

FORM NO. 4  
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

ORDER SHEET

Original Application No. \_\_\_\_\_

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

Contempt Petition No. 46/2004 (O.A. 331/2002)

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

Applicants: Shri M. Roy

Respondents: Shri M. N. Khaware

Advocate of the Applicants: Md. A. Ahmed.

Advocate for the Respondents: Mr. K. Mazumdar.

Notes of the Registry | Date

*This contempt petition has been filed by the counsel for the petitioner u/s 17 of the CAT, Act, 1985, praying for initiation of a contempt proceeding against the alleged contemnors for non-compliance of the order dated 8/10/04 in O.A. 331/02.*

7.9.04

lm

08.10.2004

*Laid before the Hon'ble court for further order.*

bb

23.11.2004

*S.O.G.*

*Notice & order sent to D/section for issuing to resp. Nos. 1, 2, by regd. with A/D post.*

mb

Order of the Tribunal

**Present: Hon'ble Mr. K. V. Prahladan, Administrative Member.**

**Issue notice on the Respondent to show cause as to why the contempt proceedings shall not be initiated against the alleged contemnors.**

**List on 8.10.04 for orders.**

*K.V. Prahladan*  
Member

List on 23.11.2004.

By Order

On the plea of learned counsel for the respondents four weeks time is given to the respondents to file written statement. List on 22.12.2004 for orders.

*K.V. Prahladan*  
Member (A)

*12/19*

22.12.2004 List the matter on 7.1.2005 before the Division Bench.

D/Memo No = 1508  
Dt. 17/9/04. 1507.

*K.V. Prabhakar*  
Member

bb

07.01.2005 List on 17.02.2005 for hearing

*K.V. Prabhakar*  
Member (A)

mb

17.2.05 Request from Mr A. Ahmed, learned counsel for the applicant <sup>is received</sup> that he is not in a position to appear for some personal difficulties.

Adjourned to 28.3.05.

*K.V. Prabhakar*  
Member (A)

*[Signature]*  
Member (J)

pg

28.03.2005 At the request made on behalf of Mr. M.K. Mazundar, learned counsel for the K.V.S. the case is adjourned to 13.4.2005

*[Signature]*  
Vice-Chairman

bb

13.4.2005 At the request of Mr. A. Ahmed, learned counsel for the applicant the case is adjourned to 12.5.2005.

*K.V. Prabhakar*  
Member

*[Signature]*  
Vice-Chairman

mb

*Ca*  
*17/9/04.*

*Notice duly  
served on resp.  
Ca no. 1-2.*

*22-11-04*

*Notice duly served  
Ca 2-10 1, 2.*

*23.12.04*

*Reply filed by the  
Contemner No. 2.*

*6-1-05*

*Reply has been filed*

Office Notes	Date	Order of the Tribunal
<p><u>12.5.05</u></p> <p>Copy of the order has been sent to the D/Sec. for issuing the order to the applicant as well as L/Adm. for the Resp. Dr.</p> <p><i>[Signature]</i></p>	12.05.2005	<p>Present: The Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman.</p> <p>The Hon'ble Mr. K.V. Prahladan, Member (A).</p> <p>It is alleged in the petition that the direction issued in the order dated 8.1.2004 passed in O.A.331 of 2002 is not complied with.</p> <p>Respondents have filed affidavit in opposition. We find that the direction to the respondents in the O.A. was "to consider the case of the applicants for engagement whenever school needs it and if any future vacancy for Group 'D' arises, the applicants may be considered alongwith others. Suitable age relaxation may be given to the applicants considering their experience." In the affidavit it is stated that the petitioner has already been informed about the Group 'D' strength of the Vidyalaya with assurance that in compliance of the order of the Hon'ble Tribunal his case will be duly considered as and when vacancy arises. The applicant was not in a position to establish that there is existing vacancy.</p> <p>In the circumstances, we <del>do not</del> do not find any case for taking contempt against the respondents. However, respondents <sup>have</sup> <del>have</del> assured the applicant that as and when vacancy arises, his case will be considered duly. This is recorded. <del>XX</del> If the applicant has got any case that even when vacancy has arisen, his <del>xxxxxx</del> case is not being considered, certainly he is free to approach this Tribunal.</p> <p>The C.P. is closed with the above observations.</p>
		<p><i>[Signature]</i> Member</p>
		<p><i>[Signature]</i> Vice-Chairman</p>

केन्द्रीय प्रशासनिक न्यायालय  
Central Administrative Tribunal

- 6 SEP 2004 -

गुवाहाटी बेंच

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH AT GUWAHATI

CONTEMPT PETITION NO. 46 OF 2004.  
IN O.A.NO.331 OF 2002

Filed by  
Shri Monoranjan Roy Applicant  
through [Signature]  
(Adv. Atty/125)  
Azara

IN THE MATTER OF:

A Petition under Section 17 of the central Administrative Tribunal Act, 1985 praying for punishment of the Contemnners/ Respondents for non-compliance of judgment and order passed by the Hon'ble Tribunal in O.A.No.331 of 2002 on 08-01-2004.

