested for consideration of his promotion and posting in RO, Calcutta. Besides, settlement of the grievances of the employee pending for a long time departmentally will also put an end to the litigations because Hon'ble High Court has never objected to release of promotion and settlement of the issue outside the court. Automatically the contempt petitions will also be infructuous.

Issue of promotion being a completely different matter and as he has already been selected for the post of Asstt. through departmental examination and is due for promotion, it is recommended that the case may be settled by offering promotion to him to the post of Asstt. in RO, Calcutta with retrospective effect in order to avoid facing unnecessary contempts in the High Court and unnecessary wastage of Govt. fund on prolonged litigation. Sh. D. Ghadai, Asstt. applied for transfer to RO, Bhubaneswar may be transferred and adjusted against the two vacancies of Audit Asstt. in RO, Bhubaneswar likewise Sh. Chauden Sii, Accounts Clerk posted in RO, Calcutta against the vacancy of UDC.

It is requested that rational view may please be taken on the matter and the long pending issue may be settled immediately outside the court.

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ANX-7 B Contd.

- 2 -

With profound regards,

Yours sincerely,

Sd/- Illogible.

Smt. Lizzie Jacob, IAS,  
Commissioner,  
Kendriya Vidyalaya Sangathan,  
New Delhi - 16.

Copy to :- The Central Grievance Officer, Grievance Cell,  
Kendriya Vidyalaya Sangathan, New Delhi - 16,  
for kind information and necessary action please.

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~~12~~

ANX-7C

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D.O.F. 26-6/84/KVS(Cal)/1248

Date : 30.07.93.

From : A.K. Verma,  
Assistant Commissioner.

Respected Madam,

Please recall our discussion during your visit to Calcutta on 26.27.7.93 regarding filling up the vacant posts in R.O. Calcutta and promotion in respect of the employees of R.O. Calcutta.

In this connection I would like to request your kind honour to please consider promotion and posting of Sri Tapan Kumar Chakraborty, UDC to the post of Assistant in R.O. Calcutta who is due for promotion since 01.08.88. He has also been selected through departmental examination for Assistant held on July, '92. Sri N. Ansari, UDC of R.O. Patna, much junior to him, has already been promoted and posted in R.O. Patna. Representations of Sri Tapan Kumar Chakraborty UDC, duly recommended have already been forwarded to KVS for consideration vide this office letter of even No. dated. 11.5.93 and 17.5.93 (enclosed).

During my stay in this office so far as Assistant Commissioner I have found him a very sincere, hard, efficient worker having thorough knowledge of roles of department. His promptness and expedient action deserves due consideration for promotion as Assistant. I am sure awarding of his overdue promotion with retrospective effect will certainly boost up the morale and enkindle the spirit of devotion in the services of KVS.

With profound regards,

Yours faithfully,

SA/- Illegible.

Smt. Lizzie Jacob,  
Commissioner,  
Kendriya Vidyalaya Sangathan,  
New Delhi, 16.

Encls : As stated.

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ANX-7D

Dated 19.11.92.

F.26-6/92-KV89Cal)/3213.

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

Sub :- Recruitment to the post of Assistant through  
departmental examination. Request for posting  
in R.O. Calcutta thereof.

S i r,

Herewith is enclosed one self-explanatory representation  
of Sri Napan Kumar Chakraborty, UDC of KVS, R.O. Calcutta  
on the subject cited above. The case of Sri Chakraborty is  
strongly recommended for consideration sympathetically against  
the two vacant posts of Assistant in this office since  
1988.

Yours faithfully,

Sd/- A.K. Verma,  
Assistant Commissioner,  
Kendriya Vidyalaya Sangathan,  
Calcutta Region.

Enclo: As stated.



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ANNEXURE- 8

KENDRIYA VIDYALAYA SANGATHAN  
18, Institutional Area  
Shahid Jeet Singh Marg  
New Delhi -110 016

NO.F.2-17/95 -KVS(Estt.I) Dated : 15/9/95

MEMORANDUM

Subject : OFFER OF APPOINTMENT TO THIS POST OF  
ASSISTANT

With reference to his performance in Departmental Examination for the post mentioned above. Mr. Tapan Kumar Chakraverty, U.D.C. is hereby informed that he has been selected for apptt. against a temporary post of Assistant in the pay scale of Rs.1400-40-1600-50-2300-60-2600/-. His initial pay will be fixed as admissible under the KVS Rules. Besides pay, he/she will be entitled to draw allowances as admissible from time to time. The other terms and conditions of service, governing the appointment are as laid down in the Education Code for Kendriya Vidyalayas as amended from time to time. He/she is initially posted as Kendriya Vidyalaya Sangathan R.O.Silchar.

He/she will be on probation for a period of two years which may be extended by another one year by the competent authority for the reasons to be recorded in writing.

The Courts at Delhi alone have the jurisdiction to decide my dispute or claim arising out or in respect of the service or any/other contract arising out of this offer of appointment.

Contd.....2/-

: 2 :

If Sri Tapan Kumar Chakraverty, UDC accepts the offer in the terms and conditions stipulated he/she should send his/her acceptance immediately on receipt of this memorandum and join the aforesaid office. Acceptance should reach the undersigned in any case by 04-10-95. If the offer is not accepted by the said date & after acceptance if the appointee does not report for duty at the KVS, R.O.Silchar by 09-10-95 this offer will be automatically treated as withdrawn and no further correspondence will be entertained.

(R.N.SHARMA)  
Sr.Administrative Officer  
for Jt.Commissioner (Admn)

Shri Tapan Kumar Chakraverty,  
U. D. C.,  
KVS, R.O.O., Calcutta.

Copy to :-

1. The Asstt.Commissioner K.V.S.,R.O. Calcutta.  
In case Sh Tapan Chakraverty, U.D.C. accepts the offer of appointment on the above terms and conditions, he/she should be relieved immediately to enable him/her to join his /her new posting.
2. The Asstt. Commissioner, KVS, A.O., Silchar.  
The date of joining of the appointee may be intimated to this office telegraphically. In case he/she does not report for duty by the stipulated date, this officer should be informed.
3. RP- I Section.
4. Cash Section .
5. Personal file.

ANNEXURE - 9.BY REGD. POST/CONFIDENTIAL

KENDRIYA VIDYALAYA SANGATHAN  
(VIGILANCE SECTION)  
18, INSTITUTIONAL AREA  
SHAHEED JEET SINGH MARG.  
NEW DELHI - 110016

No. F.4-1/89-KVS (Vig.)

