

01/00

5

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

C.P-58103 ordered sheet Pg-1 to 2

Response sheet-12/5/06

INDEX

O.A/T.A No.....189/2003.....

C.P-118/2003 ordered sheet Pg-1 to 2

R.A/C.P No..581/03.....

petition copy Pg- 1 to 5 ^{allowed} date-12/5/06 E.P/M.A No...103/03.....

1. Orders Sheet O.A-189/2003.....Pg. 1to.....4.....^{allowed} ~~to 2~~ ~~to 4~~ ~~to 5~~ ~~to 6~~ ~~to 7~~ ~~to 8~~ ~~to 9~~ ~~to 10~~ ~~to 11~~ ~~to 12~~ ~~to 13~~ ~~to 14~~ ~~to 15~~ ~~to 16~~ ~~to 17~~ ~~to 18~~ ~~to 19~~ ~~to 20~~ ~~to 21~~ ~~to 22~~ ~~to 23~~ ~~to 24~~ ~~to 25~~ ~~to 26~~ ~~to 27~~ ~~to 28~~ ~~to 29~~ ~~to 30~~ ~~to 31~~ ~~to 32~~ ~~to 33~~ ~~to 34~~ ~~to 35~~ ~~to 36~~ ~~to 37~~ ~~to 38~~ ~~to 39~~ ~~to 40~~ ~~to 41~~ ~~to 42~~ ~~to 43~~ ~~to 44~~ ~~to 45~~ ~~to 46~~ ~~to 47~~ ~~to 48~~ ~~to 49~~ ~~to 50~~ ~~to 51~~ ~~to 52~~ ~~to 53~~ ~~to 54~~ ~~to 55~~ ~~to 56~~ ~~to 57~~ ~~to 58~~ ~~to 59~~ ~~to 60~~ ~~to 61~~ ~~to 62~~ ~~to 63~~ ~~to 64~~ ~~to 65~~ ~~to 66~~ ~~to 67~~ ~~to 68~~ ~~to 69~~ ~~to 70~~ ~~to 71~~ ~~to 72~~ ~~to 73~~ ~~to 74~~ ~~to 75~~ ~~to 76~~ ~~to 77~~ ~~to 78~~ ~~to 79~~ ~~to 80~~ ~~to 81~~ ~~to 82~~ ~~to 83~~ ~~to 84~~ ~~to 85~~ ~~to 86~~ ~~to 87~~ ~~to 88~~ ~~to 89~~ ~~to 90~~ ~~to 91~~ ~~to 92~~ ~~to 93~~ ~~to 94~~ ~~to 95~~ ~~to 96~~ ~~to 97~~ ~~to 98~~ ~~to 99~~ ~~to 100~~
2. Judgment/Order dtd.12/05/2004.....Pg. 1to.....15.....allowed
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A.....189/2003.....Pg. 1to.....28.....
5. E.P/M.P.....Pg. 1to.....5.....
6. R.A/C.P.....Pg. 1to.....11.....
7. W.S. filed by the Respondents-1,2,3,4.....Pg. 1to.....18.....
586
8. Rejoinder.....Pg.to.....
9. Reply filed by Respondents in.....Pg. 1to.....7.....
MP-103/03
10. Any other Papers.....Pg.to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

FORM NO.4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUJARATI BENCH

ORDERSHEET

Original Application : 189/2003

Misc Petition No. :

Contempt Petition No. :

Review Application No. :

Applicants:- Smt. pratibha Brahma

Respondents:- U. B. I. Posts.

Advocate for the Applicants:- Mr. N. Zaman

Advocate for the Respondents:- Mr. P.C. Dey

Ms. B. Decker

KVS, S.C.

