

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

FROM No. 4
(SEE RULE 42)

GENERAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No. 149/2002

Misc Petition No. /

Contempt Petition No. /

Review Application No. /

Applicant(s) Subhendu Bhushan Paul

-Vs-

Respondent(s) 21 OT 808

Advocate for the Applicant(s) Mrs. S. Dutta, Mrs. U. Dutta

Advocate for the Respondent(s) Mr. S. Sarmah, Esq.

Notes of the Registry	Date	Order of the Tribunal
This is an application in form C. F. for Rs. 50/- deposited vide 100/BD No. 76.549909 Dated <u>20.4.02</u>	<u>10.5.2002</u>	Heard Mr. S. Dutta, learned counsel for the applicant. Issue notice to show cause as to why the application shall not be admitted. Returnable by three weeks. List for admission on 27.5.02.
<i>Subhendu Bhushan Paul 20/5/02</i>	<i>10/5/02</i>	<i>HC (Usha)</i>
<i>Subhendu Bhushan Paul 20/5/02</i>	<i>10/5/02</i>	<i>Member</i>
<i>Subhendu Bhushan Paul 20/5/02</i>	<i>27.5.02</i>	<i>Vice-Chairman</i>
<i>Subhendu Bhushan Paul 20/5/02</i>	<i>27.5.02</i>	<i>List on 17.6.2002 to enable the Respondents to file reply.</i>
<i>Subhendu Bhushan Paul 20/5/02</i>	<i>27/5/02</i>	<i>Vice-Chairman</i>
<i>Subhendu Bhushan Paul 20/5/02</i>	<i>17.6.02</i>	<i>mb</i>
<i>Subhendu Bhushan Paul 20/5/02</i>	<i>17.6.02</i>	<i>List again on 28.6.2002 for admission.</i>
<i>Subhendu Bhushan Paul 20/5/02</i>	<i>17.6.02</i>	<i>HC (Usha)</i>
<i>Subhendu Bhushan Paul 20/5/02</i>	<i>17.6.02</i>	<i>Member</i>
<i>Subhendu Bhushan Paul 20/5/02</i>	<i>17.6.02</i>	<i>Vice-Chairman</i>

28.6.2002 Passed over for the day.

List on 8.7.2002 for admission.

No. Reply has been
billed.

33
5.6.02

I C Usha

Member

Vice-Chairman

mb

8.7.02 It has been stated that Mr. S. Dutta, learned counsel for the applicant is in bed rest because of his accident. The case is accordingly adjourned on the prayer of Mr. H. Dutta learned counsel appearing on behalf of Mr. S. Dutta.

List on 23.7.2002 for admission.

I C Usha

Member

Vice-Chairman

mb

23.7.02 Heard Mr. M. Chanda, learned counsel appearing on behalf of Mr. S. Dutta, learned counsel for the applicant filed opposing the No objection. Accepts notice. The application is admitted. Call for the records.

List on 21.8.2002 for orders.

Objection has not
been filed.

33
20.8.02

Vice-Chairman

mb

21.8.02 List on 23.9.02 for hearing.

In the meantime the respondents may file written statement.

No. W.L.S has been
billed.

33
20.9.02

I C Usha

Member

Vice-Chairman

lm

3
B
O.A.No.149/2002

Notes of the Registry Date Order of the Tribunal

23.9.2002

The case was listed for hearing today. Mr R. Dhar, learned Advocate appearing on behalf of Mr M.K. Mazumdar, learned counsel for the respondents has prayed for a short adjournment since Mr Mazumdar is out of station. The respondents are yet to file their written statement. In the circumstances, the case is adjourned. The respondents may file written statement, if any within four weeks from today. List it on 8.11.02 for hearing.

IC Usha

Member

h
Vice-Chairman

nk/m

8.11.2002

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

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

IC Usha

Member

h
Vice-Chairman

bb

No written statement has been filed.

30
8/11/02

25.11.2002

Copy of the Judgment has been sent to the Office for issuing the same to the applicant as well as to the L/Adv. for the RVS.

h

Notes of the Registry | Date | Order of the Tribunal

Order of the Tribunal

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. /XXXX No. 149. of. 2002.

DATE OF DECISION. 8.11.2002.

Sri Sukhendu Bhushan Paul

APPLICANT(S)

Mr. S. Dutta & Mrs. U. Dutta.

ADVOCATE FOR THE APPLICANT(S)

VERSUS

Union of India & Others.

RESPONDENT(S)

Mr. N. 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.



CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.149 of 2002.

Date of Order : This the 8th Day of November, 2002.

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

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

Sri Sukhendu Bhusan Paul
S/o Sri Dinabandhu Paul
Working as SUPW Teacher
Kendriya Vidyalaya, Kumbhirgram
District:- Cachar, Assam. . . . Applicant.

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

- Versus -

1. The Union of India

Represented by the Secretary to the
Government of India, Deptt. of Education
New Delhi - 110 001.

2. The Commissioner

Kendriya Vidyalaya Sangathan
18, Institutional Area
Swahid Jeet Singh Marg
New Delhi - 110 016.

3. The Joint Commissioner (Admn.)

Kendriya Vidyalaya Sangathan
18, Institutional Area
Swahid Jeet Singh Marg
New Delhi - 110 016.

4. The Assistant Commissioner

Kendriya Vidyalaya Sangathan
Silchar Regional Office
Hospital Road, Silchar - 788 001. . . Respondents.

By Advocate Mr.N.K.Mazumdar.

O R D E R

CHOWDHURY J.(V.C.):

This application under section 19 of the
Administrative Tribunals Act, 1985 has arisen and is
directed against the order dated 8.1.2002 passed by the
Commissioner, Kendriya Vidyalaya Sangathan.

1. The applicant earlier moved this Tribunal assailing the order of transfer dated 9.1.2001 transferring the applicant from the Kendriya Vidyalaya, Kumbhirgram to Kendriya Vidyalaya, AFS Nalia in Gujrat. This Bench by order dated 29.8.2001 set aside the order of transfer to AFS, Nalia. While disposing the aforementioned O.A. being O.A.No.27/2001 the Bench also allowed the applicant to submit a representation before the concerned authority to consider his case for posting him in and around Silchar. In terms of the order the applicant submitted a representation on 18.10.2001 and the authority considered the same and passed the impugned order dated 8.1.2002. Hence ⁰ this application assailing the order refusing to transfer him to his choice station at Silchar.

2. We have heard Mr.S.Dutta, learned counsel for the applicant and also Mr.N.K.Mazumdar, learned counsel appearing for the KVS. On perusal of the order of the Commissioner, KVS, it appears that the Commissioner addressed himself to the representation of the applicant and on assessment of facts turned down his claim. Mr.S.Dutta, learned counsel for the applicant submitted that the action of the respondents in rejecting the claim of the applicant to post him at Silchar is patently unlawful and contrary to its transfer guidelines. Mr.N.K.Mazumdar, learned counsel for the KVS, on the otherhand, stated that the very order of the Tribunal itself indicated for considering the case of the

applicant for posting him in and around Silchar. The applicant is posted at Kumbhirgram, which is in and around Silchar. Postings are made according to vacancy position. Mr.S.Dutta, learned counsel for the applicant has stated that the Commissioner, KVS failed into obvious error in holding that the transfer guidelines is applicable only to inter station transfer and not to intra station transfer. Mr.Dutta, in support of his contention referred to transfer guidelines, contentions and the instrcutions appended thereto. As per the instruction employees are also eligible to apply for inter station transfer as well as for intra station transfer. It is for the authority to consider the claim of the employee subject to availability of vacancy and the administrative exigencies. In the instant case the applicant is posted at Kumbhirgram which is in and around Silchar. In this circumstances, We do not find any merit for intervening in the matter. We, however, make it clear that it ^{will} ~~not~~ always ^{be} open to the authority to consider for posting the applicant as per his choice subject to availability of vacancy as and when such vacancy arises in terms of the official policy or transfer guidelines.

Subject to the observations made above, the applicantion is disposed of. There shall, however, be no order as to costs.


(K.K.SHARMA)
ADMINISTRATIVE MEMBER


(D.N.CHOWDHURY)
VICE CHAIRMAN

**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. 149 / 2002

Sri Sukhendu Bhushan Paul

Applicant

- Versus -

Union of India & Others

Respondents.

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Filed by

Swagat Dutta

Advocate

Date 10.05.02

Sukhendu Bhushan Paul

File by:-
 The Applicant,
 Through
 Advocate
 Smita Datta
 10.05.02

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

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

O.A. No. 140 /2002

BETWEEN

Sri Sukhendu Bhushan Paul
 Son of Sri Dinabandhu Paul
 Working as SUPW Teacher, Kendriya Vidyalaya,
 Kumbhirgram, District - Cachar (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.
4. The Assistant commissioner, Kendriya Vidyalaya Sangathan
Silchar Regional Office, Hospital Road Silchar-788001

.....Respondents.