Dated : 17-09-97.

ORDER

WHEREAS the employees specified below are jointly concerned in a disciplinary case :-

1. Shri S.K. Thakur, the then Supdt. (Admn.), Vidyalaya Sangathan, Regional Officer, Calcutta (now Section officer, RP- I Section, Kendriya Vidyalaya Sangathan, Headquarter, New Delhi).
2. Shri Tapan Kumar Chakraborty the then UDC Kendriya Vidyalaya Sangathan, Regional Office, Calcutta (Now Assistant, K.V.S., Regional Office, Silchar).

NOW, THEREFORE? in exercise of the powers conferred by Sub-rules (i) and (2) of Rule-18 of the Central Civil Services (Classification Control & Appeal) Rules, 1965 as extended to the employees of the Kendriya Vidyalaya Sangathan the undersigned hereby directs :-

- a) that disciplinary action against all the said shall be taken in a common proceeding.
- b) that the commissioner, K.V.S. shall function as the Disciplinary Authority for the purpose of common proceeding and shall be competent

Contd.....2/-

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ANX- 9

: 2 :

to impose the following penalties, namely :-

Minor Penalties -

- i ) Censure,
- ii ) Withholding of his promotion
- iii ) recovery ~~to~~ from his pay of the whole or part of any pecuniary loss caused by him to ~~the~~ the Government by negligence or breach of orders;
- ~~xix~~ )a) reduction to a lower stage in the time-scale of pay for a period not exceeding 3 years, without cumulative effect and not adversely affecting his pension;
- iv ) withholding of increments of pay ;

Major penalties :-

- v ) Same as provided for in cause (iii)(a) , reduction to a lower stage in the time-scale of pay for a specified period, with further directions as to whether or not the Government servant will earn increments of pay during the period of such reduction and whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments of his pay ;
- vi ) reduction to lower time-scale of pay, grade, post or service which shall ordinarily be a bar to the promotion of the Government Servant to the time-scale of pay, grade, post or service from which he was reduced, with or without further directions regarding conditions of restoration to the grade or post of service from which the Government servant was reduced and his seniority and pay on such restoration to that grade, post or service.

Contd.....3/-

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ANX - 9

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- vii ) Compulsory retirement.
- viii) removal from service which shall not be a disqualification for future employment under the Government.
- ix ) dismissal from service which shall ordinarily be a disqualification for future employment under the Government.

(Lizzie Jacob )  
COMMISSIONER

Copy to :

- 1) Shri S.K.Thakru, Section Officer, RP-I Section, Kendriya Vidyalaya Sangathan, Headquarters, NEW DELHI-110016.
- 2) Shri Tapan Kumar Chakraborty, Assistant, Kendriya Vidyalaya Sangathan, Regional Office, SILCHAR.
- 3) The Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, CALCUTTA.
- 4) The Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, SILCHAR.
- 5) The Sr.Admn. Officer (Estt.), Kendriya Vidyalaya Sangathan, Headquarters, NEW DELHI-110016. (2 copies).

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ANX - 9.

: 3 :

KENDRIYA VIDYALAYA SANGTHANREGD. CONF

18, Institutional Area,  
Shaheed Jeet Singh Marg,  
New Delhi-110 016.

F.4-1/89-KVS (Vig.).

Dated : 17-09-97.

M E M O R A N D U M

The undersigned proposes to hold an inquiry against Shri Tapan Kr. Chakraborty, Asstt. K.V.S.(R.O.), Silchar under Rule 14 of the Central Civil Services (Classification, Control and Appeal, Rules, 1960. The substance of the imputations of misconduct of misbehavior in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (annexure I) a statement of the imputation of misconduct or misbehaviour in support of each article of charge is enclosed (annexure- II), A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure III and IV)

2. Shri Tapan Kumar Chakraborty, Asstt. is directed to submit within 10 days of the receipt of ~~this~~ this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

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

4. Shri Tapan Kumar Chakraborty, Asstt. is further informed that if he/she does not submit his written statement of defence on or before the date specified in para. 2 above, or does not appear in person before the

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ANX - 9.

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inquiring authority of otherwise fails or refused to comply with the provisions of Rule 14 of the CCS(CCA) Rules, 1965, of the orders/ directions issued in pursuance of the said rule, the inquiring authority may held the inquiry against him ex parte.

5. Attention of Shri Tapan Kumar Chakraborty, Assistant is invited to Rule 20 of the Central Civil Services (Conduct) Rules, 1964, under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Shri/Smt. Tapan Kumar Chakraborty, Asstt. is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS (Cenduct) Rules, 1954.

6. The receipt of the Memorandum may be acknowledged.

( LIZZIE JACOB )  
COMMISSIONER

To,  
Sri/Smt. Tapan Kumar Chakraborty, Asstt.  
Kendriya Vidyalaya Sangathan,  
Regional office, SILCHAR.

Copy to :- 1) The Asstt. Commissioner, KV.S.,  
Regional Office, SILCHAR.  
2) The Sr. Admn. Officer (Estt.), K.V.S.  
(Hqrs.), NEW DELHI-16.

: 5 :

STATEMENT OF ARTICLES OF CHARGE FRAMED AGAINST SHRI. A.K. THAKUR THE THEN SUPDT. (ADMN) AND SHRI TAPAN KUMAR CHAKRABORTY THE THEN U.D.C., KENDRIYA VIDYALAYA SANGATHAN REGIONAL OFFICE, CALCUTTA.

ARTICLE-I

That S/Shri S.K. Thakur and Tapan Kumar Chakraborty while functioning as Supdt. (Admn.) and Upper Division Clerk, Kendraiya Bidyalaya Sangathan, Regional Office, Calcutta during the year, 1987 and 1988 failed to observe the recruitment rules for the post Upper Division clerks for Kendriya Vidyalaya to the extent that both in collusion with each other had put up the wrong proposal by giving the wrong upper age limit of 25 years as prescribed in the Recruitment Rules and Article 45 of the Education code, for Kendriya Vidyalaya causing irregular appointment of seven candidates who were beyond the prescribed age limit for the post.

The aforesaid acts on the part of S/Shri S.K. Thakur and Tapan Kumar Chakraborty constitutes misconduct which is in violation of instructions laid down by the Sangathan for the purpose and Rule- 3(1) (i) (ii) and (iii) of Central Civil Services (Conduct) Rules, 1964 as extended to the employee of the Sangathan.

