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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

P.E.P-123/02 order sheet Pg- 1

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Disposed Date - 6/9/02

O.A/T.A No. 148/02
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SECTION OFFICER (Judl.)

FROM No. 4
(SEE RULE 42)

GENERAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No. 148/2002

Misc Petition No. /

Contempt Petition No. /

Review Application No. /

Applicants. Vijay Bhatnagar

-Vs-

Respondent(s) Union of India & one

Advocate for the Appellant(s) Mr. S. Dutta

Advocate for the Respondent(s) Mr. S. Sonowal, Krs.

| Notes of the Registry | Date | Order of the Tribunal |
|--|-----------|---|
| This is application in form C. F. for Rs. 50/- deposited vide IPT/BD No. 76/549487 Dated ... <u>26/5/02</u> | 10.5.2002 | Heard Mr S. Dutta, learned counsel for the applicant. Issue notice to show cause as to why this application shall not be admitted. Also issue notice to show cause as to why the order dated 26/29-4-2002 as regards the allocation of the Headquarters of the applicant at Kendriya Vidyalaya Sangathan, Regional Office, Silchar shall not be suspended. Returnable by two weeks. In the meantime, the operation of the order allocating Headquarter of the applicant at Regional Office, Silchar shall remain suspended. It is made clear that the operation of the order allocating Headquarters of the applicant at Kendriya Vidyalaya Sangathan, Regional Office, Silchar shall not be suspended until the operation of the order allocating Headquarters of the applicant at Kendriya Vidyalaya Sangathan, Regional Office, Silchar is suspended. |
| By Registrar <i>WB</i> <i>10/5/02</i> | | |
| Notes of the Registry | Date | |

10.5.2002

Slips not taken, Hence
Notice is not prepared. Said
before the Bench for favour
of Order.

Identified 23/5/02

that by the above order we have
not suspended the order of
suspension dated 24/29-4-2002.
We have only suspended the
shifting of the Headquarter
of the applicant from Nazira to
Silchar till the returnable
date.

List for admission on
27.5.02.

K. C. Sharm
Member

Vice-Chairman

nk

27.5.02. It has been stated by Mr. M.
Chanda, learned counsel for the appli-
cant that steps were already taken.
Office to verify and report on
28.5.2002.

List on 28.5.2002 for orders.

Vice-Chairman

order dated 28/5/02
communicated to the
parties concerned.

for
29/5

28.5.02. Steps were taken. List again
on 27.6.2002 for orders.

In the meantime, interim order
dated 10.5.2002 shall continue.

Vice-Chairman

No. 10/8 has been filed.

2nd
11.7.02.

mb

27.6.02

Service is completed.
The Respondents may file written
statement/objection if any, within
two weeks. List on 12.7.02 for
orders.

K. C. Sharm
Member

Vice-Chairman

lm

| Notes of the Registry | Date | Order of the Tribunal |
|---|---------|---|
| Copy of the order dt'd. 12.7.02 issued to the counsel of the parties, vide D.O.O. + | 12.7.02 | <p>Service is not completed. List on 12.8.02 for orders.</p> <p>In the meantime, the interim order dated 10.5.2002 shall continue.</p> <p>IC Usha Member</p> <p>Vice-Chairman</p> |
| <i>2</i> 12.7.02. | 12.8.02 | <p>Service is not completed. Mr. S. Sarma, learned counsel informed that he is not appearing in the case. Office to remove the name of Mr. S. Sarma as counsel for the Respondents.</p> <p>List on 27.8.2002 for orders.</p> <p>IC Usha Member</p> |
| mb | 27.8.02 | <p>Mr. M.K. Mazumdar, learned counsel has already entered appearance on behalf of the Respondents. Mr. Mazumdar, learned counsel stated that they will file written statement by the end of this week. The applicant may file rejoinder within three weeks thereafter. The case is posted for hearing on 2.9.2002.</p> <p>IC Usha Member</p> <p>Vice-Chairman</p> |
| mb | 2.9.02 | <p>Prayer has been made by Mr. S.C. Biswas, learned counsel appearing on behalf of Mr. M.K. Mazumdar, learned counsel for the Respondents for adjournment of the case. The case is accordingly adjourned. No further adjournment shall be granted on the next date.</p> <p>List on 6.9.2002 for hearing.</p> <p>IC Usha Member</p> <p>Vice-Chairman</p> |
| mb | | |

| Notes of the Registry | Date | Order of the Tribunal |
|--|----------|---|
| copied and McMahon 25/03/02 | 6.9.2002 | <p>Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is disposed of. No order as to costs.</p> <p>Member nkm</p> |
| Judgment dtd 6/9/02 Communicated to the Applicant and the Parties Court | | <p>Vice-Chairman</p> |

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

O.A. /XXX No. 148 of 2002

DATE OF DECISION. 6.9.2002

Shri Vijay Bhatnagar

APPLICANT(S)

Mr. S. Dutta and Mrs. U. Dutta

ADVOCATE FOR THE APPLICANT(S)

VERSUS

The Union of India and others

RESPONDENT(S)

Mr. Sarma and Mr. M.K. Mazumdar

ADVOCATE FOR THE
RESPONDENT(S)

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 ..

Judgment delivered by Hon'ble Vice-Chairman



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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.148 of 2002

Date of decision: This the 6th day of September 2002

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

The Hon'ble Mr K.K. Sharma, Administrative Member

Shri Vijay Bhatnagar,
Working as Principal,
Kendriya Vidyalaya,
Nazira.

.....Applicant

By Advocates Mr S. Dutta and Mrs U. Dutta.

- versus -

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

2. The Commissioner,
Kendriya Vidyalaya Sangathan,
New Delhi.

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

4. Shri S.P. Bawri,
Assistant Commissioner (HQrs.),
Kendriya Vidyalaya Sangathan,
New Delhi.

5. Shri Ranveer Singh,
Education Officer,
Kendriya Vidyalaya Sangathan,
Silchar Regional Office,
Silchar.

.....Respondents

By Advocates Mr S. Sarma and
Mr M.K. Mazumdar.

.....

O R D E R (ORAL)

CHOWDHURY. J. (v.c.)

By order dated 26/29.4.2002 the applicant,
Principal, Kendriya Vidyalaya Sangathan, ONCG, Nazira was
placed under suspension under Sub-rule (I) of Rule 10 of
the Central Civil Services (Classification, Control and
Appeal) Rules, 1965 in contemplation of a disciplinary

proceeding. By the said communication it was also ordered that during the period of operation of the aforementioned order, the Headquarters of the applicant would be shifted to Silchar and he was advised not to leave the Headquarters without obtaining previous permission of the Commissioner. The respondents also issued a Memorandum dated 26/29.4.2002 mentioning certain financial and administrative lapses during the tenure of the applicant at Kendriya Vidyalaya Lekhapani and ONCG Nazira. The applicant was accordingly advised to explain the alleged misconduct as mentioned in the Notification within the time specified. The applicant submitted two representations on 7.5.2002. By one representation the applicant questioned the propriety of changing his Headquarters and contended that the change of headquarters was not in public interest. By the other representation, the applicant explained and countered the allegations made against him in the Memorandum dated 26/29.4.2002 and asked the authority to exonerate him from the alleged charges. When the matter was pending as such the applicant moved this application assailing that part of the order dated 26/29.4.2002 shifting his Headquarters. The points raised in the representation were stated in this application and the applicant contended that the respondents acted illegally and arbitrarily in shifting his headquarters and thereby put him to great financial hardship. The applicant stated that by virtue of his entitlements he was enjoying certain facilities in Nazira and the moment he leaves Nazira he would miss those.

2. The respondents did not submit any written statement, but they have filed a Misc. Petition No.123 of 2002 praying for modification/alteration/cancellation of

the.....