Sukhendu Bhushan Paul.

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DETAILS OF THE APPLICATION

1. Particulars of Order against which this application is made.

This application is made against the impugned Memorandum bearing no. F. NO. 19-132(13)/2001-KVS (L&C) dated 08.01.02 issued by the respondent no.2 whereby the representation submitted by the applicant seeking choice station posting in terms of the direction of this Tribunal in O. A. No. 27/2001 as well as the existing transfer guidelines has been rejected 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.

4. Facts of the case.

- 4.1 That the applicant is a citizen of India and a permanent resident of Ambikapatty, Silchar in the district of Cachar (Assam) 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 teaching staff 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 Sangathan has been issuing various transfer guidelines from time to time every year on adopting policy regarding transfer and posting of its employees.

4.3 That the applicant joined in the Kendriya Vidyalaya during the month of July 1990 in pursuance of his appointment as Socially Useful Productive Work (for short, SUPW) Teacher in the scale of TGT and since then he has been serving with utmost sincerity, integrity and devotion to the satisfaction of all concerned.

4.4 That the applicant states that he has completed more than 11 (eleven) years of service and during this entire period has remained posted at the same station. It may be stated here that earlier there was no fixed tenure of service for the teachers up to the level of PGT. But the earlier guidelines provided that transfer would normally be effected during summer vacation and not after 31st October. Moreover, the teachers up to the level of TGT and identical scale will not be posted outside the region in which they were selected. It was also stipulated that while making transfer, priorities will be given to the transfer of spouses to join the family. Such conditions of transfer were incorporated in all the transfer posting guidelines since the year 1989-90 and like conditions continued to appear in the transfer guidelines of all the subsequent years. However on 25.01.2000, the respondents had issued fresh transfer guidelines to regulate transfer and posting of its employees. Be stated that in this transfer guidelines, all the earlier conditions were almost retained as unchanged. Nonetheless, this instant guideline, for the first time introduced tenure of five years of stay for teachers seeking choice station posting. Be that as it may, the applicant being eligible as per the instant guidelines had applied for choice station posting in

terms of the abovementioned guidelines. The instant guidelines had been issued in super session of the earlier guidelines/orders on the subject. The said guidelines contained various provisions regulating transfer and posting of the employees of the Sangathan. The para 10 of the said guidelines provides that where a person seeks his transfer to a place of his choice under the provisions of the instant guidelines, his case should be considered and if there is no vacancy at such place, vacancies shall be created by moving out the person having longest period of stay.

A copy of the aforementioned transfer guidelines is annexed herewith as **Annexure - 1.**

4.5 That as per the existing transfer guidelines of the respondents, the applicant is entitled to a choice station posting. The applicant hails from Silchar Town and his wife is also a Teacher who is presently working in Sister Nivedita Girls' School at Silchar. In this background of facts and circumstances, the applicant - with a view to stay together with his family - applied for choice station posting at Silchar in the year 1995 on completion of 5 (five) years stay at Kumbhirgram. But the respondents did not consider his case and as such he continued to work at Kumbhirgram. He, however, continued to represent on the matter and had been applying for choice station posting since the year 1995. In all such occasions, his applications were duly forwarded through proper channel but to no result.

4.6 That the applicants states that after exercising his option for choice station posting in the year 2000, he legitimately expected that something favourable would come his way. But surprisingly, the respondents did not consider his case and instead, the respondent no.3 had issued an orderdated

Sukhendu Bhutan Paul.

09.01.01 with malafide intention at the instance of Sri Y.P. Singh, the then Principal of the School and transferred the applicant to Kendriya Vidyalaya, AFS Nalia, Gujarat.

- 4.7 That being aggrieved, the applicant had approached this Hon'ble Tribunal in O.A. No.27/2001 challenging the said order of transfer on the grounds, amongst others, (i) that the transfer order was passed with malafide intention and in violation of the transfer guidelines; and (ii) that it did not involve any public interest and it was arbitrary and discriminatory. The Hon'ble Tribunal admitted the application, called for the records and in the interim suspended operation of the impugned transfer order.
- 4.8 That the respondents contested the case and filed their Written Statement and contended inter alia, that the transfer of the applicant was for organisational reasons and on administrative grounds and it was within their jurisdiction and competence to pass an order of transfer. The respondents, however, did not deny entitlement of the applicant regarding choice posting as provided under the Transfer and Posting Guidelines.
- 4.9 That the Tribunal, upon considering the materials on record, came to the finding that the impugned transfer order was seemingly arbitrary and accordingly set the same aside by order dated 28.09.01 in O.A. No. 27/2001. The Tribunal, in the facts and circumstances of the case, directed the applicant to submit a representation to the respondents for consideration of his choice station posting and in that event the respondents were also directed to fairly consider and dispose of the same as per law.

A copy of the said order dated 28.09.01 passed in O.A. No. 27/2001 is annexed herewith as **Annexure - 2.**

Sukhendu Bhanu Pan

4.10 That after passing of the aforesaid order, the applicant submitted a detailed representation on 18.10.01 to the respondent no.2 and sought consideration of his case for choice station posting in and around Silchar. In his said representation, the applicant categorically prayed for consideration of his case particularly on the ground of "Spouse Cases".

A copy of the said representation dated 18.10.01 is annexed herewith as **Annexure - 3.**

4.11 That thereafter, to his utter shock and surprise, the respondent no.2 issued the impugned memorandum dated 08.01.02 and thereby turned down the applicant's prayer on the grounds, amongst others, that (i) para 10 and 8 of the transfer guideline are applicable only in respect of inter station transfer and not for intra station transfer; (ii) KV BSF Dholcherra, KV Kumbhirgram (AFS), KV Masimpur, KV Silchar and KV Sonai Road (ONGC) all come under same station no. 439, for the purpose of request transfers; (iii) personal problems (spouse case) of the applicant should not come in way of service condition and (iv) the case of the applicant is not covered under the transfer guidelines.

A copy of the aforesaid memorandum dated 08.01.02 is annexed herewith as **Annexure - 4.**

4.12 That the applicant states that the contentions of the respondent no.2 in rejecting his prayer for choice station posting is without any basis and the rejection order has been passed with a view to harass him in arbitrary exercise of power. It is stated that on 14/16.08.01 the respondents have issued the application forms for request transfers along with instructions/orders for filling up the said application form for annual request transfer for the year

Sukhendu Bhutan Paul

2002-2003. The note under para 10 of the said instruction clearly provides for both intra station and inters station request transfers. Moreover, the existing transfer guidelines do not bar the cases for intra station transfer. Hence the contention of the respondent that the instant guidelines are not applicable to the applicant is not based on records. Furthermore, it was never the case of the respondents in O.A. No. 27/2001 that the transfer guidelines were not applicable to the applicant and therefore they are now debarred from taking such a plea in denying the applicant his rightful claim. The impugned memorandum dated 08.01.02 is therefore arbitrary and the same is liable to be set aside.

A copy of the aforesaid order/instruction dated 14/16.08.01 is annexed herewith as **Annexure - 5.**

4.13 That the applicant states that the following employees of Kendriya Vidyalayas under Silchar Region have been transferred to their place of choice in terms of transfer and posting guidelines for the year 2000-2001 but the case of the applicant has surprisingly been singled out and not considered. It is stated that in terms of Article 10(1) and 10(3) of transfer guidelines for 2000, the following employees under Regional Office, Silchar have been transferred to their choice place on request even by creating vacancies at the places of their choice.

Sl No	Name & Designation	Transferred From K. V.	Transferred to K.V. Choice Station
1	Mrs. Aloka Chakraborty, PRT	Kumbhirgram	Silchar
2	Mrs. Lipika Choudhury, PRT.	- do -	- do -

3	Mrs. Rita Bhattacherjee	- do -	ONGC, Srikona
4	Mrs. Alpana Sen, Music Teacher	Panchgram	Dholcherra
5	Sri A. Deb, Music Teacher	Masimpur	Panchgram
6	Mrs. A. Deb, PRT.	Silchar	Masimpur
7	Sri Jagadish Paul, SUPW Teacher	Dholcherra	Masimpur

4.14 That the applicant states that in view of the above, the contention of the respondent no.2 that since the places in and around Silchar come under the same station code, the case of the applicant cannot be considered is wholly arbitrary and the action of the respondents in denying the applicant his due is seemingly discriminatory. The impugned memorandum is therefore liable to be set aside.