ARTICLE - II.

The said Shri A.K. Thakur and Shri Tapan Kumar Chakraborty, while functioning as supdt. (Admn.) and U.D.C. respectively during the said period in Regional Office, Calcutta increased the number of vacancies of U.D.C.s from 6 to 10 to be filled up by direct recruitment, to do favour to the candidates who were otherwise eligible for the post of U.D.C.

Contd.....6/-

Fair to show the R/R

Prop. by  
30 yrs upper age

Shown from  
vacancies



ANX- 9

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These act on the part of S/Shri A.K.Thakur and Shri Tapan Kumar Chakraborty constitutes misconduct which is in violation of Rule-3(1) (i) (ii) and (iii) Central Civil Services (Conduct) Rule, 1964 as extended to the employees of the Sangathan.

(ANX-II)

STATEMENT OF IMPUTATION OF MISCONDUCT OR MISBEHAVIOUR IN SUPPORT OF THE ARTICLES OF CHARGE FRAMED AGAINST SHRI A.K. THAKUR THE THEN SUPDT.(ADMN.) AND SHRI TAPAN KUMAR CHAKRABORTY THE THEN U.D.C. KENDRIYA VIDYALAYA SANGATHAN, REGIONAL OFFICE, CALCUTTA.

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#### ARTICLE- I

That during 1987-88, the Regional Office, Calcutta inserted an advertisement for filling up the post of Upper Division Clerks in the Kendriya Vidyalaya of its region. Contents of this advertisement was prepared and put up by Shri Tapan Kumar Chakraborty, the then U.D.C., Kendriya Vidyalaya Sangathan, Regional Office, Calcutta, before Shri A.K.Thakur, the then Supdt. (Admn.), Regional Office, Calcutta as is evident from the officer note dated 23-12-87 of Regional Office, Calcutta. In this advertisement, the upper age limit for the post of U.D.C. was shown as 30 years as on 31-12-87 instead of the prescribed age limit of 25 years as laid down in the relevant recruitment rules. Both S/Shri A.K.Thakur and Tapan Kumar Chakraborty in collusion with each other gave a reference of K.V.S. letter number F.22-12-82-KVS (Admn.) dated 07-05-84 in order to make the age limit look authentic. In fact the instant letter of the K.V.S. (Headquarters) office was a corrigendum circulating the amendment in the recruitment rule for the post of U.D.C./Accounts clerks in the K.V.S. (Headquarters and Regional Officers. Therefore, this prescription of age limit was not applicable for the post of U.D.C. in Kendriya Vidyalaya for which said text of advertisement was prepared, which was in violation of the recruitment rules and Article- 45 of Education Code for Kendriya Vidyalayas.

Contd.....7/-

That apart, prior to this advertisement, the Senior Administrative Officer, K.V.S. (Headquarters), New Delhi vide his letter number F.2-13/86-KVS /RP-I dated 20-02-87 instertalia issued instructions including maximum age limit etc. regarding filling up of posts of Upper Division Clerks in Kendriya Vidyalaya through direct recruitment. Therefore, the mention of aforesaid K.V.S. Circular dated 7-5-84 was a clear manipulation in a bid to hoodwink the authorities of Kendriya Vidyalaya Sangathan and made an ulterior motive. In response to the advertisement made for the post of U.D.C. the letters for appearing in written test on 18-6-88 to the candidates including the seven who were overaged were issued by Shri A.K. Thakrur and Shri Tapan Kumar Chakraborty in collusion with each other.

As a result of the faulty prescription of age limit as 30 years and calling the ineligible candidates for written test as many as seven candidates namely S/Shri Ranjan Sengupta, Mrinal Kant, Amit Bhattacharya, Bimal Kumar Chakraborty, Debarata Chakraborty, Dipak Chakraborty, and Subrata Ballabh candidates were recruited to the post of Upper Division Clerks who were actually not eligible for the post being overaged and their appointment to the post of U.D.C. was ab-initio void causing serious embarrassment to the Kendriya Vidyalaya Sangathan. The extent to which these seven candidates were overaged, is given below:

Sl. No.	Names	Date of Birth.	Overaged by		
			Years.	Months	Days.
1.	Sh.Ranjan Sengupta ( Resigned)	03-01-62	-	11	28
2.	Sh.Mrinal Kant,	24-04-62	-	08	07
3.	Sh.Amit Bhattacharya	05-03-59	3	09	26
4.	Sh.Bimal Kr.Chakraborty	03-02-62	-	10	28
5.	Sh.Debabrata Chakraborty	29-07-58	4	05	02
6.	Sh.Subrata Ballav	17-12-58	4	-	14
7.	Sh.Dipak Chakraborty	27-09-61	1	03	04

Contd.....8/-

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ANX - 9.

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Thus S/Shri A.K. Thakur and Tapan Kumar & Chakraborty by their aforesaid acts have committed misconduct which is in violation of the instruction laid down by the Sangathan and Rule 3(1) (i) (ii) and (iii) of Central Civil Services (Conduct) Rules, 1964 as extended to the employees of the Sangathan.

ARTICLE - II

The said Shri A.K. Thakur and Tapan Kumar Chakraborty while functioning as Supdt.(Admn.) and U.D.C. respectively during the said period in Regional Office, Calcutta increased the number of vacancies of U.D.C.s from 6 to 10 to be filled up by ~~the~~ direct recruitment.

They were well aware that the Regional office has advertised ~~only~~ only six posts for the post of U.D.C.s in its advertisement issued in 1988. In the said advertisement it was mentioned that 4 posts of UDCs are for General Candidates, one for S.C.Candidate and one for S.T.Candidate respectively.

The Kendriya Vidyalay Sangathan, Headquarter also in its letter number F.1-36/87-KVS(E-I) dated 30-03-88 has clearly indicated that only 5 posts are required to be filled up by direct recruitment, keeping in view the 40% of the posts to be filled by the Asstt. Commissioner, Regional Office, Calcutta as per the recruitment rules prescribed by the Sangathan.

Both S/Shri A.K. Thakur and Tapan Kumar Chakraborty in collusion with each other raised the number of vacancies from 06 to 10 in contravention of the advertisement as well as the instructions as contained in K.V.S. letter ~~ibid~~ as is evident from the office notes dated 22-08-88, 23-08-88 and 22-09-88.