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the interim order dated 10.5.2002 passed in the O.A. whereby this Tribunal suspended that part of the order shifting the headquarters of the applicant. The learned counsel for the respondents submitted that the Misc. Petition may be treated as the written statement. In the Misc. Petition the authority has stated that the representation submitted by the applicant on 7.5.2002 was under consideration and before giving sometime to the authority to look into the matter the applicant rushed to the Tribunal and obtained the interim order. The respondents also stated that shifting of headquarters of the applicant was made so that a free and fair enquiry could be conducted. They have mentioned some of the instances involving the applicant after passing of the interim order, which could affect the disciplinary proceedings.

3. We have heard Mr S. Dutta, learned counsel for the applicant and also Mr M.K. Mazumdar, learned counsel for the respondents at length. Mr M.K. Mazumdar in the course of hearing mentioned some complaints filed by the officers as to the activities of the applicant after the interim order was passed. We are, however, not inclined to go into those allegations. We are, at this stage only concerned as to the legitimacy of the order dated 26/29.4.2002. Mr S. Dutta, learned counsel for the applicant submitted that the authority no doubt is within its jurisdiction to consider the allocation of headquarters of the officer, but such order is to be passed lawfully, reasonably and on public interest.

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4. The whole object of placing a person under suspension is to conduct an enquiry without any impediment. While on the one hand the officer should be given an opportunity to defend his case, the department on the other hand also must be allowed to proceed with the enquiry unhindered and unobstructed without being intermeddled by any quarter. In the Misc. Petition the respondents mentioned about some of their apprehension and in fact cited certain instances. The learned counsel for the applicant stated that the subsequent events relied upon by the respondents cannot be a valid ground for upholding the order dated 26/29.4.2002. The validity of the order is to be adjudged as on 26/29.4.2002. The learned counsel for the applicant submitted that on that day there was no such complaint before the authority. The question is not as to whether there was existence of any complaint on that day. The authority is to pass an order and find a workable solution while suspending an officer. In such a situation, it is also to act on the basis of some guess work and probabilities. The whole exercise is to conclude the enquiry or investigation. Subsequent materials were relied upon only to lend support to its apprehension. The impugned decision of the authority to shift the headquarters of the applicant, therefore, on the basis of the materials on record cannot be said to be perverse, unlawful or unjustified. The authority apprehended that the presence of the applicant at Nazira was likely to affect the enquiry proceedings. It cannot be said to be totally absurd or perverse.

5. At this stage we do not like to go further into the merits of the allegations, more so in view of the fact that the applicant has already submitted a representation

which.....

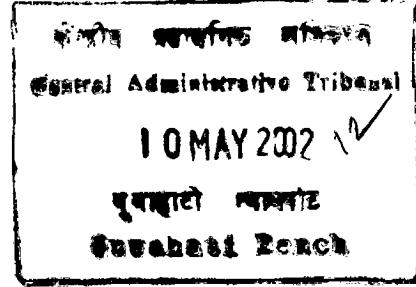
which is under seisin of the authority. We accordingly direct the authority to pass appropriate order on the representation on assessing all facts and circumstances. It would also be open to the authority, if the authority considers to modify the order dated 26/29.4.2002 shifting the headquarters of the applicant. The authority is directed to complete the above exercise with utmost expedition, preferably within a month from the date of receipt of the order. It is also made clear to the authority that while deciding the representation of the applicant the authority will not be influenced by any of the observations made above in course of the proceedings.

6. With the above observation the application stands disposed of. There shall, however, be no order as to costs.

(K. K. SHARMA)
ADMINISTRATIVE MEMBER

(D. N. CHOWDHURY)
VICE-CHAIRMAN

nkm



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

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

Sri Vijay Bhatnagar Applicant

- Versus -

Union of India & Others Respondents.

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Date: 10.05.02

Filed by

Swagat Dutt

Advocate

13
10.05.00
Surajit Datta
Surajit Advocate
The Applicant
Filed by:-
10.05.00
Surajit Datta
Surajit Advocate
The Applicant
Filed by:-
10.05.00

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH · GUWAHATI

(An Application made under Section 10 of the Administrative Tribunals Act, 1985)

BETWEEN

Sri Vijay Bhatnagar

Son of Sri JP Bhatnagar

Working as Principal, Kendriya Vidyalaya, Nazira,
Presently residing at Gr. No. C 70, ONGC Colony,
Nazira. District - Sibsagar (Assam).

... .Applicant

...AND...

1. The Union of India,
Represented by the Secretary to the
Government of India,
Department of Education,
New Delhi-110001

2. The Commissioner,
Kendriya Vidyalaya Sangathan
18, Institutional Area,
Sahid Jeet Singh Marg
New Delhi-110016.

3. The Joint commissioner (Admn.),
Kendriya Vidyalaya Sangathan
18, Institutional Area,
Sahid Jeet Singh Marg
New Delhi-110016.

Vijay Bhaluager

4. Sri S. P. Bawri,
 Assistant Commissioner (Hqrs.),
 Kendriya Vidyalaya Sangathan
 18, Institutional Area,
 Sahid Jeet Singh Marg
 New Delhi-110016.

5. Sri Ranveer Singh,
 Education Officer,
 Kendriya Vidyalaya Sangathan,
 Silchar Regional Office,
 Silchar - 788005.

... Respondents.

DETAILS OF THE APPLICATION

1. Particulars of Order against which this application is made.
 This application is made against the impugned Order bearing No. F. 8-18/2001-KVS (Vig) dated 26/29.04.02 issued by the respondent no.2 placing the applicant under suspension on the ground of contemplation of a disciplinary proceeding against him and thereby changing his headquarter from Nazira to Silchar without any justifiable reason and in an arbitrary and mechanical manner.
2. Jurisdiction of the Tribunal.
 The applicant declares that the subject matter of this application is well within the jurisdiction of this Hon'ble Tribunal.
3. Limitation.
 The applicant further declares that this application is filed within the limitation prescribed under section-21 of the Administrative Tribunals Act, 1985.

Vijay Bhaluagar

4. Facts of the case.

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

4.2 That the applicant is a Principal working under the respondents. His service conditions are governed by the Education Code and Accounts Code of Kendriya Vidyalaya Sangathan (for short, the Sangathan) apart from various other circulars and guidelines issued from time to time. The applicant had a brilliant academic career and posses a Master degree in Science as well as in Education. Besides, he is a graduate in Law. He was initially a Headmaster working under the State of Rajasthan but was subsequently appointed to the post of Deputy District Education Officer (for short, Dy. DEO) (Legal) under the State of Rajasthan.

4.3 That the applicant - while serving under the State of Rajasthan - appeared in a selection to the post of Principal under the respondents and became selected for the said post. Consequent to his selection, he was appointed as Principal under the respondents and was posted at KV, Kokrajhar where he joined in the month of August 1989. He continued at Kokrajhar as Principal for a period little over a year but on the issue of non counting his previous service towards the post retirement benefit under the respondent, he left the job with effect from 22.12.90 and went to his parent department under the State of Rajasthan where he had a lien. On his rejoining the service under the State of Rajasthan, he was promoted to the post of Sr. Dy. DEO (Legal) and he served under the State of Rajasthan till completion of 20 years of service whereupon he had applied for Voluntary Retirement.

Vijay Bhaluagar

4.4 That in the meanwhile, the applicant again participated in a selection for the post of Principal under the respondents and got selected and therefore joined as such under the respondent having his prayer for Voluntary Retirement accepted by the State of Rajasthan. The applicant joined under the respondents as Principal on 13.05.94 and was posted at KV, Chittaranjan (West Bengal). Thereafter, he was transferred in public interest and was posted at KV, Lekhapani where he joined on 17.01.97. He was once again transferred in public interest by the respondents after two years of his stay at Lekhapani and was posted at KV, ONGC Nazira. The applicant joined at Nazira on 01.11.99 and since then he has been serving at Nazira with utmost sincerity, integrity and devotion to the satisfaction of all concerned.