4.15 That the applicant states that the Vidyalayas under the Silchar Regional Office have been given various Station Code and Vidyalaya Code. For the sake of administrative convenience, various Vidyalayas carrying different KV Code have been brought under a common station and for that matter a common station code has been provided. But this cannot be utilised as a tool by the respondents to deny the applicant choice station posting. The action of the respondent no.2 has rendered the impugned order ex-facie illegal and bad in law and therefore the same is liable to be set aside.

4.16 That the applicant states that in view of exercise of his choice in accordance with the existing guidelines of the Sangathan, he is entitled as of right to be considered and transferred to his place of choice at Silchar in terms of the transfer and posting guidelines. The Respondents are required to scrupulously observe the guidelines while

Sukhendu Bhattacharjee Paul

ordering transfer and posting. But the Respondents appear to have given a complete go-bye to the guidelines and arbitrarily turned down the prayer of the applicant. The entire action of the Respondents is in infraction of the guidelines, arbitrary and mala fide. The impugned order is therefore liable to be struck down.

4.17 That from what have been narrated above, it is apparent that the respondents have meted out differential treatment to the applicant without any justifiable reason or objective criteria. In view of the fact that the applicant has been continuously making his request seeking transfer to Silchar in terms of the existing guidelines of the Sangathan, there was no earthly reason on the part of the respondents to reject his claim. The respondents are therefore duty bound to justify the reason before the Hon'ble Tribunal in this application.

4.18 That the applicant states that from the actions of the respondents it is evident that they have resorted to avoid and defy the order of this Hon'ble Tribunal by devising out new and newer means and ways. It is also clear that the respondents are acting in a most arbitrary and fanciful manner only to harass the applicant. Such action by the respondents cannot admit tolerance of Article 14 and 16 of the Constitution of India. The actions of the respondents are liable to be declared illegal and the impugned orders are liable to be set aside.

4.19 That the applicant states that the respondents are not considering his case in an arbitrary manner and therefore they have made themselves liable for appropriate direction by this Hon'ble Tribunal.

Sukhender Bhawani Paul.

4.20 That the applicant states that it was never the case of the respondents before this Hon'ble Tribunal in O.A. No. 27/2001 that the transfer guidelines were not applicable to him. But now they have surprisingly taken a new plea to deny his rightful claim by going beyond the finding of this Hon'ble tribunal to the effect that he is not entitled to a choice posting in terms of the transfer guidelines. Such action of the respondents is *ex facie* illegal and the same has been undertaken with a *mala fide* intention. The impugned order is therefore liable to be set aside.

4.21 That it is a fit case for the Hon'ble Tribunal to interfere with the impugned order under memorandum dated 08.01.02 in protecting the rights and interests of the applicant and to restrain the respondents from giving effect to the impugned order till the case of the applicant for transfer is considered to his choice place in or around Silchar.

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

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

5.1 For that, the impugned order under memorandum dated 08.01.02 is illegal and liable to be set aside.

5.2 For that, the applicant having completed more the tenure period, has acquired a valuable right for his choice posting in and around Silchar in conformity with the transfer and posting guidelines.

5.3 For that, the impugned order under memorandum dated 08.01.02 has been issued in complete disregard to the direction of this Hon'ble Tribunal in O.A. No. 27/2001 and the provisions laid down in the transfer and posting guidelines of the

Sukhendu Bhawani Paul

Sangathan for the employees for the year 2000-2001 and as such the same is liable to be struck down.

- 5.4 For that, the impugned orders have been issued with an ulterior motive and mala fide intention to harass the applicant with a view to deny his bona fide claim of choice station posting in and around Silchar.
- 5.5 For that, the applicant having duly exercised his option-seeking posting in and around Silchhar since long back i.e. from 1995, is entitled to be posted at this place of choice in terms of the transfer and posting guidelines on completion of fixed tenure.
- 5.6 For that, the respondents have meted out a hostile discrimination to the applicant in not considering the case for posting at his place of choice while instances are at galore where similarly situated persons were favourably considered.
- 5.7 For that, in any view of the matter, the impugned memorandum dated 08.01.02 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. Representation through proper channel were submitted by the applicant but no favourable action has been taken by the respondents.

Sukhendu Bhutan Paul.

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 :

Under the facts and circumstances stated above, the applicant prays for the following reliefs:

- 8.1 That the applicant be declared entitled to choice station posting in terms of the existing transfer guidelines and the impugned memorandum issued under No. F. NO. 19-132(13)/2001-KVS (L&C) dated 08.01.02 be set aside and quashed.
- 8.2 That the respondents be directed to transfer and post the applicant considering the option exercised by him seeking choice station posting in and around Silchar even by creating vacancy as provided under the transfer and posting guidelines.
- 8.3 Costs of the application.
- 8.4 Any other relief or reliefs to which the applicant is entitled to, as the Hon'ble Tribunal may deem fit and proper.

Sukhendu Bhupan Paul

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 memorandum dated 08.01.02 and be directed to maintain status quo as on date and/or be restrained from disturbing the applicant from his present place of posting i.e. Kendriya Vidyalaya, Kumbhirgram till disposal of this application or the case of the applicant for transfer to his choice place is considered.

10.

This application is filed through Advocate.

11. Particulars of the I.P.O.

- i) I.P.O. No. : 7G 549909
- ii) Date of issue : 20.04.02
- iii) Issued from : G.P.O., Guwahati.
- iv) Payable at : G.P.O., Guwahati.

12. List of enclosures.

As stated in the index.

Sukhendar Bhutan Paul.

VERIFICATION

I, Sri Sukhendu Bhushan Paul, Son of Sri Dinabandhu Paul, aged about 36 years, resident of Ambikapatty, Silchar- 4, District-Cachar (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 17th day of March, 2002.

Sukhendu Bhushan Paul.

KENDRIYA VIDYALAYA SANGATHAN
10, INSTITUTIONAL AREA
SHAIKH JEEB SINGH MARG,
NEW DELHI-110016,

No. F.1-1/99-KVS (ESTT.III)

Dated: 2-5-1-2000

To,

The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
All Regional Offices.

Sub:- Annual Transfer applications in respect of Kendriya
Vidyalaya employees for 2000-2001.

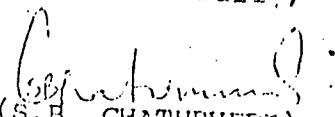
Sir/Madam,

In continuation to the zerox copied Draft Annual
Request Transfer application (2000-2001) set already sent to
you, I am to forward herewith 2 sets of printed application
sets for information and necessary action.

All the Vidyalayas have been supplied with 3 sets of
transfer application sets without transfer guidelines. You
are requested to send zerox copies of Transfer Guidelines sets
to all the Kendriya Vidyalayas for wider publicity among the
staff.

It may kindly be ensured that the filled in forms are
forwarded to Kendriya Vidyalaya Sangathan (II), New Delhi by
29.2.2000.

Yours faithfully,


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

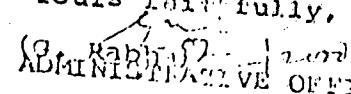
F.2-41/99-KVS (S/R) LK
Encl: Ax To

Dated :- 07.02.00.

All Principals, Kendriya Vidyalayas (Silchar Region)
Sub:- Forwarding Transfer Guidelines.
Sir/Madam, Encl

A copy of transfer guidelines is enclosed herewith
for your information, guidance & necessary action.

Encl:- As stated.

Yours faithfully,

ADMINISTRATIVE OFFICER.

TRANSFER GUIDELINES

In supersession of existing guidelines/orders on the subject, it has been decided that transfers in the Kendriya Vidyalaya Sangathan will hereafter be made as far as practicable in accordance with the guidelines indicated below:

2. In these guidelines unless the context otherwise requires:

- i) "Commissioner" means Commissioner, Kendriya Vidyalaya Sangathan including any officer thereof who has been authorised or delegated to exercise all or any of the powers and functions of the Commissioner;
- ii) "Performance" means
 - a) Where the Annual Confidential Report(s) is/are available in the concerned Regional office, the assessment of teacher as reflected in the Annual Confidential Report for the last three years preceding the year in which transfers are taken up;
 - b) Where the Annual Confidential Report(s) for last three years or any of the last three years is/are not available in the concerned Regional Office for whatever reason, the assessment by the Assistant Commissioner of the Region from where transfer is being sought on the work and conduct of the teacher for the year(s) in respect of which the ACR(s) is/are not available.
- iii) "Sangathan" means the Kendriya Vidyalaya Sangathan.
- iv) "Service" means the period during which a person has been holding charge of the post in the Sangathan on a regular basis.
- v) "Station" means any place or a group of places within an urban agglomeration.
- vi) "Stay" means service at a station excluding the period or periods of continuous absence from duties exceeding 30 days (45 days in case of N.E. Region, Sikkim and A&N Islands) at a stretch other than on training or vacation.
- vii) "Teacher" means all categories of teachers in the employment of Sangathan and includes Vice-Principals and Principals but does not include Education Officers and above.
- viii) "Tenure" means a continuous stay of three years in North Eastern Region, Sikkim, A&N Islands and listed hard stations. (Note: While calculating the aforesaid stay of three years, the period or periods of continuous absence from duties exceeding thirty days (45 days in case of N.E. Region, Sikkim and A&N Islands) at a stretch other than on maternity leave, training or vacation shall be excluded.)

ix) "Year" means a period of 12 months commencing on 1st April.