Notes of the Registry	Date	Order of the Tribunal
application is not in form but not in time Petition is filed / not filed O. 1 for Rs. 50/- deposit vide IPO/BC No. 58995	22.8.2003	Heard Mr. P.C. Dey, learned counsel for the applicant and also Mr. M.K. Mazumdar, learned standing counsel for the K.V.S. Issue notice to show cause as to why the application shall not be admitted. Also, issue notice to show cause as to why impugned Office Order No. F. 1-3/TGT/2003-04/KVS(Estt-II)/ dated 18.7.2003 relating to transfer of the applicant from BRPL, Bongaigaon to Satakhia and the consequent Relieving Order No. F.31/KVBRPL/2003- 04/437-41 dated 22.7.2003 shall not be suspended. Returnable by three weeks.
Steps taken	22.8.03	In the meanwhile, the order dated 18.7.03 relating to transfer of the applica- nt from BRPL, Bongaigaon to Satakhia shall remain suspended and the relieving order dated 22.7.2003 shall
electric	22.8.03	Contd/-

Notice prepared & sent
to D/S for issuing the
respondent No 1 w/f
to legal. A/D.

DINo - 1821 to 1827

Dtd - 26/8/03

26/8/03

⑦

be kept in abeyance till the returnable date.

List again on 19.9.2003 for admission.

Vice-Chairman

mb

19.9.03

Pl. copy order
dated 19.9.03.

✓
19/9/03

List on 26.9.03 for Admission.
The interim order dated 22.8.03 shall continue.

KC Pandey
Member

order dated 19/9/03

1m

communicated, sent
to the D/Section
for issuing the same
to the learned Advocate
both the parties.

26.9.2003

The respondents are yet to file
written statement. List again on
31.10.2003 for admission. In the meantime,
interim order dated 22.8.2003 shall
continue.

✓
27/9/03

Vice-Chairman

mb

Pl. copy order dated

26/9/03

✓
26/9/03

31.10.2003

The respondents are yet to file
reply. Further four weeks time is allowed
to the Respondents to file
reply.

List on 8.12.2003 for admission.

In the meantime, interim order dated
22.8.2003 shall continue.

KC Pandey

Vice-Chairman

mb

19.12.2003

List on 12.1.2004 for admission.

W/S Intimated by
the Respondent Nos. 1, 2, 3,
4, 5 & 6.

mb

✓
12/1/04

There was a reference
Adm to 21.1.04.

870
h.

16.2.2004 List on 26.2.2004 alongwith
C.P. 58/2003.

KV Prahlan
Member (A)

mb

26.2.04 List on 15.3.04 for hearing.

KV Prahlan
Member (A)

Member (J)

pg

15.3.2004 List before the next Division
Bench.

KV Prahlan
Member (A)

mb

29.3.04 Since the learned counsel for the
respondents is out of station list
again on 26.4.04 for order.

KV Prahlan
Member (A)

AM
Member (J)

pg

26.4.2004 List the matter before the next available
Division Bench alongwith the connected
cases as prayed by the learned counsel for
the applicant.

KV Prahlan
Member (A)

bb

11.5.2004 present: The Hon'ble Shri Mukesh Kumar
Gupta, Member (J).

The Hon'ble Shri K.V.Prahlan,
Member (A).

Heard in part. Adjourned for 12.5.2004
for further hearing alongwith C.P.58/2003
and M.P.118/2003.

KV Prahlan
Member (A)

bb

22/5/04
Member (J)

13.5.2004 - Present: The Hon'ble Shri Mukesh Kumar Gupta, Member (J)

The Hon'ble Shri K.V. Prahladan, Member (A)

18.6.04

Copy of the budget
has been sent to
the office for
examining the same
to the opposition
as well as to the
Advocate for
the response.

Arguments heard. O.A. allowed
along with C.P. 058/03 and M.P. 118/03
by separate orders.

KV Prahladan
(K.V. PRAHLADAN)
MEMBER (A)

(MUKESH KUMAR GUPTA)
MEMBER (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

~~BANGALORE BENCH : BANGALORE~~

GUWAHATI BENCH: GUWAHATI

O.A. NO. 189/2003, C.P. 58/2003, M.P. 118/2003
in O.A. 189/2003

12-5-2004

DATE OF DECISION

Smt. Pratibha Brahma Applicant/s

Shri P.C. Dey Advocate for the applicant/s

versus

Union of India & Ors Respondent/s

Shri M.K. Mazumdar Advocate for the Respondent/s

CORAM: SHRI MUKESH KUMAR GUPTA, MEMBER (J)

