

FORM NO. 4
(SEE RULE 12)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

21/04

Org. App. / Misc Petn / Cont. Petn / Rev. Appl.

In O.A. 240/02

Name of the Applicant(s) Mrs. Navita Pandey

Name of the Respondent(s) Mr. U. P. D. Roy

Advocate for the Applicant M. Choudhury, A.N. Chakrabarty, S. Nath

Counsel for the Railway / CGSC

ORDER OF THE TRIBUNAL

OFFICE NOTE

DATE

This Contempt petition has been filed by the petitioner praying for initiation of Contempt proceeding against the alleged Contemners for non-compliance of the order dated 29.10.03 passed by this Hon'ble Tribunal in O.A. 240/02.

Learned before the Hon'ble Court for further orders.

Ram.
for Section Officer

10/

Heard Mr. S. Nath, learned counsel for the applicant.

Issue notice to show cause as to why contempt proceeding shall not be initiated, returnable within four weeks.

List on 7.7.2004 for orders.

W.P.222
Member (A)

List on 23.8.2004 for orders.

K.V. Prahadan
Member (A)

Present: Hon'ble Mr. D. C. Verma, Vice-Chairman.

Hon'ble Mr. K. V. Prahadan, Administrative Member.

This Contempt petition has been filed praying for initiation of Contempt proceedings against the Respondents for non compliance of the order dated 29.10.03 passed by this Tribunal in O.A. No. 240/02. The learned counsel for the Respondents submits that the reply has been filed by Respondent No. 2 in

contd/-

23.8.04. in the Contempt Petition confirming
compliance of the Tribunal's order.
Accordingly, the C.P. is dropped.

Notice & order

sent to D/Section
for issuing to
respondent nos 1, 2,
by regd. with A/D,
post.

Icr Prabhakar
Member

[Signature]
Vice-Chairman

Copy 04.
7/6/04.

vide D/memo
No. 967, 968
Dt. 4/6/04.

Copy 04.
7/6/04.
A/D card return
from resp. No. 1, 2.

Copy
24/6/04.

Received copy
MK Majumdar
Advocate
25/8/04

Received copy
Jyoti Patel
25/8/04

6 MAY 2004
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

Contempt petition No. 21 /2004

In O.A no.240 of 2002.

In the matter of

Mrs. Namita Pandey Petitioner.

- Versus -

Union of India and Others.

..... Alleged Contemnors.

- And -

In the matter of

An application under section 17 of the Administrative Tribunals Act,1985 praying for initiation of a Contempt proceeding against the alleged contemnors for non-compliance of the order dated 29.10.2003 passed in O.A.No.240/2002

- And

In the matter of

3
Filed by the petitioner
through: Subroto Ghosh
Advocate
Sect 25(5)(c) /

Mrs. Namita Pandey.

Primary Teacher,

Kendriya Vidyalaya,

Duliajan

..... Petitioner

- Versus-

1) Sri M.M.Joshi.

Assistant Commissioner

K.V.S. Regional Office,

Hospital Road,

Silchar-788001.

2) Shri Dinesh Chandra Bist.

Joint Commissioner,

K.V.S. Regional Office,

Hospital Road, Silchar-788001.

..... Alleged Contemnors.

The humble petitioner above named-

Most respectfully sheweth:-

1. That your petitioner being aggrieved due to her reduction of pay by two lower stages, approached this Hon'ble Tribunal through O.A.No. 240/02.
2. That the Hon'ble tribunal after hearing the contentions of the parties was pleased to dispose of the application vide order dated 29.10.2003 passed in O.A.No 240 of 2002 directing the respondents as follows:-

“ The impugned order of penalty imposed on the applicant dated 19/25.06.2001(Annexure-VI) as well as the appellate order dated

08.10.2002 (Annexure-X) are accordingly set aside and quashed. The respondents are directed to give all consequential benefits to the applicant.

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

(Copy of the Judgment and order dated 29.10.2003 is annexed hereto and marked as Annexure-I).