(b) Unless the context otherwise indicates:

- a) words importing the singular number shall include plural number and vice-versa;
- b) words importing the masculine gender shall include the feminine gender.

3. In terms of their all India transfer liability, all the employees of the KVS are liable to be transferred at any time depending upon the administrative exigencies/grounds, organisational reasons or on request, as provided in these guidelines. The dominant consideration in effecting transfers will be administrative exigencies/grounds and organisational reasons including the need to maintain continuity, uninterrupted academic schedule and quality of teaching and to that extent the individual interest/request shall be subservient. These are mere guidelines to facilitate the realization of objectives as spelt out earlier. Transfers cannot be claimed as of right by those making requests nor do these guidelines intend to confer any such right.

4. The maximum period of service at a station shall generally not exceed three years in the case of Assistant Commissioners and five years in case of Principals/Education Officers. They are, however, liable to be transferred even before completion of the aforesaid period, depending upon organisational interest or administrative exigencies, etc. Principals with outstanding record in terms of their performance as reflected in ACRs and CBSE results may be retained in a Kendriya Vidyalaya even after completion of five years as aforesaid to promote excellence in the Vidyalaya.

5. Apart from others, the following would be administrative grounds for transfers.

- (i) A teacher is liable to be transferred on the recommendation of the Principal and the Chairman of the Vidyalaya Management Committee of the Kendriya Vidyalaya.
- (ii) Transfer of spouse of a Principal to a Kendriya Vidyalaya at the station where the Principal is working or nearby, but not the Vidyalaya where he is a Principal.

6. As far as possible, the annual transfers may be made during summer vacations. However, no transfers, except those on the following grounds shall be made after 31st August.

- i) Organisational reasons, administrative grounds and cases covered by para 5;
- ii) Transfers on account of death of spouse or serious illness when it is not practicable to defer the transfer till next year without causing serious danger to the life of the teacher, his/her spouse and son/daughter.

iii. Mutual transfers as provided in para 12.

7 Priority for transfers on request shall follow the descending order of combined weightage to be calculated in terms of entitlement points for organisational reasons/interests as also the individual needs and request of the teachers seeking transfers in accordance with para 8 below:

Provided that transfers sought on account of death of spouse within a period of two years of death and medical grounds as per para 9 will be placed en bloc higher than others listed in para 8 of these Guidelines.

8 (i) Organisational reasons/interest shall be classified and assigned entitlement points as under:

(a) Transfer from places where tenure is involved (see para 2(viii) of these Guidelines) 20

(b) Performance:

RATING OF PERFORMANCE

ENTITLEMENT POINTS

Outstanding	10 for each year
Very Good	6 for each year
Good	4 for each year
Average	0 for each year
Unsatisfactory	(-10 for each year)

Needs denoted by the following reasons shall be assigned entitlement points as given against each.

S.No. **REASONS/GROUND** **ENTITLEMENT POINTS**

A. Blind and orthopaedically handicapped persons. The standards of physical handicap will be the same as prescribed by the Govt. of India for sanction of Conveyance allowance. 15

SPOUSE CASES

Where spouse is a Sangathan employee 20

(ii)	Where spouse is a Central Government employee	18
(iii)	Where spouse is an employee of autonomous body or PSU under Central Government.	15
(iv)	Where spouse is an employee of State Government or its autonomous body or PSU	12
(v)	Other spouse cases	10

Note for 'Spouse Cases' :

The aforesaid points will be awarded only where the teacher seeks transfer to a station (a) other than the one where he/she is currently posted and (b) where his/her spouse is posted or nearby. This condition, i.e. (b) will, however, not apply in those cases where the spouse of the teacher is posted to a non-family station provided the transfer is sought to a place nearest to the station where his/her spouse is posted.

C. Unmarried/divorced/judicially separated/widowed ladies 12

D. General Cases which are not covered by A-C above. 10

E. Stay at the station from where the transfer is being sought; 1 for each year of stay exceeding three years subject to a maximum of 20 points

OR

Teachers who have less than 2 years to retire. 20

9. For the purpose of calculation of entitlement points in respect of medical grounds as mentioned in the Proviso to para 7 of these Guidelines, such illnesses of teacher himself/herself or his/her spouse and dependent son/daughter alone as may be prescribed by the Commissioner will be considered as medical ground for transfer.

Note: A son will be deemed to be dependent till he starts earning or attains the age of 25 years, whichever is earlier or suffers from permanent disability of any kind (physical or mental) irrespective of age limit. A daughter will be deemed to be dependent till she starts earning or gets married irrespective of age limit.

10(1) Where transfer is sought by a teacher under para 8 of the guidelines after continuous stay of 3 years in NE & hard stations and 5 years elsewhere at places which were not of his choice, or by teachers falling under the Proviso to para 7 of these Guidelines, or very hard cases involving human compassion, the vacancies shall be created to accommodate him by transferring teachers with longest period of stay at that station provided they have served for not less than five years at that station. Provided that Principals who have been retained under para 4 to promote excellence, would not be displaced under this clause.

(2) While transferring out such teachers, efforts will be made to accommodate lady teachers at nearby places / stations, to the extent possible and administratively desirable.

(3) In cases where a vacancy cannot be created at a station of choice of a teacher under this clause because no teacher at that station has the required length of stay, the exercise will be repeated for the station which is the next choice of the teacher seeking transfer.

Note: The 'transfers' proposed under this rule shall be placed before a Committee consisting of Additional Secretary (Education) Chairman, Commissioner, Member and Joint Commissioner (Admn) KVS as the Member Secretary

11. In order to effect transfers in terms of para 8 and 10 of these Guidelines, two priority lists shall be prepared and operated as under:

(a) First priority list shall list all the applications received for transfer in terms of para 7 and 8 showing the entitlement points against each applicant. This priority list shall be operated against the vacancies available during normal course for being filled up.

(b) Second priority list will be maintained in respect of cases of transfer in terms of para 10 of the guidelines listing all the applications as also the entitlement points of each applicant in terms of priorities given in para 8 of the guidelines. The applicants included in this priority list alone will be accommodated by transferring teachers with the longest period of stay at that station provided they have served for not less than 5 years from the date of joining at that station. For this purpose, a list of persons who have served for 5 years or more at the stations shall be prepared by the Assistant Commissioners of the respective regions and displayed.

12. Mutual transfer may be permitted on satisfaction of the Commissioner but such cases will be taken up on completion of annual transfers as per clause 8 and completed by 30th September.

13. Intra and inter-regional transfers may, as far as practicable, be made simultaneously.

14. Upon promotion or direct recruitment as Principals/ Education Officers/Assistant Commissioners, an officer shall necessarily be posted to a different State other than the one where he is posted or domiciled, as the case may be, subject to availability of vacancies. Subject to availability of vacancies and other administrative reasons those who are due to retire within next three years may not be posted outside their home state if their service at the same station prior to promotion does not exceed three years.

15. A teacher on promotion shall necessarily be posted out of the Region where he is currently posted. However, a lady teacher may on promotion be posted within the same Region but a district or two away from the existing place of posting, subject to availability of vacancy.

16. Transfer TA will be regulated as per orders of the Government of India on the subject.

17. Assistant Commissioner will be competent to change the headquarters of a teacher on administrative grounds to any place within the region as deemed fit and direct him to discharge his duties there. The Assistant Commissioners shall report forthwith the case with full facts to the Commissioner for confirmation or directions.

18. Notwithstanding anything contained in these guidelines,

- (a) a teacher or an employee is liable to be transferred to any Kendriya Vidyalaya or office of the Sangathan at any time on short notice on grounds mentioned in clause 5 and 6 (i) of these guidelines;
- (b) the Commissioner will be competent to make such departure from the guidelines as he may consider necessary with the prior approval of the Chairman;
- (c) the request of a teacher may be considered for transfer to a station in respect of which no other person has made a claim or request even if such teacher has not submitted the application in the prescribed proforma at the time of annual transfer or within the time limit prescribed for the purpose;
- (d) Following cases will not be considered for transfer:
 - (i) cases of Education Officers/Assistant Commissioners for transfer without completing three years' stay at the place to which they were posted upon promotion.
 - (ii) cases where a teacher, Education Officer, or Assistant Commissioner was transferred on grounds mentioned in paras 5(i), 6 and 7 of these guidelines will not be considered for transfer without completing 5 years' stay at the station to which they were so posted.