Contd..... 9/-

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The said Shri A.K.Thakur and Tapan Kumar Chakraborty by their aforesaid act have acted in a manner unbecoming of K.V.S. employees which is in violation of the instructions laid down by the Sangathan and Rule- 3(1)(i), (ii) and (iii) of Central Civil Services (Conduct) Rules, 1964 as extended to the employees of the Sangathan.

## (ANNEXURE-III)

LIST OF DOCUMENTS BY WHICH THE ARTICLES OF CHARGE FRAMED AGAINST SHRI A.K.THAKUR THE THEN SUPDT. (ADMN.)? KENDRIYA VIDYALAYA SANGATHAN, REGIONAL OFFICE, CALCUTTA (NOW SECTION OFFICER, K.V.S. (HEADQUARTERS) AND SHRI TAPAN KUMAR CHAKRABORTY THE THEN U.D.C., KENDRIYA VIDYALAYA SANGATHAN, REGIONAL OFFICE, CALCUTTA (NOW ASSTT. IN REGIONAL OFFICE, SILCHAR) ARE PROPOSED TO BE SUSTAINED.

1. ~~1~~. Note Sheet dated 15-10-87, 19-11-87, 22-12-87, 23-12-87 and 30-12-87.
2. Text of advertisement issued by the then Asstt. Commissioner, Calcutta Region vide letter number F. 21-15/85-KVS/CR/4407 dt.1-1-88.
3. Circular number 22-17/82-KVS (Admn.) dated 03/07-05-84.
4. Letter number F.2-13/86-KVS (RP-I) dated 20-02-87.
5. Offer of Appointment to the post of U.D.C.s issued to seven candidates as mentioned in Annexure - II.
6. Application ~~xx~~ for post of U.D.C. of seven candidates mentioned in Annexure - II.

Contd.....10/-

ANX - 9.

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7. Advertisement for the post of U.D.C. for the year, 1987.
8. Note Sheet dated 05-08-88.
9. K.V.S. letter number 1-36/87-KVS (E-I) dated 30-03-88.
10. Extracts of Article 45 of Education Code for Kendriya Vidyalayas.
11. Note Sheet dated 22-08-88, 23-08-88 and 22-09-88.

(ANNEXURE-IV)

LIST OF WITNESSES BY WHOM THE ARTICLES OF CHARGE FRAMED AGAINST SHRI A.K.THAKUR THE THEN SUPERINTENDENT (ADMN.), KENDRIYA VIDYALAYA SANGATHAN, REGIONAL OFFICE, CALCUTTA (NOW SECTION OFFICER, KENDRIYA VIDYALAYA SANGATHAN(HQRS.) AND SHRI TAPAN KUMAR CHAKRABORTY THE THEN U.D.C.KENDRIYA VIDYALAYA SANGATHAN, REGIONAL OFFICE, CALCUTTA (NOW ASSTT. KENDRIYA VIDYALAYA SANGATHAN, REGIONAL OFFICE, SILCHAR) ARE PROPOSED TO BE SUSTAINED.

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ANNEXURE - 10.

REGISTERED WITH A/D.

To,  
Smt. Lizzie Jacob, I.A.S.,  
Commissioner,  
Kendriya Vidyalaya Sangathan,  
18, Institutional Area,  
Saheed Jeet Singh Marg,  
New Delhi-110 016.

Subject : Charge Sheet - Reply thereod.

Madam,

I am to refer to your Memorandum No.F.4-1/89-KVS (Vig.) dated 17-9-97 issuing charge sheet upon me, received on 03-10-97 am and to say that the articles of charges were prepared based on baseless statement of facts. I, therefore, deny all the charges made against me. I crave leave that I must be allowed to be heard in person. The issue being pretty old pertaining to the year 1987-88, it is difficult to remember the entire matter in toto after ten years and adequately defend the case. However, as dsired the facts are submitted as follows :

Article-I : (1) On 08.10.87 Shri S.B. Ghosh, the then A.O.of R.O.Calcutta instructed me through Note Sheet Page -15 to put up the proposal for recruitment of UDC. On 15-10-87 hand written draft advertisement proforma stating age limit for UDCs as 18-25 vrs therein alongwith handwritten forwarding letter were

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submitted by me to A.O. (as is evident from my note at Page -16 of Notesheet) as the then Supdt. (Admn). Sri A.K. Thakur was on leave, for approval. On seeing KVS letter No.F.22-17/82-KVS (Admn) dtd.7-5-84 indicating revision of upper age limit from 25 to 30 years the then A.O. and A.C. Sri Puran Chand, after good deal of thought decided to forward the text of advertisement to be made to the Sr. A.O. at H.Qtrs for approval. The draft format indicating therein upper age limit upto 30 years was duly prepared and got corrected wherever necessary by the then A.O. for approval of the then A.C. The said draft format duly typed was sent to Sri V.K. Gupta, Sri A.O. , for vetting before its publication in the newspaper as is evident from the K.V.S. Calcutta letter No.F.21-15/87-KVS (CAL)/3170 dated 19-10-87: Copy enclosed as Annexure -I.

~~Annexure -I.~~

The said proposal was thoroughly checked at all levels at KVS (H.Qtrs) and after final approval at H.Qtrs of the proposed draft format to be advertised in the Newspaper, through letter No.F.2-13/86-KVS(RP-I) dated 26-11-87 (copy enclosed) Shri V.K.Gupta, the then Sr. A.C., instructed to take further action in this matter in accordance with article 39 of Education Code for KVs without objecting to the proposed upper age limit i.e. 30 years as clearly mentioned in the text of advertisement. It may be pointed out that it is obligatory on part of the higher administrative authority to point

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out the shortcomings, if any, and guide the subordinate office when the approval of an important issue was specifically solicited. As such it is clear that there was no room of doubt on the part of the A.C. to advertise the same text for which approval was sought. Since Sri V.K.Gupta, Sr. A.O. accorded approval, Shri Puran Chand, the then A.C., Calcutta directed on 7-12-87 to put up a note for recruitment of UDCs in KVs. In compliance with the order of the authorities the D.F.A. was put up on 30-12-87 to the then A.C. through Supdt. (Admn) and A.O. for approval. The draft proposal duly approved by the then A.C. were sent to the Employment News for publication with copy to Sri V.K. Gupta, Sr. A.C. vide letter No.F.21-15/85-KVS (Cal) 4407 dated 1-1-88 for information in response to approval of the draft proposal communicated vide letter No.F.2-13/86-KVS (RP-I) dated 26-11-87. Even after the publication of the advertisement till the date of issuing of appointment letter there was no objection at any stage from the authorities who approved the draft advertisement.