4.5 That the applicant in the meantime appeared in the departmental competitive examination for the post of Assistant Commissioner on 03.02.02 and fared well and as such qualified for the oral interview which took place on 05.04.02. He did well in the said interview and reliably learnt to have his name in the list of selected candidates. Therefore, it has been his legitimate expectation that he will be considered for appointment to the post of Assistant Commissioner. But he could not, in any way, anticipate that the destiny had something different in store for him as spelt out by the impugned order dated 26/29.04.02. The time when he was anticipating issuance of his offer of promotion/appointment, the impugned order placing him under suspension came like a bolt from the blue to him and he was quite shocked and surprised to receive the same.

A copy of the aforementioned order is annexed herewith as Annexure - 1.

Vijay Bhatiager

4.6 That the applicant states that the respondent no. 4 - during his tenure at Silchar - had subjected the applicant to undue harassment on this and that pretext and on some trifling matters. Being aggrieved, the applicant submitted a written complaint to the respondent no. 2 on 09.05.01 whereupon the respondent no. 4 became annoyed over the applicant and started to find fault in him on petty issues and to harass him on some flimsy grounds.

4.7 That while working as the Principal at KV, ONGC Nazira, the applicant received a letter dated 23/25.05.01 from the respondent no. 4 asking him to re-consider the result of one Master Rohan Negi - a student of Class XII (Sc.) who was awarded supplementary in Mathematics. The said student appeared in the supplementary examination but failed and on this issue his guardian/parent took up the matter through a representation with the respondent no. 4 who at the relevant time was the Assistant Commissioner at Silchar Regional Office.

Copy of the said letter dated 23/25.05.01 is annexed herewith as **Annexure - 2.**

4.8 That the applicant submitted his reply to the said letter on 15.06.01 and thereby furnished a detailed report on the representation submitted by the parent of Master Rohan Negi. In view of the facts stated in the reply, the applicant informed the respondent no. 4 that no re-consideration was necessary. However, the respondent no. 4 took it differently and acted with his vested interest and by his letter dated 04.07.01 directed the applicant to conduct unit test of Master Rohan Negi for 1st term of the session of 2000-2001 by 15.07.01 in Mathematics and intimate the result to him and the parent of the student.

Vijay Bhattacharjee

Copies of the reply dated 15.06.01 and the consequent letter dated 04.07.01 are annexed herewith Annexure - 3 and 4 respectively.

4.9 That the applicant states that since the aforesaid exercise of conducting the unit test for the previous year was not permissible as per rules, that too for a single student who did not have Mathematics as a subject in the previous year, he could not conduct the test as was directed by the respondent no. 4 in his letter dated 04.07.01. However, the applicant by his letter-dated 17.07.01 requested the respondent no. 4 to review his decision as contained in the letter dated 04.07.01 in the light of the extant rules and to give final decision on that.

Copy of the letter-dated 17.07.01 is annexed herewith as Annexure - 5.

4.10 That the respondent no. 4 took the matter very personally and instead of giving a final decision on the matter, initiated a fact-finding inquiry against the applicant. The respondent no. 5 conducted the said inquiry on 30.07.01 at Nazira when the applicant furnished all the relevant documents pertaining to admission of students, declaration of results etc. and also gave his detailed statement on it in writing. The matter was thereafter not proceeded with any further. But it appears now that the respondent no. 5 prepared a fabricated report on the inquiry made by him while acting in hand with the respondent no. 4 and placed the same before the respondent no. 2 in a twisted manner hiding the real facts which has resulted in issuance of the impugned order of suspension along with a memorandum dated 26/29.04.02 containing some charges which are mostly based on the issue of declaration of the result of Master Rohan Negi.

Vijay Bhatnagar

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A copy of the Memorandum dated 26/29.04.02 is annexed herewith as Annexure - 6.

4.11 That the applicant has already submitted a representation on the impugned order of suspension praying for withdrawal of the same and has also submitted a reply to the memorandum dated 26/29.04.02. But till date no action whatsoever has been taken thereon.

Copies of the representation dated 0.05.02 and the reply dated ibid are annexed herewith as Annexure - 7 and 8 respectively.

4.12 That the applicant states that the impugned order of suspension has been issued presumably for the issuance of the memorandum dated 26/29.04.02 leveling some charges against him. It is categorically stated that the respondent no. 4 and 5 have been instrumental in issuance of the same with a view to suffer the applicant. It is stated that the charges are apparently without any basis and untenable. The applicant has reason to believe that the impugned order of suspension and the memorandum dated 26/29.04.02 has been issued at the instance of the respondent nos. 4 and 5 and the same has been actuated by malafide. It is categorically stated that the issuance of the memorandum or contemplation of the any proceeding on the basis of the charges as contained therein cannot have any reasonable bearing on the issue of changing his Headquarter in as much as the records/documents pertaining to the charges are not available at Nazira. The change of the applicant's headquarters as has been done by the impugned order is nothing but with an intention to cause undue suffering to him. The action of the respondents in doing so is therefore, liable to be declared unreasonable and unjustified.

Vijay Bhatiagaw

4.13 That the applicant states that it will be evident from the facts of the case that the records pertaining to the charges in paragraphs 1 to 6 and 12 to 14 are available at Regional Office Silchar and those pertaining to the charges in paragraphs 8 to 11 are available at KV, Lekhapani. Therefore, the stay of the applicant at Nazira cannot hamper the process of departmental inquiry, if any, intended to be conducted on the matter in as much as the applicant will have no access to the records by virtue of his stay at Nazira. The action of the respondents in changing his Headquarter fro Nazira to Silchar is, therefore, devoid of any reason rather it is with the intention to cause undue hardship on him.

4.14 That the applicant states that he being a Principal under the respondents has been serving as such being under the control of the Vidyalaya Management Committee at Nazira and therefore Nazira is his Headquarters. The change of Headquarters has got no public element/interest involved in it and as such it is nothing but an example of arbitrary exercise of power by the respondents. The Hon'ble Tribunal, may therefore, be pleased to protect the applicant by issuing appropriate direction to the respondents in this case.

4.15 That the applicant states that it is a fit case for the Hon'ble Tribunal to interfere with the impugned order of suspension dated 26/29.04.02 in protecting his rights and interests in so far as it relates to change his Headquarters from Nazira to Silchar and to restrain the respondents from giving effect to that part the impugned order pending disposal of this application.

4.16 That this application is filed bonafide and in the interest of justice.

Vijay Bhaluagaw

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

5.1 For that, the impugned order of suspension dated 26/29.04.02 is unreasonable and unjustified so far it relates to change of headquarter of the applicant and therefore liable to be set-aside to that extent.

5.2 For that, the relevant documents pertaining to the charges leveled in paragraphs 1 to 6 and 12 to 14 of the memorandum dated 26/29.04.02 having been taken away by the respondent no. 5 are available in the Regional Office Silchar whereas the documents pertaining to charges under paragraphs 8 to 11 are available at KV, Lekhapani and in that view of the matter, the stay of the applicant at KV, ONGC Nazira cannot be construed to be detrimental to the departmental proceeding, if any, intended to be caused on the basis of the memorandum dated 26/29.04.02 and therefore the impugned order is liable to be modified.

5.3 For that, the impugned order changing the headquarter of the applicant has been issued without application of mind and in arbitrary exercise of power and it will have the effect of causing financial hardship to the applicant in as much as he will have to establish a third establishment at Silchar and manage the same out of his reduced 50% of the emoluments.

5.4 For that, during the period of suspension, attending office and marking attendance daily may not be compulsory and therefore the applicant's stay at Silchar will in no way be much purposeful rather will be deterrent and injurious to him.

5.5 For that, the impugned order changing the headquarter of the applicant will cause loss of financial benefits like

Vijay Bhatnagar

withdrawal of DSC Allowance, withdrawal of free Medical Facility, LPG supply etc. if he is to go to Silchar.