-AND-

IN THE MATTER OF:

Shri Monoranjan Roy and another  
... Applicants.

-VERSUS-

The Union of India & Others.  
... Respondents.

-AND-

IN THE MATTER OF

Shri Monoranjan Roy,  
Son of Sri Nitai Roy,  
C/o Sono Das,  
Village-Bullapar,  
P.O.-Azara.  
Guwahati-17.  
... Petitioner

Sri - M. Roy

-VERSUS-

1. Shri U.N.Khaware,  
Assitsant Commissioner,  
Kendriya Vidyalaya Sangathan,  
Regional Office,  
Maligaon Chariali, Guwahati-12.

2. Shri R.K.Sinha,  
Principal,  
Kendriya Vidyalaya, Borjhar,  
Guwahati-17

... Respondents/Contemners

The humble Petition of the above named  
Petitioner :

**MOST RESPECTFULLY SHEWETH:**

1) That your humble Petitioner along with another had filed the Original Application No.331 of 2002 before the Hon'ble Central Adiministrative Tribunal, Guwahati Bench, Guwahati against the termination of their service and also for a direction by this Hon'ble Tribunal to regularize their services as Group-D employee under the Respondents.

2) That the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati on 08-01-2004 finally heard the matter and the above said Original Application No.331 of 2004 was allowed by the Hon'ble Tribunal directing the Respondents to consider the case of the Applicants for engagement whenever school needs it and if any future vacancy for Group-D arises the Applicant may considered along with others. Suitable age relaxation may be given to the Applicant considering their experience.

Annexure-A is the photocopy of Judgment & Order dated 08-01-2004 passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati in OA No.331 of 2002.

Shri M. Roy

b

- 3 -

3) That your Petitioner begs to state that the Respondents/Contemners till now have not taken any steps for consideration of the Applicants for re-appointment in any Group-D posts in spite of available vacancies under the Respondents/Contemners. As such the Respondents/Contemners have shown disrespect, disregard and disobedience to this Hon'ble Tribunal. The Respondents/Contemners deliberately with a motive behind have not complied the Hon'ble Tribunal's Judgment and Order dated 08-01-2004 passed in O.A.No.331 of 2002. Hence the Respondents/Contemners deserve punishment from this Hon'be Tribunal. It is a fit case where the Respondents/Contemners may be directed to appear before this Hon'ble Tribunal to explain as to why they have shown disrespect to this Hon'ble Tribunal.

4) That this Petition is filed bona fide to secure the ends of justice.

In the premises, it is, most humbly and respectfully prayed that your Lordships may be pleased to admit this petition and issued Contempt notice to the Respondents/Contemners to show cause as to why they should not be punished under Section 17 of the Central Administrative Tribunal Act, 1985 or pass such any other order or orders as this Hon'ble Tribunal may deem fit and proper.

Further, it is also prayed that in view of the deliberate disrespect and disobedience to this Hon'ble Tribunal's order dated 08-01-2004 passed in O.A.No. 331 of 2002, the Respondents/Contemners may be asked to appear in persons before this Hon'ble Tribunal to explain as to why they should not be punished under the contempt of Court proceeding.

And for this act of kindness your Petitioners as in duty bound shall ever pray.

...Draft Charge

Sd/- M Roy

x

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-DRAFT CHARGE-

The Petitioner aggrieved for non-compliance of Judgment and Order dated 08-01-2004 passed by the Hon'ble Tribunal in O.A No.331 of 2002. The Contemners/Respondents have willfully and deliberately violated the Judgment and Order dated 08-01-2004. Accordingly, the Respondents/Contemners are liable for Contempt of Court proceedings and severe punishment thereof as provided to appear in persons and reply the charges leveled against them before this Hon'ble Tribunal.

SVI M D O Y

**- AFFIDAVIT -**

I, Shri Monoranjan Roy, Son of Sri Nitai Roy, C/o Sono Das, Village-Bullapar, P.O.-Azara. Guwahati-17, District - Kamrup (Urban), Assam by religion Hindu do hereby solemnly affirm and state as follows:

1) That I am one of the Applicant in O.A.No.331 of 2002 and also Petitioner of the instant petition and as such I am fully acquainted with the facts and circumstances of the case and I am also authorized to swear this Affidavit on behalf of another Petitioner.