In view of the above the charges of putting wrong proposal by giving the wrong upper age limit as 30 years for UDC as against 25 years in collusion with Shri A.K. Thakur, the then Supdt. (Admn) by me is totally wrong and baseless. Since the KVS 'H.Qtrs) did not raise any objection at any stage on the contents of the draft proposal and having found nothing objectionable

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ANX- 10

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accorded approval for taking further action, raising objection and issuing of chargesheet are in order to cover up their own lapses, whatsoever, after a gap of ten years from the date of so called cause of action i.e. 1987-88, is nothing but an action out of malice tantamounting to preponderance of probability with a view to victimising the employee at the bottom end. It is pertinent to mention the order of various Court than the period of limitation must be counted from the date of cause of action arose. Based on the approval from the authority at R.C. & H.Qtrs as well, age limit for UDCs as 30 years was shown in the advertisement. Had the objection been raised on the contents of advertisement sent to H.Qtrs soliciting approval, the question of wrong prescription of age would not have arisen at all. The follow-up action of recruitment process based on the approved text of advertisement was nothing but a matter of normal functioning. Hence, the charges "mentioning of aforesaid KVS circular dated 7-5-84 was a clear manipulation in a bid to hoodwink the authorities of KVS and made with an ulterior motive" is denied because

1. The age of 30 yrs was never prescribed by me at all. It was prescribed by the then A.O. and the then A.C. being the decision making authority. Moreover, the note of the UDC is mere a suggestion and not the prescription because the power to prescribe vests with the prescribed authority.

Contd.....5/-

~~66~~ANX- 10.

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specifically delegated with the power to do so and not on the dealing hands.

2. The position of UDC in a R.O. is at the bottom and in the hierarchy. The higher Officer at R.O. and H.Qtrs have been empowered to apply their discretion/ take decision. UDC is not authorised to act on his own volition violating the directions/orders of the higher Officers. As the higher Officers at R.O. and H.Qtrs are having greater responsibilities with more prudence, vast knowledge about rules of KVS and wisdom, question of thinking even to hoodwink them all together is hoping against hope and absolutely absurd. The contention is therefore baseless and concocted.
3. The charges as such are made on hypothetical basis and on self-perception and self-conviction arrived at a later stage having no bearing on the actual facts and with a view to protecting the higher officers involved as already explained above and making me a scape-goat.
4. On receipt of approval from H.Qtrs only the advertisement was sent to the Employment News for publication. On receipt of the application, candidates who were eligible as per advertisement were issued letters to appear at written test.

Contd.....6/-

ANX- 10.

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Answer papers were evaluated by the E.Os and teachers of K.Vs. In the board of final selection, the selection committee made the final selection and the A.C. maintained the panel.

Article-II:

The charge levelled against me for increasing the number of vacancies from 06 to 10 is denied.

In my note dated 05-8-88 I had nowhere suggested for the increase of vacancies from 06 to 10. The note dated 05-8-88 was merely the actual vacancy position and anticipated vacancy as well as other particulars for information of the then A.C. as required by him.

The only suggestive part of the note dated 05-8-88 at (C) of Page -32 of Note Sheet was put up for the decision of the Assistant Commissioner to assess actual nos. of candidates to be called for the interview as the total nos. of posts shown in the advertisement was 06 where as the KVS (H.Qtrs) at a later stage intimated the vacancy of 05(five) vide letter No.F.1-36/87-KVS(E-I) dated 30-3-88, four months after the approval of the test of advertisement.

The notes dated 22-8-88 and 23-8-88 as referred at Page -7 of Annexure- II have no relevancy with the contents in question. The note dated 22-9-88 does not also have any relevancy. The only suggestive part of the note was put up to apprise the A.C., the large number

Contd.....7/-

ANX- 10

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of vacancies were existing in KVs for which the vidyalayas work was suffering. 40 % of the 16 vacancies being 06 (six) only were to be filled as per direct recruitment quota was also agreed to be the A.C. vide his approval dated 22-9-88.

After that it was not in my knowledge at all as to how ten candidates were selected and offered appointment as I was in no way involved in the recruitment work after issuing the interview letters to the candidates. As such the then A.C. only himself owned the onus of selecting ten candidates instead of six as per advertisement.

Injustices already done on this issue:

Hon'ble Madam, instead of treating the entire issue judiciously with sagacity and impartially, since 1988 severe injustices have been done on me out of sheer biasness and vindictiveness as explained below.

- (1) I was transferred to R.O. Patna against the rules and guidelines for transfer. My appeal for recession of transfer was turned down. In spite of my posting in Calcutta as per order of the Court, my 2nd instalment of HBA was sent to Patna and release of payment was withheld for several months causing thereby escalation cost of Rs.10000/- unnecessarily.

Contd.....8/-

ANX- 10.

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- (2) The case of my stepping up of pay as UDC was kept withheld for eight years unreasonably while all others cases were decided.
- (3) My promotion initially on ad-hoc basis from 08/88 and on regular basis from January 1992 was denied. My representations were not considered. My juniours were allowed to superseed me.
- (4) My promotion on selection through departmental examination was withheld from 1992 to 1995 on frivolous grounds. My junior Sri J.K. Gupta was allowed to superseed me whereas the officers involved who accorded approval of the proposal at R.O. & H. Qtrs were awarded with promotion consecutively. The doctrine of 'the higher the post, the greater the responsibility' was ignored and defeated.
- (5) In his letter dated F.1-2/94-KVS (RP-I) dated 04-10-94 Shri V.K. Gupta in his perawise comments on the Writ Petition C.O. 246(W) (Copy enclosed) informed that promotion on selection could not be given to me because of a disciplinary proceeding against me and on exoneration of charges I will be given the benefit of promotion with retrospective effect with posting in Calcutta if any vacancy exists at that time of promotion.

Contd.....9/-

ANX - 10.

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The direction of various Courts that "Promotion canIt be withheld unless charge-sheet is served upon and mere calling for explanation does not amount to initiation of disciplinary proceedings" were violated and ingnored arbitrarily.