SHRI K.V. PRAHLADAN, MEMBER (A)

1. Whether reporters of local newspapers may be allowed to see the judgment?

Yes/No

2. To be referred to the Reporter or not

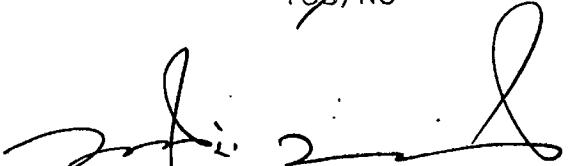
Yes/No

3. Whether to be circulated to all Benches

Yes/No

4. Whether their Lordships wish to see the fair copy of the judgement.

Yes/No


(MUKESH KUMAR GUPTA)
VICE CHAIRMAN/MEMBER (A)/(J)

2.

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI**

O.A. NO. 189/2003, C.P. 58/2003 AND M.P. 118/2003
IN O.A. NO. 189/03

DATED THIS THE TWELFTH DAY OF MAY, 2004

SHRT MUKESH KUMAR GUPTA, JUDICIAL MEMBER

SHRT K.V. PRAHLADAN, ADMINISTRATIVE MEMBER

O.A. No. 189/2003

Smt. Pratibha Brahma
W/o. Sri Khageswar Brahma
Resident of Hatimata Road
Kokrajhar, Ward No. 8
P.O. & District - Kokrajhar
(Assam) PIN-783 370 Applicant

(By Advocate Shri P.C. Dey)

vs.

1. Union of India
Through the Secretary to
the Government of India
Department of Education
New Delhi-110 001.
2. The Commissioner
Kendriya Vidyalaya Sangathan
18, Institutional Area
Sahid Jeet Singh Marg
New Delhi-110 016
3. The Joint Commissioneer
Kendriya Vidyalaya Sangathan
18, Institutional Area
Sahid Jeet Singh Marg
New Delhi-110 016
4. The Education Officer
Kendriya Vidyalaya Sangathan
18, Institutional Area
Sahid Jeet Singh Marg
New Delhi-110 016
5. The Assistant Commissioner
Kendriya Vidyalaya Sangathan
Regional Officer, Maligaon
Chariali, Guwahati-781 012
6. The Principal
Kendriya Vidyalaya (BRPL)
Bongaigaon, P.O. Dhaligaon
District-Bongaigaon (Assam)
7. Miss N. Goswami, TGT (CBZ)
Kendriya Vidyalaya (BRPL)
Bongaigaon, P.O. Dhaligaon
District-Bongaigaon

Respondents

(By Advocate Shri M.K. Mazumdar, Standing Counsel for K.V.S.)

C.P. NO. 58/2003 IN O.A. NO. 189/2003

Smt. Pratimha Brahma
W/o. Sri Khargeswar Brahma
Resident of Hatimata Road
Kokrajhar, Ward No. 8
P.O. & District - Kokrajhar
(Assam) PIN-783 370

Petitioner

(By Advocate Shri P.C. Dey)

Vs.

1. Shri H.C. Caire
The Commissioner
Kendriya Vidyalaya Sangathan
18, Institutional Area
Sahid Jeet Singh Marg
New Delhi-110 016

2. Miss P. Devasena
The Education Officer
Kendriya Vidyalaya Sangathan
18, Institutional Area
Sahid Jeet Singh Marg
New Delhi-110 016

3. Mr. S.S. Sehrwat
The Assistant Commissioner
Kendriya Vidyalaya Sangathan
Regional Officer, Maligaon
Chariali, Guwahati-781 012

4. Mr. A.M. Khan
The Principal
Kendriya Vidyalaya (BRPL)
Bongaigaon, P.O. Dhaligaon
District-Bongaigaon (Assam)

Respondents

ORDER (ORAL)

SHRI MUKESH KUMAR GUPTA, MEMBER (J)

Since the facts in these cases are interlinked, they are being disposed of by common order.