(iii) Principals, Education Officers and Assistant Commissioners will not be transferred back to the same station from where they were transferred earlier on completion of period as specified in para 4 above unless a period of three years has elapsed.

(iv) ~~onk~~ of both postings whether on direct recruitment or on promotion unless they complete three years of stay at the place of their posting except that, in case of women teachers, the request for posting to a place of choice can be considered after stay of one year. This will not, however, be applicable in cases covered by para 5, 6, and 7(i) of these Guidelines.

19. ~~These Guidelines shall mutatis mutandis apply to non-teaching staff to the extent applicable.~~

20. If any difficulty arises in giving effect to these guidelines, the Commissioner may pass such orders as appears to him to be necessary or expedient for the purpose of removing such difficulty.

21. If any question arises as to the interpretation of these guidelines, it shall be decided by the Commissioner.

22. The attention of all the employees is invited to Rule 55(27) of the Education Code and rule 20 of the CCS(Conduct) Rules which provide as under:

(i) As per Rule 55(17) of Education Code:

"No teacher shall represent his grievance, if any, except through proper channel, nor will he canvass any non-official or outside influence or support in respect of any matter pertaining to his service in the Vidyalaya."

(ii) As per Rule 20 of CCS(Conduct) Rules:

No Govt. servant shall bring or attempt to bring any political or other outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under KVS.

If the above provisions as mentioned at (i) and (ii) above are contravened, the following actions shall follow:

(a) That the name of the applicant will be removed from the priority list and he/she will be debarred for three years from being considered for transfer without any further reference to the teacher.

(b) That the teacher will be open to disciplinary proceedings as per rules.

Original Application No.27 of 2001

Date of decision: This the 28th day of September 2001

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

Shri Sukhendu Bhushan Paul,
Working as SDPW Teacher,
Kendriya Vidyalaya, Kumbhigram,
District: Cachar, Assam.

.....Applicant

By Advocates Mr S. Dutta, Mrs U. Dutta and
Mr S.K. Ghosh.

- versus -

1. The Union of India, through the Secretary to the Government of India, Ministry of Education, New Delhi.
2. The Kendriya Vidyalaya Sangathan, Represented by its Chairman, New Delhi.
3. The Commissioner, Kendriya Vidyalaya Sangathan, New Delhi.
4. The Deputy Commissioner (Admn.), Kendriya Vidyalaya Sangathan, New Delhi.
5. Shri Yash Pal Singh, Principal, Kendriya Vidyalaya, Kumbhigram, District: Cachar, Assam.

.....Respondents

Advocates Dr B.P. Todi and Mr S. Sarma.

• • • • • • • • •

O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

This application under Section 19 of the Administrative Tribunals Act, 1985 is directed against the impugned order of transfer dated 9.1.2001 transferring the applicant from Kendriya Vidyalaya, Kumbhirgram to Kendriya Vidyalaya, AFS Nalia in Gujarat. The impugned order of transfer reads as follows:

"The transfer of the under mentioned employee is hereby ordered with immediate effect in public interest:-

Sl.No. Name

Transferred

From K.V.

To K.V.

1. Sh. S.B. Paul, WET Kumbhigram AFS Nalia

(One case only)

The above employee is entitled to TA, joining time etc. as per KVS Rules.

This issues with the approval of Commissioner, KVS."

From the very order it appears that it was not a routine transfer order, but an order passed with a view to transfer the applicant from Kumbhigram, without awaiting posting or replacement. The order also indicated that the Principal of the school was ordered to relieve the incumbent immediately and the applicant's date of relief was to be immediately intimated to the Deputy Commissioner. No reasons were assigned as to why such an order had to be passed. The respondents in the written statement only stated that it was within their jurisdiction and competence to pass an order of transfer. Howsoever wide the discretion may be, such discretion under the Constitution is to be exercised lawfully, justly and fairly and the discretion is to be exercised with due regard to the consequence.

2. The respondents filed two sets of written statement - one on behalf of respondent Nos.2, 3, 4 and 5 verified by the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Maligaon, Guwahati Region and the other also by the same officer, though respondent No.5 was the Principal himself. In the first written statement the respondents stated that the transfer of the applicant was for organisational reason and on administrative ground. No such administrative ground is shown, save and except that the applicant was serving for ten years at the same station and at the same Kendriya Vidyalaya Region. But that did not mean that such transfers were to be made to a far away place like Nalia. There is also no indication in the written statement as to why the transfer order was passed in isolation. In the other written statement which was filed on behalf of the Principal, the Assistant Commissioner stated about the poor performance of the applicant. It was mentioned that the transfer proposal was submitted by the respondent No.5, the Principal, Kendriya Vidyalaya.....

BY

Vidyalaya based on the reports of the officials. In the written statement the Assistant Commissioner enclosed the copy of the Memorandum dated 20.11.2000 about the performance of the applicant and requested him to transfer the applicant.

3. The impugned transfer order was passed on the report of the Principal dated 20.11.2000. The materials also indicate similar other reports implicating all including the Principal as was referred in the written statement. From the Annual Academic Inspector Report itself it seems that the concerned authority acted on the ex parte report without taking the applicant into confidence or at least making any further enquiry and seemingly passed the impugned order of transfer, that too, to a far-off place. The impugned order of transfer seemingly appears to be arbitrary and is liable to be set aside. The same is accordingly set aside.

4. Mr S. Dutta, learned counsel for the applicant, also submitted that the applicant is serving in Kumbhigram for more than ten years and the authority should instead consider his posting in an around Silchar as per the policy of choice posting. I have also heard Mr S. Sarma, learned counsel for the respondents. From the materials on record, it is difficult to pass any direction from this end. However, the applicant is directed to submit a representation before the concerned authority for consideration of his case for posting him in and around Silchar. If such representation is made the respondents shall fairly consider the same and dispose of the same as per law.

5. Subject to the observation made above the application is allowed. There shall, however, be no order as to costs.

Certified to be true Copy

স্বাক্ষর প্রতিলিপি

Sd/ VICE CHAIRMAN

nk m

Section Officer (I)
অন্যান্য অধিকারী | মার্কিন সাক্ষাৎ^ক
Central Administrative Tribunal
কেন্দ্রীয় প্রযোত্নিক অধিকার
Guwahati Bench, Guwahati-9
প্রাক্তন স্বাক্ষরী, প্রাক্তন

11/10/2001
X/11/10/2001

3
Annexure - 3

To,
The Commissioner
Kendriya Vidyalaya Sangathan
18, Institutional Area
Shaheed Jeet Singh Marg, New Delhi - 16.

(Through the Principal, KV, Kumbhirgram/Proper Channel)

Ref: Judgment and Order dated 28.09.01 passed in OA No. 27/2001 by the
Hon'ble CENTRAL ADMINISTRATIVE TRIBUNAL, Guwahati
Bench, Guwahati

Dear Sir,

With reference to the above, I have the honour to say that being aggrieved by an order dated 09.01.2001 passed by the Dy. Commissioner (Admn.) transferring me from K.V., Kumbhirgram to K.V., Nalia as well as non-consideration of my case for choice station posting in the light of the provisions contained in the Transfer Guidelines 2000-2001, I approached the Hon'ble CAT, Guwahati Bench, Guwahati through the above mentioned Original Application.

The Hon'ble CAT, after threadbare consideration of the case, has been pleased to set aside the transfer order dated 09.01.2000 and has allowed the original application. The Hon'ble CAT has also been pleased to direct you to consider my case for choice station posting in and around Silchar in the light of the Transfer Guidelines.

In this context, I may say that I have been serving at Kumbhirgram since last 10 years and therefore have been staying away from home. My wife is working as a Teacher in Sister Nibedita Girls' Vidyamandir at Silchar. I am having two minor children aged 4 years and 2 years respectively. Since I have been staying away from home, I am facing a lot of problem in my family life.

It may not be out of place to mention here that in view of the clause 8 and 10 of the existing Transfer Guidelines, I am entitled to be posted to my place of choice and for that matter vacancy should be created to consider my choice station posting by transferring out the longest staying person from that place.

It is further stated that I have been exercising my option for choice station posting at Silchar (my home town) since last 5 years but the same has not been duly considered. Be stated that in terms of the Transfer Guidelines vacancy can be created at Silchar by transferring out Sri Chandan Singh Chetry, SUPW Teacher who has been working at K.V., Silchar since last 10 years.