- (6) Since 1988 no charge-sheet could be served upon me and no charges against me could be substantiated since no misconduct was committed by me. I was exonerated ultimately and on 15-9-95 I was posted on promotion to R.O. Silchar as Assistant even though there was a clear vacancy in Calcutta consequent upon transfer of Shri D. Ghadai, Asstt. to Bhubaneswar R.O. Inspite of ~~xxx~~ commitment of Shri V.K.Gupta, Sr.A.O. I was not given the financial benefit of promotion and posting in Calcutta and all others were posted in same place as per rules. Well settled instruction of the Hon'ble Court that " Once an employee is exonerated of the charges in departmental proceedings it is incumbent upon THE authorities to pay arrears of pay and allowances" was not observed and followed in this case, although as per the principles established as a result of a number of judicial pronouncements. The instant case is squarely covered by the doctrine of Promissory estoppel.

Contd.....10/-

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ANX- 10.

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- (7) For my posting in R.O. Silchar my salary has gone down and I was forced to undergo financial hardship for maintaining separate establishment in Calcutta and Silchar and I have been forced to be encumbered.
- (8) I have already been forced to suffer physically, mentally, Socially and to undergo financial loss to the tune of Rs.50000/- without any cogent reason and without any lapse on my part in discharging my duties as UDC ~~as~~ in R.O. Calcutta. My family life and peace have been disturbed and I have been made a patient of Hypertension.

Submission: Issuing charge-sheet upon me after ten years on the same issue pertaining to the year 1987-88 in which I have already been unreasonably put to suffer in various ways without any fault on my part and have already been exonerated will tantamount to multi-jeopardy and will be against the judgement passed by various courts that disciplinary proceedings can't be pursued after a delay of more than five years and the proceedings has to be quashed. It has also been held by the Hon'ble Court that if the inquiry proceedings has not been commenced and there is unreasonable delay in completion of the proceedings and where the accused is not responsible for the delay, the inquiry proceedings have to be dropped.

Contd.....11/-

ANX - 10.

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Hence, the charge-sheet issued upon me is barred under the well settled instruction and orders of the Court and relevant provisions of law.

Appeal: I, therefore, appeal to your honour that in order to meet the end of natural justice to

- (a) drop the charge-sheet served upon me.
- (b) transfer me to R.O. Calcutta where a clear vacancy exists.
- (c) issue your valued order to give me the financial benefit with retrospective effect of my promotion as Assistant as per commitment of Sri V.K.Gupta, the then Sr. A.O.

in token of proof that justice was delayed but not denied.

You have always awarded justice to all through your gracious exalted hands. Please do justice to me and allow me to discharge my duties to the utmost satisfaction of my authorities and help for proper utilisation of the mettle of human resources instead of persisting efforts of crashing and spoiling the merit arising out of the folly of others.

Yours faithfully,  
(Tapan Kumar Chakraborty)  
Assistant  
K. V.S. R.O., Silchar.

Contd.....12/-



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ANX- 10.

: 12 :

Encls :- Page 1 to

1. Handwritten DFA dated 15-10-87.
2. Substituted typed draft format for advertisement.
3. Letter No. F.21-15/87-KVS (Cal)/3170 dated 19-10-87.
4. Letter dtd. F 2-13/86-KVS (RP-I) dated 26-11-87.
5. Letter No. F.1-2/94-KVS (RP-I) dated 4-10-94 and parawise comments of Shri V.K. Gupta, Sr.A.C.

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ANNEXURE- 11

CONY/REGD.

KENDRIYA VIDYALAYA SANGATHAN  
18, INSTITUTIONAL ASST. SHAHID JEET SINGH MARG, NEW DELHI-16

NO.F.4-1/89-DVS (VIG)

Dated 8th Jan, 1997

ORDER

17.9.1997

WHEREAS an inquiry under Rule 14 of the CCS (CCA) Rules, 1965 is being held against the officer/ official specified below :-

1. Sh. A.K. Thakur, Session Officer, KVS, HQ. New Delhi.
2. Sh. Tapan Kumar Chakraborty, Asstt. R.O. KVS Silchar.

WHEREAS common proceedings have been ordered against the said officials .

AND WHEREAS the undersigned considers that the Inquiring Authority should be appointed to enquire into the charges framed against the said officials.

NOW THEREFORE, the undersigned in exercise of the powers conferred by sub Rule (2) of the said Rules hereby appoints Shri C.R. Khurana Senior Adress Officer, Kendriya Vidyalay Sangathan, Head Quarters, New Delhi, as the Inquiring Authority to inquire into the charges framed against the said officials.

Sd/- Illegible  
(LIZZIE JACOB)  
COMMISSIONER,

Contd.....2/-

P 51 A-7-8

: 2 :

Copy to :-

1. Sh.A.K. Thakur, Section Officer, /  
KVS HQ., New Delhi.
2. Sh. Tapan Kumar Chakraborty,  
Assistant, KVS, R.O., Silchar.
3. Sh. ~~RR~~ G.R . Khurana, Sr. Administrative Officer,  
K.V.S. HQ, New Delhi. - A copy of the charge-  
sheet already served upon the delinquent officials &  
together with their written statement of defence  
attached.
4. Sh. V.K. Kumar P.C.&. Section Officer, KVS  
HQ. New Delhi.
5. Asstt. Commissioner, DVS Regional Office, x,  
Silchar.

ANNEXURE- 11 ACONF/REGD.

KENDRIYA VIDYALAYA SANGATHAN

18, INSTITUTIONAL SHAHEED JEET WINGH MARG, NEW DELHI-16

No.F.4-1/89-KVS (VIG)

Dated : 8th Jan, 1997

O R D E R

WHEREAS an inquiry under Rule 14 of the CCS (CCA) Rules, 1965 is being held against the officer/ official specified below :-

1. Sh.A.K.Thakur, Section Officer, KVS HQ.  
New Delhi.
2. Sh. Tapan Kumar Chakraborty, Assistant,  
DVS Regional Officer, Silchar.

WHEREAS common proceedings have been ordered against the said officials.

AND WHEREAS the undersigned considers it necessary to appoint a Presenting Officer to present the case in support of the articles of charge against the said officials before the Inquiring Authority.

NOW, THEREFORE, the undersigned in exercise of the powers conferred by sub- Rule (5) (c) of the said Rules, hereby appoints Shri V.K: Kumar Section Officer, Kendriya Vidyalaya Sangathan, Headquarters, New Delhi as the Presenting Officer to present the case in support of the article of charge against the said officials before the Inquiring Authority.