2) That the statements made in paragraphs 1, \_\_\_\_\_ of the Contempt Petition are true to my knowledge those made in paragraphs 2, 3 — of the petition being matters of records are true to my information which I believe to be true and the rest are my humble submissions before this Hon'ble Court.

And I put my hand hereunto this affidavit on this 6<sup>th</sup> day of September 2004 at Guwahati. *Shri Monoranjan Roy*

DEPONENT

Identified by me:

*[Signature]*  
*(ADIL AHMED)*  
Advocate

Solemnly affirmed before me by the Deponent who is identified by Mr.Adil Ahmed, Advocate.

*Sukumar Salma*  
*Advocate*

Original Application No. 331/2002

Date of Order : This the 8th day of January, 2004.

THE HON'BLE MR. K.V. PRAHLADAN, ADMINISTRATIVE MEMBER.

1. Sri Monoranjan Roy,  
S/o Sri Nitai Roy,  
C/o Sono Das,  
Village - Bullapar,  
P.O. - Azara, Guwahati - 17.

2. Sri Dilip Biswas,  
S/o Robi Biswas,  
C/o Kamal Sarkar,  
Vill. - Kahikuchi,  
P.O. - Azara, Guwahati - 17.

... Applicants.

By Advocate - Mr. A. Ahmed.

- Versus -

1. The Union of India,  
represented by the Secretary to the  
Government of India,  
Ministry of Human Resource and Development,  
New Delhi.

2. The Chairman,  
Kendriya Vidyalaya Sangathan, J.N.U. Campus,  
Mehrauli Road,  
New Delhi - 67.

3. The Assistant Commissioner,  
Kendriya Vidyalaya Sangathan,  
Regional Office, Maligaon Chariali,  
Guwahati - 12.

4. The principal,  
Kendriya Vidyalaya, Borjhar,  
Guwahati - 17.

... Respondents.

By Mr. M.K. Mazumdar.

ORDER

K.V. PRAHLADAN, MEMBER (Admn.) :-

The applicant Nos. 1 and 2 were working as Casual Labourers at Kendriya Vidyalaya, Borjhar, Guwahati. The applicant No. 1 was working as Casual Labourer since 1994 to 2001 and the applicant No. 2 was working since 1999 to 2001. Both the applicants have completed 240 days in a year. Their services were terminated in the year 2001. They

Contd...2

1000

*Ahmed*  
*M.K. Mazumdar*



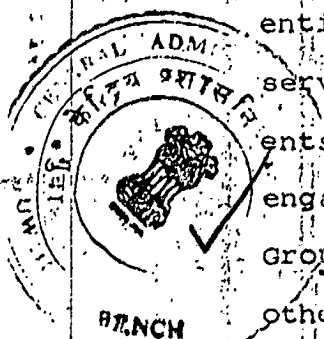
approached the Central Administration 7  
by way of O.A. No. 299/2001 and the Tribunal by order dated  
10.6.2002 directed the respondents to consider their case,  
alongwith persons similarly situated against available or  
future vacancies, keeping in mind their past services. The  
applicants approached the Principal, Kendriya Vidyalaya,

Borjhar with reference to the O.A. No. 299/2001. The Principal  
replied  
on 26.08.2002 vide letter No. 45/KVS/2002-03/449 whereby the  
decision to privatise the jobs of Security (Night Watchman),  
Sweeper, Mali etc. was taken.

2. The learned counsel for the respondents stated that  
there was no vacant post of Group 'D' where the applicants can  
be adjusted. The learned counsel for the applicant stated that  
both the applicants worked for more than 240 days in a year  
and therefore, they are entitled to temporary status. As per  
decision of the Supreme Court in Secretary HSEB Vs. Suresh &  
Ors. (1999) 3 SCC 601 and State of U.P. & Ors. Vs. U.P. Madhya-  
mik Siksha Parisad Sangh & Anr. reported in 1996 (1) SLR 303,  
the Court observed that regularisation of service and payment  
of service would arise provided posts are created or existing.  
Therefore, the applicant cannot be conferred temporary status  
followed by regularisation. However, the employees under  
Government are entitled to equality of treatment both at the  
time of appointment and at <sup>all</sup> material stages during continuation  
of their service. Those who are similar by circumstanced are  
entitled to an equal treatment. Therefore, in no way their  
services of 240 days should be ignored. Accordingly, the respond-  
ents are directed to consider the case of the applicants for  
engagement whenever school needs it and if any future vacancy for  
Group 'D' arises, the applicants may be considered alongwith  
others. Suitable age relaxation may be given to the applicants  
considering their experience.

the  
With this, application is disposed of. No costs.