- 5.6 For that, the impugned order changing his headquarters has been issued with an ulterior motive and mala fide intention to harass the applicant.
- 5.7 For that, the change of headquarter are not in public interest and is against the principle of administrative fair play and action.
- 5.8 For that, in any view of the matter, the impugned order dated 26/29.04.02 changing the applicant's head quarter is bad in law and therefore liable to be set aside and quashed.

6. Details of remedies exhausted.

That the applicant further declares that he has no other alternative and other efficacious remedy than to file this application. The applicant submitted representation through proper channel but the respondents have taken no favourable action.

7. Matters not previously filed or pending with any other court.

The applicant further declares that he had not previously filed any application, Writ Petition or Suit regarding the matter in respect of which this application has been made before any court or any other authority or any other Bench of the Tribunal nor any such application, Writ Petition or Suit is pending before any of them.

8. Reliefs sought for :

8.1 That the impugned Order issued under No. F. 8-18/2001-KVS (Vig) dated 26/29.04.02 in so far it relates to the change of the applicant's headquarters be set aside and quashed.

Vijay Bhaluagaw

8.2 Costs of the application.

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

9. Interim order prayed for:

During pendency of this application, the applicant prays for the following relief:-

9.1 That the respondents be restrained from giving effect to the impugned order dated 26/29.04.02 in so far it relates to the change of the applicant's headquarters and/or be restrained from disturbing the applicant from his present place of posting i.e. Kendriya Vidyalaya, Nazira till disposal of this application or the case of the applicant to treat Nazira as his headquarters is considered.

10.

This application is filed through Advocate.

11. Particulars of the I.P.O.

- i) I.P.O. No. : 7G 549487 dated 08.05.02
- ii) Issued from and payable at: G.P.O., Guwahati.

12. List of enclosures: As given in the index.

Vijay Bhatnagar

VERIFICATION

I, Sri Vijay Bhatnagar, son of Sri JP Bhatnagar, aged about 52 years, working as Principal, Kendriya Vidyalaya, Nazira, presently residing at Qr. No. C 70, ONGC Colony, Nazira, District - Sibsagar (Assam), do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 07th day of May, 2002.

Vijay Bhatnagar
D E P O N E T

BY SPEED POST/CONFIDENTIAL

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

No. F 8-18/2002-KVS(Vig.)

Dated: 26 -04-2002
2002

ORDER

WHEREAS a disciplinary proceeding against Shri Vijay Bhatnagar, Principal, Kendriya Vidyalaya, ONGC, Nazira is contemplated.

NOW, THEREFORE, the undersigned, the Appointing Authority, in exercise of powers conferred by Sub-rule (I) of Rule-10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, hereby places the said Shri Vijay Bhatnagar, Principal, Kendriya Vidyalaya, ONGC, Nazira under suspension, with immediate effect.

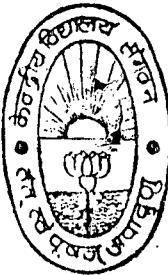
It is further ordered that during the period that this order shall remain in force, the headquarters of the said Shri Vijay Bhatnagar, Principal, shall be at Kendriya Vidyalaya Sangathan, Regional Office, Silchar and the said Shri Vijay Bhatnagar, Principal, shall not leave the headquarters without obtaining the previous permission of the undersigned.

Certified to be
true copy
S. M. S.
Advocate

1) NV P. S. W. C. in Ls
2) N. E. P. S. D. in Ls
3) N. O. W. S. in Ls
4) N. O. W. S. in Ls
26/04/2002
(H. M. CAIRAE)
COMMISSIONER

Copy to :-

1. Shri Vijay Bhatnagar, Principal, Kendriya Vidyalaya, ONGC, Nazira
2. The Chairman, VAC, Kendriya Vidyalaya ONGC Nazira.
3. The Assistant Commissioner, KVS, Regional Office, Silchar.
4. The Assistant Commissioner (Admn.), KVS [Hqrs.], New Delhi.
5. Guard file.



केन्द्रीय विद्यालय संगठन

KENDRIYA VIDYALAYA SANGATHAN

केन्द्रीय विद्यालय
अस्पताल रोड,
सिलचर - 788001

Regional Office
Hospital Road,
Silchar - 788001

ANNEXURE-2

Received
29.5.2001

✓ 29/5/01

पंचांक

F. No.:

6-21/99-2000/KVS(SR) / 2869-71

टिकांक
Dated 23-5-2001
✓ 25

To

The Principal,
Kendriya Vidyalaya,
Nazira.

Sub:- Session-Ending Examination(2000-01) result in respect of
Master Rohan Negi, Class-XI(Sci)-reg.

Ref:- Copy of the representation written by Sh. S.K.Negi
F/O Ma. Rohan Negi & Sent to the Commissioner, KVS(HQ)
New Delhi & Others.

Sir,

With reference to the above subject, you are requested
to go through the representation made by Sh. S.K.Negi,
F/O Ma Rohan Negi, Class XI(Sci) of your Vidyalaya, which
is self-explanatory.

The reasons given for reconsideration of the result may
be examined and suitable measures initiated. An action taken
report may be sent within a week from the date of receipt of
this letter to the undersigned, under intimation to Sh.S.K.Negi
and the Commissioner, KVS(HQ), New Delhi.

Yours faithfully,

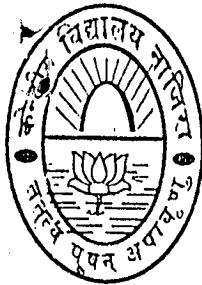
✓
Date

(S.P.BAURI)
ASSISTANT COMMISSIONER.

Enclo: Letter written by
Sh.S.K.Negi, Xerox
Copy of the Progress
report, Maths Qn.Paper(Class-XI)
given in the supplementary exam-2001 and
the copy of the letter sent by the
Principal, KV, Nazira.

Copy to:- 1. The Commissioner, KVS(HQ), New Delhi-
2. The Chairman, VMC, KV, Nazira.

(S.P.BAURI)
ASSISTANT COMMISSIONER.



KENDRIYA VIDYALAYA
ONGC Nazira, Dist-Sibsagar

केन्द्रीय विद्यालय

① 52232 (D O T)
21041 (ONGC)

ओ एन जी सी, नाजिरा, जिला-शिवसागर - 785685 (आसाम)

Ref. No.

No.F.16/KVN/2001-02/ 5271

Date.

Dated:-15th June, 2001

To

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

Subject:- Session Ending Examination(2000-01) result in respect of Master Rohan Negi, class-XI(Sci.) regarding.

Ref:- F.6-21/99-2000/KVS(SR)/2869-71, Dated:- 23/25-5-2001.

Sir,

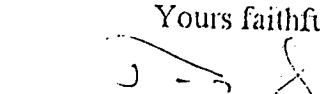
In compliance to your above referred letter, the representation dated 15-5-2001 submitted by Shri S.K.Negi, father of Master Rohan Negi, Class-XI(Sc) has been examined extensively. The report is as under:-

1. Voluntary mobility from Biology to Maths after first term does not entitle him for the benefit of transfer/credit of marks obtained in Biology towards Maths.
2. The student got 18 out of 60 (taken together Unit Tests, Projects, Assignments and Half yearly Exam.) and 32 out of 100 as aggregate. Therefore in compliance to para 3 and 4 of your letter No.F.CBSE, Result/99-KVS (SR)/.. Dated 13-4-2000, the said student was given supplementary in Maths.
3. The Supplementary Examination was conducted on 26.4.2001 and result was declared on 28.4.2001. The said student got 20 out of 100. Therefore in compliance to the Article 118 of the Education Code, he was declared failed.

Since the aforesated facts are crystal clear and hence does not deserves for any re-consideration. This has the approval of the Chairman, VMC, K.V.ONGC Nazira, which was accorded in reference to the endorsed to him of the above-referred letter.