3. That your petitioner thereafter approached the alleged contemnors for implementation of the Judgment and further submitted representation on 15.12.2003 to the alleged contemnors praying for early implementation of the Judgment and order dated 29.10.2003 passed in O.A.No 240 of 2002.

(Copy of the representation dated 15.12.2003 is annexed hereto and marked as Annexure-II)

4. That the humble petitioner begs to state that more than 6 (six) months time have passed since the passing of the order but the alleged contemnors have not initiated any action for implementation of the Judgment aforesaid.

5. That it is stated that the alleged contemnors deliberately and willfully did not initiate any action for implementation of the Judgment and Order dated 29.10.2003 passed by this Hon'ble tribunal in O.A.No 240 of 2002 which amounts to Contempt of Court. Therefore the Hon'ble tribunal be pleased to initiate a Contempt proceeding against the alleged contemnors for willful violation of the order of the Hon'ble tribunal dated 29.10.2003 in O.A.No.240/2002 and further be pleased to impose punishment upon the alleged contemnors in accordance with law.

Under the facts and circumstances stated above, the Hon'ble tribunal be pleased to initiate Contempt proceeding against the Alleged Contemnors for willful non-compliance of the order dated 29.10.2003 in O.A.No.240/2002 and be pleased to impose punishment upon the alleged contemnors in accordance with law and further be pleased to pass any other order or orders as deemed fit and proper by the Hon'ble Court.

And for this act of kindness the petitioner as in duty bound shall ever pray.

AFFIDAVIT

I, Smt. Namita Pandey, W/o- Shri Shekhar Kumar Pandey, presently working as Primary Teacher, kendriya Vidyalaya, Duliajan do hereby solemnly declare as follows: -

1. That I am the petitioner in the above contempt petition and as such I am well acquainted with the facts and circumstances of the case and also competent to sign this affidavit.
2. That the statement made in para 1 to 5 are true to my knowledge and belief and I have not suppressed any material fact.
3. That this Affidavit is made for the purpose of filing contempt petition before the Hon'ble Central Administrative Tribunal, Guwahati Bench for non-compliance of the Hon'ble Tribunal's order dated 29.10.2003 passed in O.A. No.240/2002.

And I sign this Affidavit on this 22nd day of May 2004.

Identified by

Subrata Ray
Advocate 2195/03.

Subrata Ray
(Namita Pandey)
Deponent-

The above named deponent solemnly affirmed and declared this affidavit before Sri Subrata Ray, Advocate, on this 22nd day of May, 2004 who is identified by Sri G.N. Chakrabarty, Advocate.

Subrata Ray
Advocate
22.05.04

DRAFT CHARGE

Laid down before the High Court of Judicature Tribunal, Guwahati for initiating a contempt proceeding against the contemners for willful disobedience and wilful non-compliance of order of the Hon'ble Tribunal dated 22.10.2003 issued in S.A.No 240/2002 and also praying for impose punishment upon the alleged contemners for willful disobedience of the order dated 29.10.03. M.

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,

Original Application No. 244 of 2002.

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

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

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

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

... Applicant

By Advocate Sri M.Chanda.

- Versus -

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

... Respondents

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

ORDER (ORAL)

CHOWDHURY J. (V.C)

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

Attested
for private
use
26/05/04

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

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

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

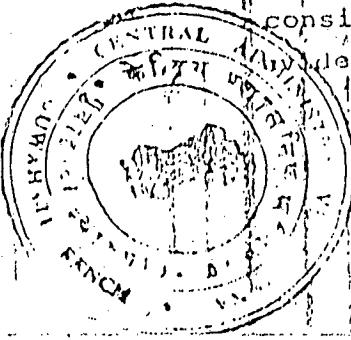
Mrs Namita Pandey, Primary Teacher has therefore done fraudulent manipulation in violation of item 34 of Code of conduct for teacher envisaged in Chapter VI of the Education Code and thereby contravened Rule 3(I) (II) of CCS(Conduct) Rules, 1964. She has therefore rendered herself liable to disciplinary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

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

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

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

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



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

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

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

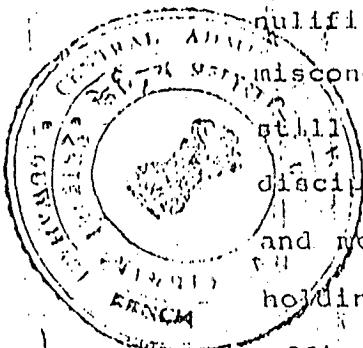
Sir, I have not prompted to reach such conclusion that she has arranged to issue the fraudulent transfer order. A.C Sir told me that it might be fraudulent transfer.