In the above circumstances, I would request your good self to consider my case and pass necessary order to post me at Silchar and for such act of kindness, I shall remain ever grateful to you.

An early action from your end will be highly appreciated.

Enclosed: Certified Copy of the Judgment
and Order dated 28.09.01 passed
in OA No. 27/2001 by the Hon'ble
CAT, Guwahati Bench, Guwahati

Yours faithfully

(SUKHENDU BHUSAN PAUL)

Annexure - 4

KENDRIYA VIDYALAYA SANGATHAN
 18, INSTITUTIONAL AREA
 SHAHID JEET SINGH MARG
 NEW DELHI - 110016

F.NO. 19-132(13)/2001-KVS (L&C)

Dated 08.01.02

MEMORANDUM

Whereas Shri SB Paul, WET filed an OA No.27/2001 in Hon'ble CAT at Guwahati against his transfer order dated 9.1.2001 in public interest from KV Kumbhirgram to KV AFS Nalia as well as for not considering his case for choice station posting.

Whereas the Hon'ble CAT, Guwahati heard the case on 28.9.2001 and issued the following orders:

"The impugned order of transfer seemingly appears to be arbitrary and is liable to be set aside. The same is accordingly set aside. However the applicant is directed to submit a representation before the concerned authority for consideration of his case for posting him in and around Silchar. If such representation is made, the respondents shall fairly consider the same and dispose of the same as per law."

Whereas the applicant has submitted the representation dated 18.10.2001 with the following submissions:

1. That he has been serving at Kumbhirgram since last 10 years, therefore, has been staying away from home. His wife is working as a teacher in Sister Nibedita Girls Vidyamandir at Silchar. He is having two minor children aged 4 years and 2 years. Since he has been staying away from home, he is facing a lot of problems in his family life.

2. That in view of the clause 8 and 10 of the existing transfer guidelines, he is entitled to be posted to his place of choice and for that matter vacancy should be created to consider his choice station posting at Silchar by transferring out the longest staying person Shri

*Certified to be
 true copy
 S. Paul
 Advocate*

Sukhendu Bhutan Paul.

Chandan Singh Chetry from that place, who is working at KV Silchar since last 10 years.

3. That he has been exercising option for choice station posting at Silchar (his home town) since last 5 years but the same has not been duly considered.

4. The submissions of the representation have been considered carefully and sympathetically and he is informed that provisions of para 8 and 10 of KVS transfer guidelines are applicable only in respect of inter station transfer and not for intra station transfer. In the instant case Shri SB Paul, WET is working for the last 10 years at KV Kumbhirgram and requested for choice posting at KV Silchar. As per the classification of vidyalaya circulated vide KVS letter No. F. 1-1/2000-KVS (E.III) dated 3.12.99, KV BSF Dholcherra, KV Kumbhirgram (AFS), KV Masimpur, KV Silchar and KV Sonai Road (ONGC) all come under same station Dholcherra (station no. 439) for the purpose of request transfers, as per KVS transfer guidelines. As such he is not eligible for getting transfer under the provisions of para 8 and 10 of KVS transfer guidelines though he is eligible for getting displaced being the senior most in terms of stay at station Dholcherra. Earlier he was not considered for displacement as he was under order of transfer to Nalia and the matter was subjudice too.

5. With reference to the other submission made by the representationist that his wife is working as a teacher in Sister Nibedita Girls Vidyamandir at Silchar and having two minor children and he is facing lot of problem in his family life due to staying away from home, he is informed that as per Article 49(K) of Education Code, which is a documentary text for governance of KVs, employees of KVS are liable to be transferred to any KV of the Sangathan at any time on short notice on organisational reasons and administrative exigencies. Also as held by Apex Court that the individual's personal inconveniences have got little importance over administrative exigencies and public interest particularly in the matter of transfer /postings. The personal problems

C.T.C
Gomia
Parvate

Sukhendar Bhupan Paul.

expressed by the applicant should not come in the way of service conditions and public interest.

6. With reference to his submission that he has been exercising option for choice station posting at Silchar (his home town) since last 05 years but the same has not been duly considered, he is informed that his request was not covered under the transfer guidelines existing then.

7. Having considered all the facts and circumstances of the case sympathetically and carefully in the light of the order of the Hon'ble CAT, Guwahati the undersigned is of the view that his request for posting to choice station at Silchar cannot be acceded to as the same is not covered under guidelines. In compliance of Hon'ble CAT orders the public interest transfer of the applicant ordered from KV Kumbhirgram to KV Nalia vide this office transfer order no. F-3(18)/99-KVS(E.IV) dated 9.1.2001 is hereby cancelled. Further, it is made clear to him that this cancellation will in no way exempt him from getting displaced at a later date, if circumstances warrant as per the policy of KVS.

Sd/- H.M. CAIRAE

Commissioner

Shri SB Paul
WET, KV Kumbhirgram

Copy to:

01. The Principal, KV Kumbhirgram/AFS Nalia
02. The AC, KVS (RO) Guwahati / Silchar / Ahmedabad with the request to apprise the position to Hon'ble Tribunal.
03. The SO (L&C) section, KVS.
04. Guard File.

*Certified to be
true copy
Sukhendu Bhawan Paul
Advocate*

Sukhendu Bhawan Paul.

KENDRIYA VIDYALAYA SANGATHAN

ESTT-III Section

18, Institutional Area, Shaheed Jeet Singh Marg
New Delhi -110016.

Dated: 14/8/2001

F.1-1/2002-2003/K.VS(Estt-III)

The Principals
All Kendriya Vidyalayas

Sub: Annual request transfer in respect of teaching and non-teaching staff of Kendriya Vidyalayas for the year 2002-2003 - applications regarding

Sir/Madam

It has been decided to invite fresh applications from teaching and non-teaching staff of Vidyalayas (excluding Principals and Vice-Principals) for effecting request transfers during the year 2002-2003. All are eligible to apply except those covered by clause 18(d) of the existing transfer guidelines. Application format has been modified now and accordingly instructions have been revised to that extent. Hence those employees who preferred applications for their request transfer in response to KVS(HQ) circular No. F. 1-1/2001-KVS(E.III) dated 12.1.2001 are also directed to apply afresh in the new format as the earlier application does not conform to the present requirements and they will not be considered.

2. PUBLICITY

There have been general complaints that the instructions accompanying application form are not made available to the applicants. It is made clear that the awareness of the instructions in proper perspective is necessary to fill up the application form without mistake and in the correct code (s) wherever necessary. Therefore, a set of three copies of this letter is being sent alongwith the application form and instructions. One copy is meant for official use, another for library for reference of prospective applicants and the rest for display on the Vidyalaya Notice Board.

3. HOW TO APPLY

Eligible employees desirous of seeking transfer are permitted to prefer only one application (in quadruplicate) in the enclosed format (either for intra-station or for inter-station). Instructions available at Serial No. 9 of application may be referred to in this regard. Other instructions may also be read carefully before filling up the application. Indicating wrong station code may either lead to transfer to unwanted place, which cannot be changed later on and hence utmost care may be taken to fill up correct codes, and all instructions may be read carefully. Overwriting must be avoided.

4. CODE OF CONDUCT REGARDING CANVASSING OF NON-OFFICIAL /OUTSIDE INFLUENCE

Attention of all concerned is drawn to the provision of Article 55 (27) of Education code and Rule 20 of CCS (Conduct) Rules. The employee concerned be informed that any violation thereof shall render them liable for disciplinary action. Canvassing in any form, Overt or Covert, direct or indirect will automatically disqualify teacher from being considered for transfer and his/her name will be removed from the priority list of transfer and disciplinary action will be taken against the teacher as per CCA (CCA) Rule 1965.

5. FORMATS AND ENCLOSURES

The application, when reproduced, must conform to the given format both in form and content. No enclosures are allowed with the application. Medical certificate in support of request on medical grounds and or declaration regarding employment of spouse are part of the application. They should be obtained / recorded on the body of the form itself to avoid detachment.

6. ENDORSEMENT

(i) The application and declaration wherever necessary must be signed by the employee himself/herself. Applications endorsed by spouse, parents etc for and on behalf of the employee is not acceptable and hence should not be forwarded. Medical Certificate must have the signature of Civil Surgeon/Chief Medical Officer.

(ii) The forwarding note must be endorsed by the Principal after satisfying himself / herself personally of the correctness of the entries made by the applicant. It has been observed that the details furnished by the applicants are not subjected to proper verification before endorsing the forwarding note. Therefore the Principals are requested to bestow their personal attention to ensure correctness of the entries, so that wrong information does not affect prioritization. Failure in this aspect on the part of the signing authority will be dealt in a stern manner by initiating disciplinary proceedings against all those responsible for these lapses.