2. In O.A. 189/03, the applicant, TGT (Biology) has questioned the validity of transfer order dated 18th

July, 2003 (Annexure-F) transferring her from Kendriya Vidyalaya (hereinafter referred to as K.V.) BRPL, Bongaigaon to K.V., Satakha, Nagaland as well as relieving order dated 22nd July, 2003 (Annexure-G).

3. Since the operation of aforesaid orders were suspended and kept in abeyance by this Tribunal vide its order dated 22nd August, 2003 and its breach was alleged, the applicant instituted Contempt Petition No. 58/03. The M.P. No. 118/03 was filed by respondents seeking deletion of Union of India, Secretary, Department of Education, the said respondent, as it has nothing to do with the matter in question.

3. The brief facts are as follows:- The applicant a Trained Graduate Teacher (Biology) initially joined the Kendriya Vidyalaya (KV), Kokrajhar, on 1st August, 1995. In the year 2001, she was declared surplus and posted to K.V. No. 1 Tezpur from K.V. Kokrajhar. She applied for transfer from K.V. No. 1 Tezpur to her Home Town, K.V. Kokrajhar, which request was accepted and vide order dated 1st April, 2002 (Annexure-A), she was transferred from K.V. No. 1 Tezpur to K.V., BRPL, Bongaigaon. Pursuant to the said order, she joined K.V., BRPL, Bongaigaon. At that point of time, the said School had two sections for the subject in question. Vide communication dated 13th February, 2003, the said School was made a single section School.

and one of the post of TGT (Science) was declared surplus for the Session 2003-2004. Accordingly, the surplus TGT (Science), Smt. Ranjita Das was transferred vide order dated 31st March, 2003 (Annexure- 'B') from K.V. BRPL, Bongaigaon to K.V. Guwahati, Khanapara. The same order also transferred respondent no. 7 herein, Miss. N. Goswami, from K.V. Guwahati, Khanapara to K.V. BRPL, Bongaigaon. Since K.V. BRPL, Bongaigaon had only one sanctioned post of TGT (Biology) against which the applicant was performing her duties and functions, the Principal, K.V. BRPL, Bongaigaon, respondent no. 6 herein, informed the Education Officer, Kendriya Vidyalaya Sangathan, respondent no. 4 herein, that as there was only one sanctioned post of TGT (Science) for the Session 2003-2004 and the applicant is working against the said post there was no vacant post in the said School to accommodate respondent no. 7. and therefore a request was made to take necessary action in this regard. Later respondent no. 6 pursuant to instructions from Assistant Commissioner (Guwahati Region) respondent no. 5 herein, allowed respondent no. 7 to join the said School against zero vacancy and communicated the said fact to respondent no. 4 vide communication dated 25th April, 2003 (Annexure- 'D'). The applicant submitted detailed representation dated 26th April, 2003 wherein it was pointed out that the one post of TGT (Science) was declared surplus for the session 2003-04 and Smt. Ranjita Das was transferred

10



from K.V., BRPL, Bongaigaon to K.V., Guwahati, Khanapara and since she was transferred on request vide order dated 1st April, 2002 the applicant would face great hardship and difficulties and will affect her childrens' career if she is once again transferred to far off place which is also a disturbed area. Inspite of the pendency of the said representation, respondent no.4 redeployed the applicant due to fixation of staff strength in K.V.S in the year 2003-04 vide order dated 18.7.2003. Pursuant to the said transfer order, the applicant was relieved vide order dated 22nd July, 2003 with a direction to report for duty at K.V., Satakha, Nagaland immediately. On receipt of the said relieving order a further detailed representation dated 1st August, 2003 was preferred before respondent no.2, which remained unattended and unconsidered. The said order dated 18.7.2003 as well as 2nd July 2003 have been challenged on various grounds including, discrimination, malafide, colourable exercise of power etc.