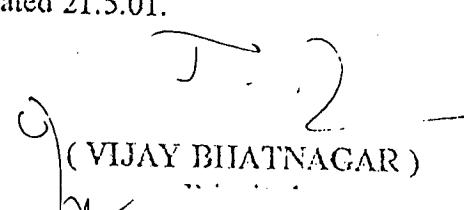
Submitted for your further necessary action.

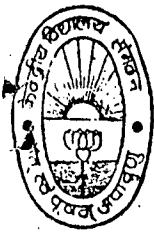
Yours faithfully,


(VIJAY BHATNAGAR)
Principal,
Kendriya Vidyalaya Nazira.

Copy to:-

The Assistant Commissioner(Acad) KVS(HQ) New Delhi in reference to his letter No. F.1-5/2001/KVS/(Acad) dated 21.5.01.


(VIJAY BHATNAGAR)



केन्द्रीय विद्यालय संगठन

KENDRIYA VIDYALAYA SANGATHAN

केन्द्रीय कार्यालय
आरपनाल रोड़,
सिलचर - 788009

Regional Office
Hospital Road,
Silchar - 788001

प्रधान

F. No. 6-21/99-2000/KVS(SR)/ 4619-21

Mr. B. P. Bauri
Dated: 04-7-2001.

To

The Principal,
Kendriya Vidyalaya,
Nazira.

Speed Post

Sub:- Result of Session-Ending Examination(2000-01) result in
respect of Master Rohan Negi, Class-XI(Sc.)-reg.

Ref:-F. 16/KVN/2001-02/5271 dated 15th June, 2001.

Sir,

With reference to your above letter the following
observations are made:

1. Master Rohan Negi, was allowed to switch-over from Bio to Maths after First term by you which automatically entitle him to take test of Maths in Ist term ending in Sept' 2000.
2. As per your statement the students got 18 out of 60 (taken together Unit Tests, Projects, Assignments and Half-Yearly/Cumulative Test) but it has been noticed that neither the weightage for Ist term was given nor test conducted. Had he been given the test for Ist term, he would have scored some marks & could have been promoted to Class XII. This aspects was totally ignored by you.

In view of the above, you are hereby directed to conduct the unit test for Ist term 2000-2001 by 15th July'01 in Maths and intimate the result, to the parent and this office in terms of the performance of the child.

Yours faithfully,

S. P. Bauri
(S. P. BAURI)
ASSISTANT COMMISSIONER.

Copy to:-

1. The Chairman, Kendriya Vidyalaya, Nazira for information and necessary action.
2. The Joint Commissioner (Acad) KVS, HQ, New Delhi for information

3. Sh. S. K. Negi - Deptt. of ASSTT. COMMISSIONER.

S. F. (Auto) 1/c Auto Sec.
OMGC (Nauz) AG

KENDRIYA VIDYALAYA, ONGC, NAZIRA

केन्द्रीय विद्यालय, ओ.एन.जी.सी. नाजिरा
P.O. Nazira, Distt. Sivasagar (Assam) Pin- 785685

2(O&R)
EPABX 21041(O)

No.F.16/KVN/2001-02/ A373

Date:- 17.7.2001

To

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

12.07.2001

Sub:- Result of Session Ending Examination (2000-01) in respect of Master Rohan Negi,
Class-XI Science – regarding.

Ref:- Your letter No.F.6-21/99-2000/KVS(SR)/4619-21 dated 04.7.2001.

Sir,

In connection with the above referred letter your kind attention is drawn towards Para-1 of this Office letter No.F.16/KVN/2001-025271 dated 15.6.2001, whereby the term "Voluntary mobility" was used which might not have got proper cognizance. To elaborate the case in depth, this is to bring to your kind notice that the said child was not eligible for Maths at the time of admission, as evident from para-5 (g)(A) 1 of the Admission Guidelines 2000 and explicit from his mark sheet and application for admission(Annexure No.1&2).

After having been participated at the KVS Regional Meet'2000, the said child became eligible for relaxation of 2 marks, in accordance with para-5(g) E(ii)(c) of the Admission Guidelines 2000. Therefore the said child on the "Doctrine of Voluntary mobility" submitted an application dated 22.9.2000 (Annexure No.3) to change his subject from Biology to Maths. One material fact behind this change is failure of the child in Biology in First Unit Test.

The directions/orders given vide above referred letter to conduct first term Unit Test of the Session 2000-2001, in this session seems to be unjust, because:-

1. The first term in KVS is upto August.
2. The said child was not eligible for Maths in first term and appeared in Biology in first term Unit Test.
3. The application dated 22.9.2000 submitted by the said child cannot have its retrospective effect.
4. Para -5(b) of letter No.F.9-2/2000-KVS(Acad) dated 15th Nov.2000, does not permit to conduct the separate test without medical reasons. However para 4(b) of the same letter speaks about the "PROPORTIONATE WEIGHTAGE ", in case of children being admitted in the middle of the Session.
5. It will jeopardize the highest standard established by the Vidyalaya and will set bad precedence in the school inciting other students who failed in suppl. exam. 2001, when they will come to know that a separate test is now being conducted only for Mr. Rohan Negi for getting him promoted to next higher class - XII.
6. The parent or the said child has neither submitted such request in Feb.2001 when it was communicated to them through a letter dated 24.02.2001 that the child has got 18 out of 60 in Maths, nor after declaration of final result of S.E. Exam.2001, when the student was given supplementary. Their silence till that time, a material fact has also not been taken into cognizance. When the student failed in suppl. Examination'2001, then only the parent became active in mounting pressures from all around, on the undersigned by several means

The decision may please be reviewed in light of the aforesated facts. The final decision may kindly be communicated to the undersigned, which will be complied immediately without any prejudice.

This has the approval of the Chairman, VMC, K.V. ONGC Nazira which was accorded in reference to the endorsement made to him of the above referred letter.

P. B. 196, dated 24/7/01
Cpy to:- Sh. S.K. Negi
Encl: Three
Gtr. B-220,
CTNZL, CECILY 202
Yours faithfully,
(VIJAY BHATNAGAR)
Principal.

17/7

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

No.F.8-18/2001-KVS(Vig.)

Dated: 26-04-2002

MEMORANDUM

It has been brought to notice that Shri ~~Vijay~~ Bhatnagar, Principal, Kendriya Vidyalaya, ONGC Nazira has committed the following financial and administrative irregularities during his tenure at Kendriya Vidyalaya Lekhapani and ONGC Nazira.

A. ADMISSIONS :

1. Fresh Admission- During the year 2000-2001 in Kendriya Vidyalaya ONGC Nazira out of 25 students admitted in Class-XI (Science), only six cases were of fresh admission. In two cases candidates securing 49/100 in Mathematics were given Science with Maths.

Admission rules are also violated in the case of Devajyoti Taye who has not procured more than 45 marks for admission in XI (Science)

2. CHANGE OF SUBJECT :

Four students were allowed to change their subjects in mid-session.

In the case of Master Rohan Negi who had secured only 48 marks in Maths in Class-Xth Examination, was allowed to take Maths after 1st term on the ground that he participated in Regional Social Science Exhibition held at Kendriya Vidyalaya, Nazira in September, 2000. Notwithstanding the reason that participation in any event which makes a candidate eligible for additional marks must be prior to admission and not later; and that participation in Regional Level Social Science Exhibition does not entitle a student for additional marks as per Admission Guidelines.

**3. EXAMINATION RESULTS 2000-01 OF CLASS-XI (Science)
Kendriya Vidyalaya Nazira.**

1. In Class XI (Science) out of 23 Students 14 passed and 09 failed. The Pass Percentage is 60.8%.
2. 03 Students were placed for Supplementary Examination out of 07 failed and one passed.
3. The following two students who were detained outrightly without following the Promotion/Supplementary Rules contained in Para-116 to 118 of Education Code for Kendriya Vidyalayas could have been placed in Supplementary in the subjects underlined below :-

i. Nipon Sarmah Majumdar :

Total Aggregate = 232.6/500 (46.5%). - Passed in all four subjects English 48.7; in Physics 51.3; in Chemistry 49.1; in Biology 52.1 and in Mathematics 31.4/100.

i. Sumit Kumar Singh :

Total Aggregate = 205.7/500 (41.1%). In English 42.5; in Practical 49; in Physics 44.2; in Chemistry 40.9 and in Maths 29.1/100.