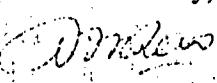
7. SUBMISSION OF APPLICATION

Application of staff may be collected in quadruplicate by 01/10/2001. These may be arranged as intra-station and inter-station requests and forwarded in duplicate (in two lots with separate lists) to reach the Asstt. Commissioner of the Region concerned not later than 10/10/2001. One copy of the application may be retained in the Vidyalaya the second copy containing principals endorsement may be returned to the employee for reference & record. Application of the employees who are not eligible to be considered for transfer in terms of clause 18(d) of the transfer guidelines should not be forwarded. Advance copy of application or applications forwarded directly by the Principals will not be entertained in the Head Quarter. No request for cancellation of transfer, once effected, will be entertained. Since the cadres in the non-teaching category have been merged (school cadre & office cadre), the staff of regional office/ KVS (HQ) are also eligible to apply for request transfer.

8. LATE APPLICATION

Application received late will not be considered. The employees and Principals should, therefore, strictly adhere to the target dates specified in para 7 above.

Yours faithfully,


(M.K. RAO)

Dy. Commissioner (Admn.)

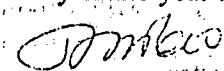
Copy forwarded for information and necessary action to :-

1. Asstt. Commissioner, All Regional Offices, KVS. He/She is requested to go through each set of application, indicate the entitlement points of performance as well as total thereof in Sl.No. 9 therein and send one set thereof to KVS(HQ) duly completed in all respects, as under, so as to reach by 31/10/2001.

A. PGT, TGT & HM: As one bundle to Estt.III Section
B. PRT, Misc. Categories & Non-Teaching Staff: As one bundle to Estt.IV Section

Instructions given vide KVS (HQ) circular No. F.11/95-KVS (Estt.III) dated 6.9.95 may also be followed, wherever required. The instructions available at clause 2(ii)(b) of transfer guidelines may be followed scrupulously in the case of non-availability of ACR for any of the year indicated at serial No. 9 of application form.

2. All Officers and Sections of KVS(HQ)


Dy. Commissioner (Admn.)

8.219
21/8/01

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

No.F.1-1/2002-2003-KVS(Estt.III)

Dated: 16.8.2001

The Principals,
All Kendriya Vidyalayas.

Sub:- Forwarding of application forms for request transfers - 2002-2003

Sir/Madam,

Please find enclosed 3 sets of application forms for request transfers alongwith necessary instructions therein which may be followed scrupulously. Time schedule specified may be strictly adhered to. Acknowledgement form incorporated in the second portion of this circular may be sent to KVS, Hqrs. immediately for our records.

This issues with the approval of the Competent Authority.

Yours faithfully

E.P. Prabhakar
(Dr. E.PRABHAKAR)
EDUCATION OFFICER

3590
Encl. As above.
Copy to -

1. The Assistant Commissioner, KVS, All Regional Offices. Performance points in respect of the staff of the Regional Office will be recorded at KVS, Hqrs. since the ACRs are maintained here. Hence such cases may be sent to KVS, Hqrs. with a separate covering letter.

2. The Guard File.

E.P. Prabhakar
EDUCATION OFFICER

Ex-File
Kendriya Vidyalaya,
F.No.

Date:

To
The Deputy Commissioner(Admn.)
KVS, Hqrs. New Delhi.
Sir,

WPS
The receipt of 3 sets of application forms for request transfers on 16/8/2001 is hereby acknowledged.
Our vidyalaya Code No. is Station Code No. is

Yours faithfully,

Signature.....
Name.....
Seal

DR. E.P. Prabhakar

INSTRUCTIONS FOR FILLING UP APPLICATION FOR TRANSFER

GENERAL

(i). Transfers are regulated in a limited time - frame. A single cancellation of transfer is enough to upset the schedule/chain and hamper the prospect of a group of needy persons getting transfer. So cancellation of request to change in circumstances should be made within 10 days of publication of priority list. The FAX No. of HQ. is 011-6514179. Transfer, once effected, will not be cancelled. The employees are dissuaded in their own interest from taking chance with the intent of obtaining cancellation later.

(ii) All columns must be legibly filled in Block letters using alphabetical numerical code, wherever prescribed. No enclosures are allowed. Medical Certificate / Declaration should be obtained/ made on page 6 & 7 of the application form itself.

Name of the Vidyalaya where the employee is working presently must be expressed in Code. Present region code, present station code, present K.V. code/present office code must be filled in, from the codes given in the list of codes. In case of non-teaching staff, the office code/K.V. code should be filled in accordance with the list of codes for office/ K.V code annexed.

(iii) POST HELD

--	--	--	--	--	--

These boxes given in the top row on the front page of the application may be filled in from the abbreviations given below.

					e.g.
Trained Graduate Teacher	Maths	TGT	MATH	TGT	MA TH
Trained Graduate Teacher	Biology	TGT	BIOL		
Trained Graduate Teacher	English	TGT	ENGL		
Trained Graduate Teacher	Hindi	TGT	HIND		
Trained Graduate Teacher	Sanskrit	TGT	SANS		
Trained Graduate Teacher	Social Studies	TGT	SOST		
Post Graduate Teacher	Biology	PGT	BIOL		
Post Graduate Teacher	Chemistry	PGT	CHEM		
Post Graduate Teacher	Physics	PGT	PHYS		
Post Graduate Teacher	Maths	PGT	MATH		
Post Graduate Teacher	English	PGT	ENGL		
Post Graduate Teacher	Hindi	PGT	HIND		
Post Graduate Teacher	History	PGT	HIST		
Post Graduate Teacher	Geography	PGT	GEOG		
Post Graduate Teacher	Commerce	PGT	COMM		
Post Graduate Teacher	Economics	PGT	ECON		
Post Graduate Teacher	Sanskrit	PGT	SANS		
Drawing Teacher	Miscellaneous	MSC	DRGT		
Physical Edn. Teacher	Miscellaneous	MSC	PETR		

Yoga Teacher	Miscellaneous	MSC	YOGA
Work Exp. Teacher	Miscellaneous	MSC	WETR
Music Teacher	Miscellaneous	MSC	MUST
Primary Teacher	PRT	PRT	-----
Head Master	HDM	HDM	-----
Non Teaching Staff	Librarian	NTS	LIBR
Non Teaching Staff	Supdt.	NTS	SUPD
Non Teaching Staff	Asstt. Supdt.	NTS	ASPD
Non Teaching Staff	UDC	NTS	UDCL
Non Teaching Staff	LDC	NTS	LDCL
Non Teaching Staff	Lab Asstt.	NTS	LAST
Non Teaching Staff	Lab Attendant	NTS	LATN
Non Teaching Staff	Group 'D'	NTS	GRPD

Excepting Primary Teachers and Head Master all others would use both the block of the boxes. Primary Teachers and Head Master may leave the 2nd block of boxes blank.

SL.NO. 1: NAME

Write full name without any prefix like SHRI/SMT/KUM. One box is meant for one alphabet. Add additional box, if necessary. Leave one box blank between initials and name.

Eg. Shri. Ajay Kumar Ram will be written as

A	K	R	A	M	or	A	J	A	Y	K	U	M	A	R	R	A	M
---	---	---	---	---	----	---	---	---	---	---	---	---	---	---	---	---	---

SL. NO. 2 : WHETHER MALE/FEMALE

Write M for Male and F for Female:

SL.NO. 3 & 4: (a) & (b) : DATE OF BIRTH; DATE OF JOINING THE PRESENT K.V. / STATION (IN THE PRESENT POST)

These columns are to be filled in Christian Era, the date followed by month & year in " DD MM YYYY" format. For example, Third September, Nineteen Eighty Four will be written as

0	3
---	---

0	9
---	---

1	9	8	4
---	---	---	---

Date of joining in present post should exclude any service on ad-hoc contractual basis.