Sd/ MEMBER (Admn)

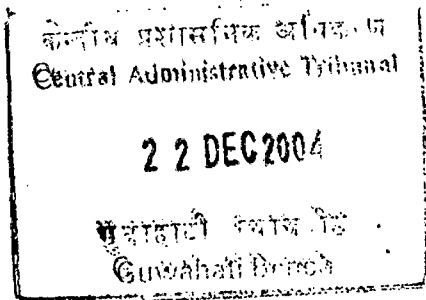


BRANCH

TRUE COPY  
प्रतिप्रति

Section Officer (A)  
मुख्य सचिव (आयिक) /  
Central Administration Tribunal  
केन्द्रीय प्रशासनिक अधिकारी  
Uwahari Borjhar, Guwahati  
मुख्य सचिव, गुवाहाटी

Handwritten signatures and initials, including 'A. H. D.' and 'A. S. D.'



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH AT GUWAHATI.

CONTEMPT PETITION NO. 46 OF 2004.

In O.A. No. 331 of 2002.

IN THE MATTER OF :

Reply filed by the Respondent No. 2,

- AND -

IN THE MATTER OF :

Sri R.K. Sinha,

Principal, Kendriya Vidyalaya,

Borjhar, Guwahati - 17.

.... Respondent/Contemner.

The above named Respondent/  
petitioner -

MOST RESPECTFULLY SHEWETH :-

1) That, he is the Principal, Kendriya Vidyalaya, Borjhar, arrayed as Respondent No.2 in this Contempt Petition and he is fully conversant with the facts and circumstances of the case.

2) That, the statement which are not specifically admitted are to be treated as denied.

contd.... p/2.

11  
Filed by the Petitioner  
through - Reshab Upadhyaya  
Advocate.  
24/11/2004

- 12
- 3) That, the Respondent/petitioner at the outset begs unconditional apology for any act or omission in performing official duty as Principal, K.V. Borjhar.
- 4) That, the Respondent petitioner states that he being the subordinate officer of the authority of Kendriya Vidyalaya Sangathan irrespective of the fact that he is the incharge of the Borjhar Kendriya Vidyalaya yet he used to follow the policies and rules framed by the Sangathan and every direction of his superior authority in the matter of school administration including appointment, transfer, promotion etc.
- 5) That, with regard to the contention made in para 1 & 2 the Respondent petitioner states that these are matter of record and doesnot of attract any comment.
- 6) That, with regard to the contention of the applicant made in para 3 of the Contempt petition and the allegation brought against the present Respondent No. 2 and the prayer in particular made for implementation of the Tribunal's order dated 8-01-2004 passed in O.A. No. 331/02, it is respectfully submitted that there exists no vacancy of 'Group D'.

contd.... p/3.

13  
Further, no 'Group D' employee has been engaged by the Vidyalaya since adoption of the Policy of privatisation.

A copy of the Policy is annexed herewith and marked as ANNEXURE - I.

7) That, the Respondent/petitioner submits that there is no any violation of this Hon'ble Tribunal's order by engaging any 'Group D' employee and depriving the applicant of his claim to be considered for engagement whenever school needs it and as per the direction of this Tribunal to consider his case if any future Group D vacancy arises along with others affording suitable relaxation considering their experience. As such this Hon'ble Tribunal may discharge the notice and drop this contempt petition.

8) That, the Respondent/petitioner submits that there is no cogent reason for filing the present Contempt petition against the Respondent for, the petitioner have already been replied of this petition detailing the 'Group D' strength the Vidyalaya with assurance that in compliance to the Hon'ble Tribunal, his case will be duly considered as an when vacancy arises.

contd.... p/4.

9) That the Respondent/Petitioner states that the instant Contempt petition has been filed with false statement without any cogent reason and there is no bonafide step in filing the petition. And as such this Hon'ble Tribunal may be pleased to drop this Contempt petition.

VERIFICATION

I, Shri R.K. Sinha, Principal, Kendriya Vidyalaya, Borjhar, do hereby verify that the statement made in para 1,2,3,4,5 and 7 are true to the best of my knowledge and the statement made in para 6 is matter of record and rests are my humble submission.

And I sign this verification this day of 22<sup>nd</sup> November 2004, at Guwahati.