Sd/- Illegible  
( LIZZIE JACOB )  
COMMISSIONER.

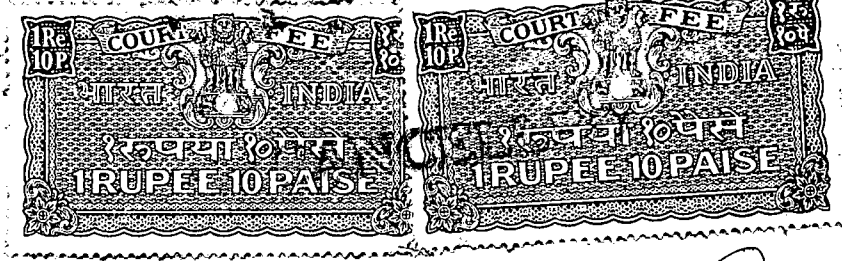
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ANX- 11 A

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## Copy to :-

1. Sh. A.K. Thakur, Section Officer, KVS , HQ.  
New Delhi.
2. Sh. Tapan Kumar Chakraborty, Assistant, KVS  
R . O. Silchar.
3. Sh. G.R. Khurana, Inquiry Officer, and  
Sr. Admn Officer, K.V.S. HQ.,  
New Delhi.
4. Sh. V.K.Kumar, Presenting Officer & Section  
Officer, K.V.S. HQ. New Delhi. A copy of the  
charge- sheet already served upon the D.O.  
alongwith written statement of defence attached.
5. Asstt. Commissioner, KVS Regional Office,  
Silchar.



10/1  
Filed by  
K. N. Choudhary  
13/8/98  
K. N. Choudhary  
Standing Counsel Govt  
Gauhati High Court

District : Cachar.

IN THE GAUHATI HIGH COURT.

(The High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram and Arunachal Pradesh).

(Civil Extra-Ordinary Jurisdiction)

In the matter of :-

Civil Rule No. 931 of 1998.

-And -

In the matter of :-

An affidavit in opposition filed on behalf of Respondent No. 1 to 6

-And -

In the matter of :-

Shri Tapan Kukar Chakravarty.

... Petitioner.

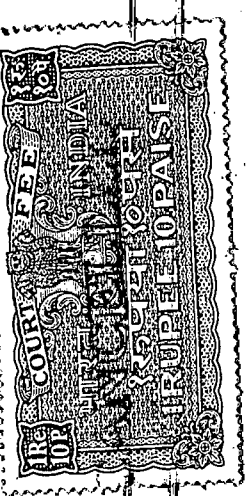
-Vs-

Kendriya Vidyalaya Sangathan & Ors.

.... Respondents.

I, Shri Pedamallu Ramalingeswara Gupta, /  
presently working as Education Officer, Office  
of the Assistant Commissioner, Kendriya Vidyalaya

contd.. 2.



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Sangathan, ~~Silchar~~ Region, ~~Silchar~~ 1-15, aged about 42 years, do hereby solemnly affirm and declare as follows :-

1) That I am competent to file this affidavit on behalf of the answering respondents as authorised and I swear the same. I am also fully conversant with the facts and circumstances of the case. Copies of the writ petition filed by the petitioner ~~xxx~~ has been served upon the respondents. I have gone through the same and understood the contents thereof. Save what has been specifically admitted in this affidavit all the averments and submissions made in the writ petition may be taken to have been denied by the deponent.

2) That with regard to statement in para 1 and 2 of the petition the deponent has no comments to offer.

3) That with regard to the statement made in para 3 of the petition the deponent states that a prima-facie case was established against the petitioner and A.K. Thakur, the then Supdt.(Admn), KVS,RO, Calcutta, as a result of investigation carried out into the alleged serious irregular action in the recruitment of UDC post in Regional Office, Calcutta. Accordingly, a common proceedings under Rule 18 & 14 of CCS(CCA) Rules, 1965 for imposing appropriate

Contd....3.

penalty was initiated against the petitioner and said Sh. A.K.Thakur. The regular inquiry was thus ordered by the Commissioner KVS, being the competent authority. A reasonable opportunity will be given to the petitioner to defend the case and prove his innocence. As such, there is no justifiable grounds to drop and quash the charge-sheet.

4) That with regard to the statement made in paragraph 4 of the petition the deponent states that it is true that the misconduct of indulging in the regular recruitments occurred in 1987 but on coming to know about the alleged misconduct, the competent authority has ordered investigation and investigation held proved the prima-facie involvement of petitioner and Sh. A.K.Thakur in processing the recruitment of UDC in violation of rules. The Disc. authority, thus, charge-sheeted the petitioner for the misconduct. There is no question of malice in the action of Disc. authority as the Disc. authority is dutiful to find the truth and penalise the guilty by adopting the procedure as laid down in CCS(CCA) Rules, 1965. Therefore, the action of Disciplinary authority is just and fair.

5) That with regard to the statement made in para 5 of the petition the deponent has no comments.

Contd...4.



6) That with regard to the statement made in para 6 of the petition the deponent states that though the petitioner appeared in Deptt. Examination held on 10.8.96 but he was not in the select panel for promotion to the post of Superintendent(Admn.).

7) That save and accept those which are matters of records of the case all the averments made in paragraph 7 and 8 of the petition are denied by the deponent. On an objective assesement of the materials the disciplinary authority has charge-sheeted the petitioner. It is needless to point out that the petitioner will be given reasonable opportunity in the regular inquiry to defend the case. Therefore, giving clarifications in the matter at this stage would be pre-matured as the inquiry has not been completed which has been ordered by the Disc.authority under Rule 18 and 14 of CCS(CCA) Rules, 1965.

8) That with regard to the statement made in para 9,10,11 and 12 of the petition the deponent states that the petitioner will avail of reasonable opportunity to defend the case in the inquiry. Placing his defence before this Hon'ble Court with regard to Article of charges without facing the regular inquiry being Conducted under Rule 14 of CCS(CCA) Rules, 1965 would amount to pre-judging ~~issues~~ issues. ~~That~~ The petitioner may prove his innocence during the course of

Contd...5.

regular inquiry wherein he will avail of ample opportunity to defend his case.

9) That with regard to the statement made in para 13,14,15 and 16 of the petition the deponent states the directions of the Hon'ble Court have been implemented by disposing of his representation. The petitioner was also appropriately replied for not granting relief on account of his alleged involvement in the irregularities in the matter of recruitment.