Whereas two parallel cases as mentioned below were placed in Supplementary.

a. Partha Jyoti Mohan :

Total Aggregate = 213.3/500 (42.6%). In English 49.2; in Physics 38.6; in Chemistry 46.5 and in Maths 32.7/100.

b. Rohan Negi :

Total Aggregate 222.3/500 (42.6%). In English 42.4; in Principal 48.5; in Physics 53.5; in Chemistry 45.9 and in Maths 32.0/100.

4. The yardstick adopted in awarding Unit Test Marks for the 1st Term in the case of students who had opted for change of subject seems to be unfair. Since the Unit Test Marks scored in the subject initially opted can not be considered for Unit Test Weightage calculation in respect of the subject selected subsequently. A fair method for weightage calculation would have been to raise the marks secured in the Unit Test in the changed subject to 200 for later conversion to the Unit Test Weightage of 20. Instead the marks scored in the initial test has been treated as zero.

WEIGHTAGE CALCULATION IN RESPECT OF MASTER ROHAN NEGI AS GIVEN IN THE MARKS REGISTER :-

| | | Maximum Marks. | Marks scored. | Weightage given | Proportionate weightage |
|-------------|-----------|----------------|---------------|-----------------|-------------------------|
| UNIT TESTS | U.T.-I | 70 | Ab. | | |
| | U.T.-II | 70 | 25 | | |
| | U.T.-III | 60 | 24 | | |
| | Total. | 200 | 49 | 4.9 | 7.5 |
| ASSIGNMENTS | Ass.-I | 30 | Ab. | | |
| | Ass.-II | 30 | 19 | | |
| | Ass.-III | 40 | 10 | | |
| | Total. | 100 | 29 | 2.9 | 4.1 |
| PROJECT | Proj.-I | 30 | Ab. | | |
| | Proj.-II | 30 | 18 | | |
| | Proj.-III | 40 | 32 | | |
| | Total. | 100 | 50 | 5.0 | 7.1 |
| HALF YEARLY | | 100 | 26 | 5.2 | 5.2 |
| ANNUAL | | 100 | 35 | 14.0 | 14.0 |
| TOTAL. | | 600 | 189 | 32.0 | 37.9 |

Had Proportionate Weightage been given, the student would have passed in Maths without Supplementary Examination as his total marks comes to 37.9. A different Yardstick has been adopted in the case of the other 02 candidates who were allowed change of subjects at the same time as Rohan Negi. They have been awarded marks for U.T. Assignment & Projects in the changed subjects for all the terms.

Details are given below:

| | NAME OF STUDENT | DATE OF CHANGE OF SUBJECT | FROM | TO | UT | MARKS ASSESS-MENT | PROJECT |
|----|-----------------|---------------------------|--------|-------|----|-------------------|---------|
| 1. | Ajay Kr Singh | 22.9.2000 | Biolog | Maths | 18 | 18 | 19 |
| 2. | P Harshvardhan | 22.9.2000 | IP | Bio | 44 | 22 | 20 |
| 3. | Rohan Negi | 22.9.2000 | Bio | Maths | Ab | Ab | Ab |

5. In case of Master Harshvardhan of Class XI SC a deliberate attempt seems to have been made in reducing the actual marks scored in Chemistry [23/70] in common session ending examination to 20/70 thus forcing him to take supplementary examination in that subject on the basis of failing in theory.
6. Result register of Class XI Sc has many overwritings and use of white fluid to erase the marks without signature of Class teacher/Checker/Principal.

ADMINISTRATIVE & FINANCIAL

7. That while working as Principal at Kendriya Vidyalaya Kokrajhar in the year 1984 was having illicit relation with Smt. Ahilya Deka who was serving on LDC at Kendriya Vidyalaya, Kokrajhar now UDC working at Jagiroad. The said Principal entered into second marriage in the year 1991 with said Ahilya Deka when his wife is alive and has been living at Bikaner, Rajasthan. The said Principal then contracted Bigamous marriage without getting his first marriage terminated by means of divorce obtained from a Competent Court of law as per Hindu Marriage Act.
8. That while working as Principal at Kendriya Vidyalaya Lekhapani during the financial year 1998-99 made payment of Rs.1390/- by Cheque No.480135 dated 13.01.99 to Dr.S.A.Rahaman for medical checkup of the students. The payment was not made to Dr.S.A.Rahaman. The Counter-foil of the aforesaid cheque bears the name of Dr.S.A.Rahaman but in reality the cheque issued was self cheque and the cheque was got encashed by Shri N.Deka Group D who handed over the money to the said Principal.
9. That the said Principal had made payment of Rs.11850/- to M/s. Verma Brothers, Guwahati for purchasing of Sports materials by cheque No.310206 dated 11.02.98 as recorded by him in the School Fund Cash Book. On scrutiny it is revealed that counter foil of the cheque book dated 11.02.98 bears the name of M/s. Sharina Bros. Guwahati whereas the cheque issued was a self cheque and was got withdrawn by

Shri S.S. Baidya, Group 'D' who handed over the money to the said Principal more over the money receipt No.019 dated 20.02.98 shows that the payment was made by cheque No.310206. There was also no stock certificate of the stock holder on the bill.

10. That while functioning as Principal during 1998-99 at Kendriya Vidyalaya Lekhapani he had made entry in the Cashbook showing a payment of Rs.4000/- to M/s Verma Brothers, Guwahati by Cheque No.355413 dated 27.02.99. On scrutiny it is revealed that a money receipt procured was without date, Invoice/Bill and without stock holder's certificate, cheque was withdrawn by self cheque (cash) one month before the receipt of the article and counterfoil is without signature of the Chairman.

11. That while working as Principal at Kendriya Vidyalaya Lekhapani he had submitted six nos of TA bills amounting to Rs.2198/-, Rs.1466/-, Rs.758/-, Rs.1186/-, Rs.1268/- and to the Regional Office, Silchar for pre-audit. Said TA bills were returned to him with the audit observation. The Principal drew the full amount of TA bill what he claimed ignoring the audit observation.

12. That while working as Principal at Kendriya Vidyalaya Nazira during 2000-2001 had made 06 cases of fresh admission in the month of 2000-2001. On scrutiny it is revealed that Manoj Boro who secured 40 out of 100 marks in Maths and was not eligible at the time of admission in class-II Science with Maths was allowed admission by Sh. Vijoy Bhatnagar in Contravention to KVS(HQ) letter No.41-1/2001-KVS(O&M) dated 8.2.2001. Similarly Devojit Taye who secured 40 out of 100 marks in Maths in Class Xth (Tenth) examination and was not eligible for admission to Class XI with science was given admission by the Principal in contravention to KVS(HQ) letter No.41-1/2001-KVS(O&M dtd.08.02.2001.

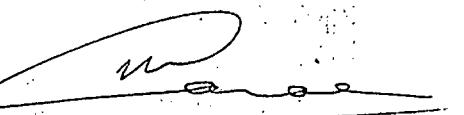
13. That while working as Principal at KV Nazira during the year 2000-01 had detained Master Nipen Sharma, Mazumder and Master Sumit Kr.Singh in violation the Article 116,117,118 of the Education Code and also in violation of Kendriya Vidyalaya Sangathan Headquarter letter No.F.1-1/JV-Acad/99-AC dated d16.09.99 and KVS (RO) letter No. F. CRSE Result 99-KVS(CR)/dated 13.4.2000. Whereas in the case of Master Partha Jyoti Singh and Master Rohan Negi in a similar condition were placed in Supplementary in the subject.

14. That while working as Principal at Kendriya Vidyalaya Nazira during the year 2000 had allowed change of subjects after first Unit Test.