SL.NO. 5.: DETAILS OF LAST TRANSFER

The reason column has to be filled in by the Code No. as detailed below:

Code No. Explanation

1. Transfer on surplus ground in public interest due to withdrawal of post/closure of stream/KV.
2. Transfer in public interest on Admn. Grounds i.e. Transfer in Public Interest other than on surplus ground and on displacement.
3. On direct appointment
4. On promotion
5. On request transfer
6. On return from long leave
7. Any other reason

SL.NO. 6: GROUNDS FOR TRANSFER

The grounds envisaged in the transfer guidelines have been assigned Category Codes (alphabetical). Division Code (Numerical) having entitlement points as follows:

GROUND	CATEGORY CODE	DIVISION CODE	ENTITLEMENT POINTS
a) Death of spouse within 2 years	DSP	---	---
b) Medical Grounds (for self, spouse & dependent children only)	MDG	---	---
c) OTHERS			
i) Less than 2 years to retire	LTR	03 Less than 2 years to retire i.e. on or before 31/03/2004	20
ii) North East & Hard Stations	NEH	04 Staff posted in 7 NE States, Sikkim A & N Island & listed Hard Stations completing their tenure (3 years) as on 31/03/2002	20

iii) Blind & Physically handicapped	PHD	05 Visually & Orthopaedically Handicapped persons	15
iv) Joining the spouse	JSP	06 Spouse in KVS 07 Spouse in Central Govt. 08 Spouse in Central Autonomous Bodies/ PSU 09 Spouse in State Govt/State Autonomous Bodies/PSU 10 Spouse in Private Service/Self Employed/others	20 18 15 12 10
v) Ladies not having spouse	LNS	11 Unmarried/Divorced/Widowed Lady	12
vi) Other grounds not covered by (a) to (c) (i) to (v)	OGS	12 Other Grounds	10
vii) On completion of more than 3 years stay at the present station	SPS	13 Other Grounds on completion of 3 year Stay	• 01 for each year of stay exceeding 3 years subject to a maximum of 20 points.

Note:

- i) The above Codes are just indicative of the grounds and not to be construed as the order of priority. Applicants having more than one ground amongst the above may indicate their choice in Category Code, Division Code & Entitlement Points accordingly.
- ii) While calculating the period of stay, the period or periods of absence from duties exceeding 30 days (45 days in case of NE Region, Sikkim & A & N Island) at a stretch other than on maternity leave, training or vacation is to be excluded.

iii) Listed Hard Stations

Station	K.V. Code No.	Station	K.V. Code No.	Station	K.V. Code No.
Jharkhand		Jammu & Kashmir		Orissa	
AFS Singharshi	763	BSF Campus, Bandipur	589	Koraput	157
		Dul Hasti Project, Kishtwar Kupwara & Leh Ladakh	604 605		
Gujarat		Karnataka		Rajasthan	
Army Bhuj	011	Donimalli	064	Bikaner AFS NAL	547
AFS Bhuj	010			Jalipa Cantt.	557
Dantiwada BSF	014			Uttarlai AFS	579
Dharangdhara Army	015	Chhattisgarh		Uttar Pradesh	
Naliya AFS	028	Bacheli	490	Rihand Nagar	760
Port Okha	029	Baikunthpur	492	Uttaranchal	
Wadsar AFS	041	Kirandul	519	Uttar Kashi IVRI Mukteshwar Joshi Math	350 338 330
Himachal Pradesh		Maharashtra		West Bengal	
Bakloh Cantt.	588	Karanja	192	Hasimara	243
NHPC, Chamera	594				

SL. NO. 7: Those who will be completing their stay of 3 years in the N.E. Stations, Sikkim, A & N Islands & Hard Stations or 5 years elsewhere as on 31/03/2002 may fill in 'Y' in this column otherwise 'N'. The stay period should exclude the period of absence as given under note (ii) of Sl. No. 6 above.

SL.NO. 8(a) and (b): This item is applicable for only those who are on their present posting on deployment on surplus due to closure of Vidyalaya/stream/withdrawal of post. The employees who have been transferred on surplus grounds from one station to another station, on or after 1/04/1997 onwards, will get the benefit of the period of stay in the earlier station beside the stay in the present station, for claiming transfer to a station, which is not the station from where declared surplus. But in case, the employee wants to claim the same station, as one of the 5 choices, from where he/she was rendered as surplus, then the period of stay at the new place after being declared surplus will not be counted with respect to coming back to the same station.

This is to ensure that the employees in hard stations North East etc. do not suffer adversely due to surplus deployment at the time when their tenure is about to be over and they are declared surplus and deployed at the some other stations, thereby getting deprived of full tenure at the North East & hard stations only.

8(a)

To fill in the K.V. Code & Station Code where you are presently posted, along with the period of stay, period of absence and reason for transfer. The Code Nos. of the reason for transfer are as given under Sl.No. 5

8 (b)

Details of earlier transfer within the last 5 years may be filled in (as enumerated above) before joining the present KV /Station on surplus grounds.

SL.NO. 10.1 : For Intra Station Transfer

Code Nos. of five KV's in the same station code where you are posted at present can be filled in, according to your preference order.

10.2: For Inter Station Transfer

Codes Nos. of five stations can be filled in, according to your preference order. Subject to the grounds chosen, choice station is permissible.

Note:

Employees are eligible to apply only one application in quadruplicate EITHER FOR INTRA STATION OR FOR INTER STATION. Any application found filled in for both inter & intra station transfer would summarily be rejected.

SL.NO. 11. CATEGORY OF PLACE WHERE SPOUSE IS WORKING

The Codes prescribed are:

01. Spouse working at or under orders of transfer to the station of choice or near by.
02. Spouse working at the same station where applicant is currently working.
03. Choice stations bear no relation to the place where spouse is working.

SL. NO. 12 & 13

In case the answers are in the affirmative write 'Y' Otherwise Write 'N'.

The Medical Certificate or declaration is to be obtained on the body of the application itself. Only Cancer, Paralytic Stroke, Renal failure or Coronary Artery disease where By-Pass surgery has been actually done for Self, Spouse and dependent children are considered as valid for transfer on medical grounds when facilities for treatment are not available at the station of posting (duly certified by a Govt. Medical Officer not lower than the rank of a Civil Surgeon)

SL.NO. 14.: TYPE OF DISEASE

Depending upon the disease certified by the competent authority indicate the type of disease in the following Codes as (CN, PS, RF, CA, OT for Cancer, Paralytic Stroke, Renal Failure, Coronary artery disease where By-Pass surgery has been actually done or Other Diseases respectively in case transfer is sought on medical grounds as well and answer against Sl.No.13 is in the affirmative.

The Brief description of illness which will be considered as medical ground for the purpose of transfer, in terms of transfer guidelines is as under. Medical terms referred herein will bear meaning as given in the Butterworth's Medical Dictionary.

(i) Cancer (malignant)

It is the presence of uncontrolled growth and spread of malignant cells. The definition cancer includes leukemia, lymphomas and Hodgkin's disease.

Exclusions:

This excludes non-invasive carcinoma (s) in-Situ, localized non-invasive tumor(s) revealing early malignant changes and tumour(s) in presence of HIV infection or AIDS, any skin cancer excepting malignant melanoma(s) are also to be excluded.

(ii) Paralytic Stroke

(Cerebro-Vascular accidents) Death of a portion of the brain due to vascular causes such as (a) Hemorrhage (cerebral), (b) Thrombosis (cerebral), (c) Embolism (cerebral) causing total permanent disability of two or more limbs persisting for 3 months after the illness.

Exclusions:

- (i) Transient/ischemic attacks
- (ii) Stroke - like syndromes resulting from
 - (a) Head injury;
 - (b) Intracranial space occupying lesions like abscess, traumatic hemorrhage & tumour.
 - (c) Tuberculous meningitis, pyogenic meningitis & meningococcal meningitis.
- (iii) Renal Failure

It is the final Renal Failure stage due to chronic irreversible failure of both the Kidneys. It must be well documented. The teacher must produce the evidence of undergoing regular haemodialysis and other relevant laboratory investigations and doctor's certification.

(iv) Coronary artery disease where by-pass surgery has been actually done:
The use of surgery on the advice of the consultant cardiologist, to correct narrowing or blockage of one or more coronary arteries.

Exclusion:

Non-surgical techniques such as the use of the either balloon or laser via a catheter introduced through the arterial system are excluded

SI. NO. 15.: RELATIONSHIP

This column is applicable where transfer is sought on Medical Grounds and Columns 12 & 13 are also filled in. The relationship of the patient with the applicant should be indicated in the following Codes.

SF	-	Self
SP	-	Spouse
CH	-	Dependent Children
OT	-	Others

PHYSICALLY HANDICAPPED- Explanation

Transfer of Blind & orthopaedically handicapped teachers provided they fulfill the following conditions:

- (a) Blind teacher having vision less than 3/60 or field vision less than 10 both eyes as certified by the Head of the Ophthalmologic Department, Government Civil Hospital.
- (b) Orthopaedically handicapped teachers who has a minimum of 40% permanent partial disability of either upper or lower limbs or 50% permanent partial disability of both upper & lower limbs together, as certified by the Head of Orthopaedics Department of a Government Civil Hospital according to the standards contained in the manual for orthopaedic Surgeon in Evaluating Permanent Physical Impairment brought out by the American Academy of Orthopaedic Surgeon, USA & published by Artificial Limbs Manufacturing Corporation of India, Kanpur.