Place :  
Date : 22.11.04

  
Deponent.  
(RANJIT KUMAR SINHA)

15

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

NO.F.12-13/99-KVS (Admin I)

Dated: 10-12-1999

OFFICE MEMORANDUM

Subject: Privatisation of certain services in schools.

In order to improve the general state of cleanliness etc. in Kendriya Vidyalayas, it has been decided to allow the schools to engage the services of private agencies in the manner indicated below with immediate effect. The following three tasks may be given over to private agencies in case sufficient vacancies of Group 'D' staff exist in the schools. -

- a) Watch and ward duties of schools, presently being performed by Chowkidars.
- b) Cleaning of school buildings, toilets, class rooms including dusting of desks etc. presently being done by Safai Karamacharis
- c) Proper maintenance of gardens, lawns and compound presently being done by malis.

2. The schools have been given sanction of Group 'D' staff on the following lines:-

- |  |   |             |
|--|---|-------------|
| i. One section schools upto Class X    | - | 5 Group 'D' |
| ii. One Section schools upto Class XII | - | 6 Group 'D' |
| iii. Two Section schools               | - | 7 Group 'D' |
| iv. Three Section schools              | - | 8 Group 'D' |
| v. Four section schools                | - | 9 Group 'D' |

{The strength would increase as per further increased classification of schools}

3. The services mentioned in para 1 can be privatised in phases, if necessary starting with one or two services depending on the vacancies of Group 'D' staff in the schools. The following vacancies would be required for privatising these services:-

- i. The watch and ward duties being performed by Chowkidars may be privatised in case there is one vacancy of Group 'D' in the school

1076  
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Attached to be  
one copy  
M. K. S. S. S.  
S.C. K.V. Sangathan

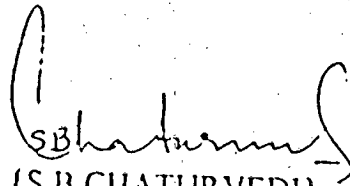
- 6
- 16
- ii. The services relating to cleaning of the Vidyalayas may be privatised if there is one vacancy of Group 'D' in schools upto 2 sections and 2 vacancies in schools of more than 2 sections
  - iii. Services relating to maintenance of gardens, lawns and school compound etc., may be privatised if there is one vacancy of Group 'D' in schools upto 2 sections and 2 vacancies in schools with more than 2 sections.

NOTE:-

- a. The requirement of these vacancies are mutually exclusive.
  - b. Schools need not follow the above sequence, if they are privatising the services in phases. They may follow their own sequence depending on their requirements.
  - c. Vacancies would be calculated with reference to the sanctioned strength given in Para 2 above and no other document.
4. No service shall be privatised if the required vacancies are not there as this will lead to serious objections from the Audit point of view. The required number of posts shall be kept vacant thereafter, so long as the services are being taken from private agencies.
  5. The Assistant Commissioners will make suitable re-deployment of Group 'D' staff in their Regions to create the necessary vacancies in schools where privatisation can be effected immediately and in due course thereafter.
  6. Till such time these adjustments are made and all schools have been able to privatise these services, wherever possible, no fresh recruitment against a Group 'D' post in any Kendriya Vidyalaya would be made.
  7. The selection and appointment of a private agency/agencies in this regard will be made by the Executive Committee of the Vidyalaya following the usual norms and procedures. The Vidyalayas would be at liberty to engage one agency for all three services or an agency for each service separately at its discretion. Preference would be given to recognised bodies of Ex-servicemen or approved/known agencies. The services of Directorate General Resettlement or Zila Sainik Board may be made use of wherever possible.
  8. It must be ensured that the services of an agency and not individual workmen are hired for the above mentioned jobs. The contract shall be between the Vidyalaya and the agency alone and under no circumstances with an individual or a group of individuals.

9. Payment for these services would be made out of the Maintenance and Development Fund of the Vidyalaya. No ceiling is being fixed for this purpose. Rate must be fixed on per week basis for the whole unit (covered area, open area, surroundings, stairs, lobbies, corridors, toilets etc.) and for all items of work including cost of material. At times when work is taken for a period less than a week, because of closure of the school etc., rates would be calculated for a day and payments made accordingly.

10. Broad guidelines of the agreement which should be executed between the Vidyalaya and agency is enclosed.



(S.B. CHATURVEDI)  
DEPUTY COMMISSIONER (ACAD)

Distribution:

1. Principals/Chairmen, VMCs, all KVs.
2. Assistant Commissioners, KVS, all Regional Offices. - They are requested not to fill up any vacancy of Group 'D' employees till further orders.
3. All Officers in the KVS (Hqrs).
4. Office Order/Guard File.