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

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

The Enquiry Officer who submitted report prior to conclusion of the enquiry apparently missed this aspect of the matter.

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



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

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

The application is allowed to the extent indicated.

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

Sd/ VICE-CHAIRMAN
Sd/ MEMBER (A)

Acquitted in public Copy
ग्रन्थालय

Ch
Section Officer (S)
C.A.T. GUWAHATI BRANCH
Guwahati-781005

10/12

08.1.

Re:
To:

The Asstt. Commissioner,
K.V.S, Regional Office,
Hospital Road,
Silchar-788001

Through Proper Channel

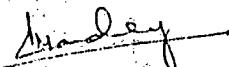
Sub: - Prayer for implementation of the Judgment and order dated 29.10.2003 in O.A. No.240 of 2002.

Respected Sir,

Enclosed kindly find herewith a copy of the Judgment and Order dated 29.10.2003 in O.A.No 240 of 2002 passed by the Learned CAT, Guwahati Bench, whereby the Learned Tribunal was pleased to set aside and quash the penalty order dated 19/25.06.2001 and appellate order dated 08.10.2002.

Therefore, I would like to request you kindly to implement the Judgment by granting me all consequential benefits as early as possible.

Yours faithfully



Mrs. Nomita Pandey.

P.R.T.

K.V. Duliagan

Date: - 15-12-2003

29.11.
Guwahati
Regional
Office



Attn: Advocate
25.3.04

25/12/03

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH - GUWAHATI

2
Case No. 21/04
File No. 102
Filed by the Respondent No. 2
Through Mr. Majumdar
Advocate
Standing Counsel K.V. Sanghkhān
20.08.04

CONTEMPT PTN. NO.21/04

In O.A No.240/02

Mrs. Namita Pandey

Petitioner

-V E R S U S-

1. Sri M.M Joshi &
2. Sri Dinesh ~~Singh~~ Bist.

Respondents
Contemptner

IN THE MATTER OF:

Appearance of the Respondent
No.2 and Written Statement
filed by the Respondents.

-A N D-

IN THE MATTER OF:

Order dated 01-06-2004 passed
by this Hon'ble Tribunal.

-A N D-

Contd....

IN THE MATTER OF:

Dr E. Prabhakar,
Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office, Silchar.

Deponent

The humble Written Statement
on behalf of the Respondent
No.2 is as follows:

1. That the deponent states that he is being authorised to file this Written Statement by the Respondent No.2, the present Written Statement is filed on behalf of the Respondent No.2.
2. That the deponent states that pursuance to the order dated 01-06-2004 passed by this Hon'ble Tribunal notice was served on the Respondent No.2 and the Respondent have gone through the contents of the petition and have understood the same.
3. That the deponent states that at the outset the Respondent begs unconditional apology for any omission or commission un-willingly by the Respondent No.2 and further begs to file reply against the petition as under.

3(a). That with regard to the statement made in para 1, 2 and 3 it is stated that the facts stated in these paras are matter of record and as such the

Contd... ...

deponent admits all those which are borne out of record.

3(b). That with regard to the statement made in para 4 and 5 the deponent states that there is no wilful disobedience and deliberate violation of Tribunal's Order for, pursuant to Judgment passed by this Hon'ble Tribunal on 29-10-2003 the Regional Office at Silchar conveyed the decision at the Headquarter at New Delhi and the Competent Authority conveyed the decision to the Regional Office at Silchar vide letter dated 30-07-2004 after consulting with Legal Cell, Kendriya Vidyalaya Sangathan to comply with the order of Hon'ble Central Administrative Tribunal.