(1)Master Ajay Kumar
(2)Master P.Harsha Verdhan
(3)Master Rohan Negi
(4)Miss Gayetri Nath.

facilitating them to take Mathematics as one of the subjects in eleventh class Science. As a result, 04 students as above who were not eligible at the time of admission to Class-XI Science with Mathematics have been made eligible subsequently on the basis of their certificates for participating in Regional Social Science Exhibition. Which does not entitle the student to get weightage. Such act of the Principal is violation to Admission Rules of the Kendriya Vidyalaya Sangathan and thereby he committed misconduct.

Shri Vijay Bhatnagar, Principal, Kendriya Vidyalaya, ONGC Nazira is hereby called upon to explain his aforesaid act of omissions and commissions, within 10 days from the date of receipt of this memorandum, failing which it would be presumed that he has nothing to say in the matter and action would be initiated against him as per extant rules.



26/03/2002

(H.M. CAIRAE)
COMMISSIONER, KVS

Shri Vijay Bhatnagar,
Principal,
Kendriya Vidyalaya,
ONGC Nazira

VIJAY BHATNAGAR
MSc. MEd LLB
Principal

- 23 -

To,
The Commissioner
Kendriya Vidyalaya Sangathan
New Delhi - 110016.

Kendriya Vidyalaya
ONGC NAZIRA (Assam)
PIN - 786586
Tel - 0376 - 2252232
Dated : 07-05-2002

Subject :- Representation against suspension order.
Reference :- Order No. F.8- 18/2001 - KVS (Vig.) Dated 26/29 - 04-2002.

Sir,

In reference to the above, I am to state that, I have been quite shocked and surprised to receive the aforesaid order of suspension along with the memorandum dated 26/29-04-2002, whereby I have been asked to submit a reply on the charges levelled against me.

I am submitting herewith a detailed reply to the charges for due and sympathetic consideration by your goodself and for further necessary action.

It will be evident from the reply to the charges that those have been levelled against me are without any basis and on flimsy grounds. It may be pertinent to mention here that the original record/documents related to the charges in para 1 to 6 and para 12 to 14 have already been handed over to Sri Ranvir Singh, Education Officer KVS Silchar on 30-7-2001 and 02-08-2001, during the course of fact finding inquiry and those are presently available at Regional office Silchar. It may be noted further that the original records/documents related to the charges under para 8 to 11 are available at KV Lekhapani. Therefore my stay at Nazira, considering it to be my Head Quarter will in noway hamper the process of Departmental inquiry, if any, intended to be conducted.

I would, therefore, request your kind honour to please be kind enough to withdraw the referred suspension order, considering my reply to the charges and keeping in view the untenability and unsustainability of the charges as mentioned in the said memorandum. Pending withdrawal of the suspension order, I may kindly be allowed to be stationed at Nazira, considering it to be my Head Quarter since it was my station of posting immediately before issuance of the order of suspension.

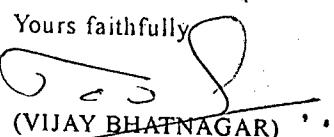
My prayer for stay at Nazira may kindly be considered on the following grounds as the change of head quarter from Nazira to Silchar will :-

- i) Cause financial hardship to me by setting a third establishment at Silchar, by way of hiring a rented house and managing house hold goods for my meals and other day to day requirements, out of my reduced 50 % of the emoluments.
- ii) Cause loss of payment, since the DSCA, free LPG supply and Medical facility will not be admissible at Silchar which I am presently getting at Nazira.
- iii) Cause financial complications, if I am asked to Vacate the residential accomodation provided by ONGC at Nazira, which may involve transportation of personal effects and other issues.
- iv) Cause irreparable injury to my status and reputation, which I have earned at Nazira by way of my dedicated work and conduct.
- v) During suspension, attending the office and marking attendance daily is not compulsory, therefore stay at Silchar will in no way be much purposeful, rather will be deterrent and injurious to me.
- vi) This change of H.Q. is not in the public interest and is against the principle of natural justice, in view of the aforesated grounds.

I beg to pray your goodself to be kind enough to consider my representation and pass necessary order as prayed for.

With profound regards

Date : 07-05-2002

Yours faithfully

(VIJAY BHATNAGAR)

VIJAY BHATNAGAR
MSc. MEd LLB
Principal

-24-

Kendriya Vidyalaya
ONGC NAZIRA (Assam)
PIN - 786586
Tel - 0376 - 2252232
Dated : 07-05-2002

To,
The Commissioner
Kendriya Vidyalaya Sangathan
New Delhi - 110016.

Subject :- Submission of parawise reply to the memorandum.

Reference :- Memorandum No. F.8 - 18/2001- KVS (Vig) dated 26/29-04-2002.

Sir,

In response to the above referred memorandum, I hereby submit my parawise reply, as under :-

1. With reference to the charge in para 1 of the memorandum, I beg to state that admission to two children, master Manoj Boro and master Davaject Taye in class XI Science, were allowed after giving due weightage of 5 marks each, for belonging to ST category. Moreover weightage of 5 marks was awarded to each of them for participation in state level games and in East Zome Sainik School Games and sports respectively. Since both the admissions were given in accordance to the existing policy in KVS, as well as after obtaining approval from the chairman VMC. Therefore the admission rules have not been violated. Thus the charge levelled is not correct.

2. With reference to the charge in para 2 of the memorandum, I beg to state that the permission to change the subject was granted to Master Rohan Negi on 22-08-2000 based on the extreme compassionate human consideration and on written request from him. The change of subject was allowed after giving weightage of 2 marks for his participation in the Regional meet held in Aug. 2000 and not in Sept. 2000 as specified in the referred memorandum. For such consideration, there was a bonafide intention of the undersigned with the spirit to compensate the student for his any achievement in KVS Regional meet.

3.1 With reference to the charge in para 3.1 of the memorandum, I beg to state that It is a matter of student's overall performance, However the pass percentage is above 60%.

3.2 With reference to the charge in para 3.2 of the memorandum,, I beg to state that as per the article 118 of the Education code, the minimum pass marks at the supplementary examination is 35 %. Since seven students could not obtain minimum pass marks , they were declared failed. The answer books were evaluated by the PGT's concerned.

3.3 With reference to the charge in para 3.3 of the memorandum,, I beg to state that

i) the result of Master Nripon Sarmah Mazinder was declared in terms of the amendment to rules of examination and promotion circulated vide letter No. F.1-1/JC-Acnd/99- AAC dated 16.9.99 wherein it is stipulated that a student should obtain 13 marks out of 40 in the annual exam. whereas the said child could obtain only 6.8 marks in Maths out of 40 in the annual examination 2001.

ii) As regards Master Sumit Kumar Singh, he could obtain 29.1 marks out of 100 as aggregate, which does not entitle him to be placed in supplementary. Moreover this case is not parallel to the referred cases of Master Partha jyoti Mohan and Mastar Rohan Negi who got 32.7 and 32.0 marks in Maths respectively.

4. With reference to the charge in para 4 of the memorandum,, I beg to state that since the voluntary mobility from Biology to Maths after first unit test does not entitle the said child to credit the marks obtained in Biology towards Maths. The necessary proposal for awarding the proportionate weightage was submitted to the then Assistant Commissioner KVS Silchar vide letter No. F.16/KVN/2001-02/ 4373 dated 17-07-2001. The final decision has not yet been received for helping the student by raising his marks in Maths so as to declare him passed. Had the decision been communicated immediately by the then Asstt. Commissioner, the result of the said child could have been modified accordingly.

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5. With reference to the charge in para 5 of the memorandum, I beg to state that the evaluation of the Answer scripts of Annual Exam. 2001 was done at cluster level basis at KV Tinsukia by the teachers of other KV's. In the mark slip, duly signed by the evaluator at the cluster level, the said student was awarded 20/70 in Chemistry. Thus there is no scope left out with the undersigned, to make a deliberate attempt of reducing the marks as alleged. Moreso the undersigned was in no way involved in cluster level evaluation, because he was not put on for the said duty by the then Asstt. Commissioner Silchar.