10) That with regard to the statement made in para 17 of the petition the deponent states that the Chief Vigilance Officer, KVS helps the Disciplinary authority in the matter of investigations and inquiries, as such, calling for explanation for the alleged misconduct is his duty to have prima facie fact for examining the case by the Disciplinary authority.

11) That save and except those which are matters of records of the case all the averments made in paragraph 18,19,20,21,22, and 23 of the petition are denied and disputed. In this connection the deponent states that since a disciplinary case was contemplated against him, the recommendations of D.P.C. held on 27.12.93 and 24.1.1995 were kept in sealed cover. As no charge sheet was served upon the petitioner it was decided that the recommendations of the DPC may be given effect to. On both the occasions, DPC

Contd....6.

did not find him fit for promotion to the post of Assistant. The petitioner appeared in the departmental examination for the post of Assistant held on 11.7.92 and he was No. 2 in the select panel. He was not offered appointment due to disciplinary case contemplated against him. Since no charge-sheet was served upon the petitioner, he was offered promotion to the post of Assistant on the basis of Departmental examination held on 11.7.92 with ~~posting~~ posting to KVS, RO, Silchar.

12) That with regard to the statement made in para 24 of the petition the deponent states that the action of the Disciplinary authority was not sudden but initiated in accordance with rules. As stated above a proper investigation was carried out in which the petitioner was found prima-facie guilty and the Disciplinary authority charge-sheeted him along with Sh. A.K. Thakur, the then Supdt. (Admn), KVS, RO, Calcutta for the alleged by inflating the age-limit for the post of UDC from 25 to 30 years in violation of Recruitment Rules and increasing the number of vacancies for the post of UDC against the sanctioned posts.

13) That the petitioner's averment in para 25 regarding Article of charges and clarifications thereon has no force, as the action of Disc. authority to charge-sheet him under Rule 14 read with Rule 18 of CCS(CCA) Rule '65 is justified and the

Contd....7.

petitioner will avail of reasonable opportunity to defend himself during the regular inquiry.

14) That with regard to the statement made in para 26 ~~in~~ the deponent states that since the petitioner pleaded not guilty of the charge, as such, it is mandatory and according to Rule that the Disc. authority either itself enquire the charge or appoint Inquiry Officer to enquire into it. The Disc. authority as such appointed Inquiry Officer to hold regular inquiry which is pending.

15) That the statement made in para 27 of the writ petition is not wholly correct and, as such, the same are hereby denied. There occurred source delay in serving the charge-sheet but that does not mean that the action of the Disc. authority is vitiated as contended by the petitioner. The delay occurred due to complicity of the case and that is beyond the control of the Disc. authority. Any misbehaviour or misconduct committed in the course of time by the Govt. employee attracts the provisions of CCS(Conduct) Rules, 1964, as such, after due investigation, a prima-facie case of misconduct was found against the petitioner and Shri A.K.Thakur. The Disc. authority initiated the proceedings against both. The petitioner, however, may prove his innocence during the regular inquiry by availing reasonable opportunity to defend himself in

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accordance with rules under CCS(CCA) Rules, 1965.

16) That the deponent denies the correctness of the statement made in paragraph 28 of the petition and states that an investigation was conducted against the alleged irregularities against the employees working during that relevant period. It was only thereafter the charge sheet was issued.

17) That the deponent denies the correctness of the statement made in paragraph 29 and 30 of the petition. In this connection the deponent states that the petitioner was found prima-facie guilty in the investigation and as such, the action was taken by the Disc. authority to charge-sheet him which is justified and in accordance with the rules. There is no malafide intention in charge sheeting the petitioner. Action on other officials responsible for their misconduct has also been initiated.

18) That with regard to the statement made in para 31 the deponent states that the charges constitute a serious misconduct on the post of the petitioner, as he was found inflating the age of candidates from 25 to 30 years with ulterior motive. It cannot be said that the charges are trivial as claimed by the petitioner.

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19) That with regard to the statement made in para 32 of the petition the deponent states that in accordance with Recruitment Rules, 66 2/3% posts of Supdt. (Admn.) are filled by promotion from amongst the existing Assistants who have rendered atleast five years regular service as Assistant in Sangathan. The petitioner joined as Assistant on 30.10.1995 and was given seniority w.e.f. 15.2.1993. The last D.P.C. for effecting promotion to the post of Supdt(Admn) was held on 02.4.1996 and the petitioner was not within the zone of consideration as he has not put in requisite length of service.

20) That with regard to the statement made in paragraph 33,34,35,36,37,38,39 and 40 of the petition the deponent states the contentions are misconceived. The Disciplinary authority can always initiate departmental proceedings in respect of lapses/irregularities and misconduct committed in the past as it is always necessary to find the truth and to punish the guilty according to rules prescribed for Govt. employees. That is what has been done in the instant case. There is no question of closing the case. Moreover during the course of regular inquiry the petitioner avail of reasonable opportunity under CCS (CCA) Rules, 1965 to prove his innocence. It is once again reiterated that morely became there is delay in initiating the proceeding, the petitioner cannot claim

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any special advantage. Petitioner has also not pleaded as to how late initiation of the proceeding has prejudiced him. Moreover, each case is to be examined in facts and circumstances of the case. Therefore, initiation of the proceeding against the petitioner cannot be construed as arbitrary or actuated by any oblique motive.

21) That with regard to the statement made in para 41 of the petition the deponent states that there is No cause of action for the present petition, in as much as, the writ petition is pre-matured.

22) That under the facts and circumstances stated above it is respectfully submitted that the challenge in the writ petition is devoid of any merit and the same is liable to be dismissed with cost.

23) That the statement made in this affidavit and in paragraph 1,2,3,4,5,6,8,9,12 to 18 and 20 to 21 are true to my knowledge and those made in paragraph 7,10,11 and 19 being matters of records of the case are true to my information derived therefrom which I believe to be true and the rest are my humble submissions before this Hon'ble Court.

Contd....11.

I sign this affidavit this the 13<sup>th</sup> day  
of August, 1998 at Guwahati.

Identified by me : *Pedamallu Ramalingeswara Gupta*  
13-8-98

*Tsuklo Kyu Deha A/c*  
Advocate's Clerk. 13-8-98

Deponent.

*the*  
13<sup>th</sup> August, 1998  
*G. Deha, A/c*  
13/8/98