3(c). That in view of the matter, in compliance with the direction of the Hon'ble Central Administrative Tribunal, Guwahati Bench Smti. N. Pandey was informed accordingly the direction to the Principal, Kendriya Vidyalaya, Duliajan to pay her the consequential benefits vide letter dated 02-08-2004 issued by the Assistant Commissioner, Regional Office, Silchar.

A copy of the order dated 02-08-2004 is annexed herewith and marked as ANNEXURE - R-I.

4. That there is no wilful disobedience on the part of the Respondent in regard compliance of the order albeit there is some delay, for, the Respondent

only acted through officers at diverse stages and as such it is an administrative delay and there is no laches at any stage and as it is desirable to close the matter for the ends of justice.

In the circumstances it is therefore prayed that, this Hon'ble Tribunal may be pleased to entertain this reply and considering the context of the matter be pleased to drop the proceeding by discharging the notice and / or pass any other order for the ends of justice.

V E R I F I C A T I O N.....Page/5

Contd... ...

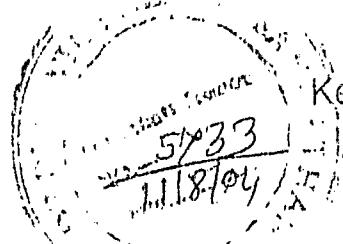
VERIFICATION

I, Dr. E. Prabhakar, Assistant Commissioner,
Kendriya Vidyalaya Sangathan, Regional Office, Silchar,
Distt. Cachar, Assam the respondent/applicant of the
instant case do hereby solemnly verify that the
statements made in the paragraphs 1, 2, 3, 3a, 3b
4. are true to my knowledge, those made in
paragraphs _____ 3c. _____
are being matters of records are true information
derived therefrom which I believe to be true.

And I sign this verification today on this the 20th
day of August 2004.



Deponent
Ass't. Commissioner
KVS (R.O.) Silchar



Kendriya Vidyalaya Sangathan
Regional Office-Silchar

Hospital Road
Silchar-788001, Assam
03842-234009 (Fax/Tel).
234154(AC&AO), 245737(EO&AAO)

Tel. Nos

Ref. No. 4-1/2004-KVS (SR) /

Dated: 02.8.2004

The Principal,
Kendriya Vidyalaya,
Duliajan.

Sub: OA No.240/2002-Smt.Nomita Pandey, PRT, KV, Duliajan
Vs. KVS in CAT, Guwahati Bench-reg.

Sir,

Inviting your attention to the subject cited above, I am to inform you that it has been decided by KVS(Hqrs.), New Delhi vide Fax letter No.19-410(13)/2002 -KVS(L&C) dated 30.07.2004 in consultation with Legal Advisor, KVS to comply with the order dated 29.10.2003 passed by CAT, Guwahati Bench in OA No.240/2002 filed by Smt.Nomita Pandey, PRT.

Smt.Nomita Pandey filed OA No.240/2002 in CAT, Guwahati Bench against the order dated 11/5.6.2001 and 08.10.2002 passed by the Disciplinary Authority and the Appellate Authority respectively. The said OA was disposed of by the Hon'ble Tribunal vide order dated 29.10.2003 setting aside the orders passed by the Disciplinary Authority and Appellate Authority.

In compliance with the orders passed by the Hon'ble Tribunal Smt.Nomita Pandey, PRT is entitled to consequential benefits.

You are, therefore, requested to pay her the consequential benefits accordingly.

[Signature] Yours faithfully,

[Signature] (DR.E.PRAKHAKAR)
ASSISTANT COMMISSIONER

Copy to:

01. Smt.Nomita Pandey, PRT KV, Duliajan for information.
02. Sh.M.K.Mazumdar, KVS Standing Counsel, CAT, Guwahati Bench with the request to inform the Hon'ble CAT, Guwahati Bench.
03. The Asstt. Commissioner (Admn.), KVS(HQ), New Delhi for information.
04. The Asstt.Commissioner, KVS (RO) Guwahati for information.

[Signature]
ASSISTANT COMMISSIONER