6. With reference to the charge in para 6 of the memorandum, I beg to state that the result register is finally signed by the respective class teacher, checker and the Principal, which automatically attest all bonafide.

7. With reference to the charge in para 7 of the memorandum, I beg to state that I did not work as Principal at KV Kokrajhar in 1984 as stated in the memorandum, moreover I have not entered into any second marriage with any body as alleged in the said memorandum. It is worth mentioning that I was initially an employee of the state Govt; of Rajasthan. While working as Dy DEO Legal, I applied for the post of Principal in KVS and on being selected I joined at KV Kokrajhar on 08.8.89. Thereafter on the issue of counting of the previous services for the pensionary purposes, I left KVS on 22.12.90 and went back to my parent department. I continued in service in the State Govt; of Rajasthan until 9.5.94. I was again selected as Principal in KVS and joined at KV Chittaranjan on 13.5.94. I continued at Chittaranjan till 10.01.97 and thereafter was transferred in public interest to KV Lekhapani, where I served until 31.10.99 and was again transferred in public interest to KV Nazira and since then I have been serving at KV Nazira w.e.f 01.11.99. In these view of matter, the charge devoid of any basis and is liable to be held not sustainable.

8. With reference to the charge in para 8 of the memorandum, I beg to state that the receipt against the payment was issued by Dr. S. A. Rahman on his letter pad and the same was preserved in the voucher file. But since it was not found during the inspection of Accounts in 2000 by Shri A. K. Sarma, Supdt. of Accounts KVS Silchar, Dr. Rahman was approached for issuance of a duplicate receipt in token of acknowledgement of payment, which may be produced as and when required.

9. With reference to the charge in para 9 of the memorandum, I beg to state that the alleged charges are not correct, because one cheque can never be issued in two different names (M/s Verma Brothers and M/s Sharma Brothers). Since no payment was made to M/s Sharma Brothers, the charge relating to the payment to M/s Sharma Brothers is not correct. The counterfoil of the cheque and the cheque issue register clearly shows that the cheque was issued to M/s Verma Brothers. The money receipt against the payment was also issued by M/s Verma Brothers, which is available in file. The materials received against the order were duly entered in the respective stock register by the concerned stock holder. The money receipt issued by M/s Verma brothers acknowledges the payment. The stock certificate on the bill might have been left out by the UDC/Stock holder inadvertently.

10. With reference to the charge in para 10 of the memorandum, I beg to state that the Principal himself never makes any entry in the cash Book. The material has been duly entered in the Stock register by the concerned stock holder. The said material is still fixed in the Vidyalaya premises, which was physically verified by Shri E.T. Arasu, Education Officer KVS Silchar during his visit to KV Lekhapani. Since the material is available in the school and the money receipt issued by M/s Verma Brothers is also available in voucher file, which itself acknowledges the payment to the firm and hence there cannot be any doubt on the bonafide of making the said payment. Regarding countersignature of chairman on the counterfoil of the concerned cheque, which might have been left out in hurry or inadvertently, but the countersignature of the chairman in the cheque issue register makes it clear that the payment was made bonafide.

11. With reference to the charge in para 11 of the memorandum, I beg to state that the TA bills in question were pending for preaudit at KVS Silchar. Meanwhile, the undersigned was transferred from Lekhapani to Nazira. The matter regarding non settlement of TA bills was brought to the notice of the chairman VMC, who kindly permitted for drawl of billed amount in TA bills pending adjustment after preaudit of bills. It is pertinent to mention here that the amount spent by me on the referred official journeys was necessary to be drawn in order to obviate the financial hardship. However I am ready to refund the excess payment, if any, after the necessary preaudit as per rules. The said matter has already been brought to your benign and benevolent notice through a representation dated 09-05-2001 under the subject " Protest against unfair and unjust attitude of Shri S.P. Bauri, Asstt. Commissioner KVS Silchar" which is still pending unredressed and undisposed at your end Sir.

12. With reference to the charge in para 12 of the memorandum, I beg to state that this para has already been clarified in para 1. Moreover no admission is done in class II (Science with Maths) as mentioned in the memorandum. It may be noted that the admission of 2000-2001 can not be governed by a subsequent letter dated 8-02-2001 as referred in this para.

13. With reference to the charge in para 13 of the memorandum, I beg to state that this para has already been clarified in para 3.3.

14. With reference to the charge in para 14 of the memorandum, I beg to state that the change of subject after first unit test in respect of Miss Gayatri Nath is not correct, as it was allowed on 02-08-2000 which is before the conduct of first unit test. The change of subject to Maths in respect of Master P. Harshvardhan is also not correct, since the said child requested for change from Informative practice to Biology. Moreover the students as referred therein were eligible for science with Maths in terms of extant provisions. The details are appended below :-

| <u>Sl. No.</u> | <u>Name of the Student</u> | <u>Aggregate Marks</u> | <u>Marks in Maths</u> | <u>Marks in Bio.</u> |
|----------------|----------------------------|------------------------|-----------------------|----------------------|
| 1. | Master Ajay Kumar | 296/500 | 51/100 | 66/100 |
| 2. | Master P. Harshvardhan | 360/500 | 77/100 | 57/100 |
| 3. | Ms. Gayatri Nath | 357/500 | 67/100 | 81/100 |
| 4. | Master Rohan Negi | 264/500 | 48*/100 | 59/100 |

*weightage of +2 marks was given as clarified in para 2.

Sir, I would like to mention here that during last two years with my able leadership and dedication towards the duty, it would have become a reality to project the all round image of KV Nazira both in academic and co-curricular activities. For the kind citation the CBSE result of class X and XII in 2000 of KV Nazira were adjudged as the second Best in entire Silchar Region and that of class XII in 2001 as the BEST.

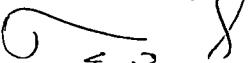
Sir, I have reason to believe that the instant memorandum is based on only two complaints. As para 1 to 6 and 12 to 14 (Total 9 paras) are based on a complaint dated 15-05-2001 lodged by Shri S.K. Negi Dy. SE ONGC Nazira against the result of his son Master Rohan Nagi, whereas para 8 to 11 (Total 4 paras) are based on a complaint dated 8-3-2001 by Shri A. K. Sarma, Supdt. of Accounts KVS Silchar.

Sir, on the complaint dated 15-5-2001 (copy of which is enclosed) of Shri S. K. Nagi a fact finding inquiry was conducted on 30-7-2001 by Shri Ranveer Singh Education Officer KVS Silchar. I am enclosing herewith four pages of questionnaire cum statement dated 30-7-2001, whereby every aspect was clarified but thereafter on the back of the undersigned, the facts were twisted, as envisaged in the referred memorandum. On the complaint dated 08.03.2001 of Shri A.K. Sarma, a fact finding inquiry was conducted by Shri E.T. Arasu Education Officer KVS on 02-06-2001. I am enclosing herewith the copy of statement dated 02.06.2001, whereby every point was clarified but even then facts were presented before your honour in twisted form just as to malign my image and reputation and this malefide act was systematically engineered by Shri S.P. Bauri, the then Asstt. Commissioner, KVS Silchar against whom I have submitted a b complaint dated 09-05-2001 to your goodself under the subject " Protest against unfair and unjust attitude of Shri S.P. Bauri" which is still pending unredressed and undisposed exactly for the last one year.

Sir, In view of my submission in foregoing paragraphs, with due deference, I hereby appeal to your kind honour to please exonerate me from the alleged charges and let me have your kind blessings to discharge my duties with utmost devotion and sincerity for the development of the KV's.

With profound regards.

Yours faithfully,

 (Vijay Bhatnagar) *7.5.02

Principal

Kendriya Vidyalaya,
ONGC, Nazira (Assam).