3. Shri P.C. Dey, assisted by Ms. B. Deka, counsel for the applicant contended that the respondents acted illegally and arbitrarily in transferring the applicant from K.V., BRPL, Bongaigaon to K.V. Satakha, Nagaland only to accommodate respondent no.7, despite the fact that there was no vacancy at K.V., BRPL, Bongaigaon. When the applicant was transferred on request to K.V., BRPL, vide order dated April 2002, there

was no justification on the part of the respondents to transfer her once again to K.V. Satakha, Nagaland. The reliance placed by the respondents on clause 10 (2) and (3) of the Transfer Guidelines, which inter alia provided to create a vacancy so as to accommodate a person who is figuring in priority list is misplaced and misconceived. The said order was issued with ulterior motives and with malafides just to harass the applicant and to favour respondent no. 7. Besides the above, the respondents have meted her out with hostile discrimination in as much as in similar circumstances where the persons were transferred against zero vacancy, the transfer orders were subsequently modified, which is wanting in this case. The applicant has got two school going children, who cannot be taken to remote areas like Satakha, Nagaland, where she has been ordered to be posted.

4. The respondents 1 to 6 filed their reply statement and contested the applicant's claim, by contending that no employee has an inherent right to stick to a particular place of posting. Annual exercise of staff fixation/modification of staff strength in respect of each K.V is done on yearly basis, which is a common feature and depending upon such fixation of strength, the transfer orders are passed. The K.V.S issued comprehensive instructions regarding identification of excess staff of the K.V vide O.M. No. F1-1/2002-03/KV/E-II) dated 20.1.2003, and according



to para-1, identification of redeployment excess staff has to be done based on length of service. Clause 10(1) of the Transfer Guidelines were amended by the K.V.S Headquarters vide O.M dated 11th March, 2002 and 10th September, 2002 which was applicable with effect from Session 2003-2004. The applicant was redeployed vide KVS Headquarter order dated 18.7.2003 in accordance with the above instructions and applicant has to be necessarily redeployed at K.V. Satakha keeping in view that respondent no.7 joined K.V. BRPL, Bongaigaon, as she was junior and the applicant was senior in terms of date of joining at K.V. BRPL. In terms of this scheme, the senior in the Vidyalaya/Station is identified as excess to the requirement leading to redeployment of the applicant. The applicant's contention that she was transferred from K.V. BRPL, Bongaigaon was admitted in specific. Smt. Ranjita Das, TGT (Biology) requested for a transfer to Guwahati Station in response to K.V.S Headquarters circular dated 14.8.2002. Since she displaced Smt. N. Goswami, respondent no.7 has to be posted as she had a total length of 23 years and 3 months service at Guwahati Station. Since Ranjita Das had to be accommodated, respondent no.7 was displaced from K.V. Guwahati, Khanapara and the applicant's redeployment became necessary. It is stated that no favour was shown to respondent no.7. As the applicant is governed by all India transfer liability, she has no



legal right to claim a particular posting. The personal problems regarding applicant's husband's posting as well as her children being young, cannot be a reason for avoiding the transfer liability, stated the respondents.

5. The order dated 18th July, 2003 as well as the relieving order dated 23rd July, 2003 were suspended and kept in abeyance by this Tribunal vide order dated 22nd August, 2003 and the said interim order continued till date. Since the breach of the aforesaid order of this Tribunal was complained, the applicant instituted C.P. 58/2003. No reply was filed to the said contempt petition.

6. M.P. 118/2003 in O.A. No. 189/2003 was filed seeking deletion of name of respondent no. 1, i.e. the Union of India, Secretary Department of Education, New Delhi on the ground that K.V.S being an autonomous body, respondent no. 1 has no role to play and there is a misjoinder of parties and therefore, the name of respondent no. 1 be deleted from the array of respondents.

7. During the pendency of the aforesaid proceedings, the K.V.S passed memorandum dated 22nd January, 2004 whereby the applicant was attached with KV, AFS, Jorhat. The said memorandum dated 22nd



January, 2004 was the subject matter before this Tribunal in O.A. 21/2004. The said O.A was allowed vide order dated 26th February, 2004 with a direction to respondents to withdraw the said memorandum dated 22nd January, 2004 besides issuing direction to the respondents to release the applicant's salary within the stipulated time.

8. We heard learned counsel for the parties at length and perused the pleadings. Admittedly the staff sanctioned for the Academic Session 2003-2004 at K.V. BRPL, Bongaigaon in the post of TGT (Biology) was one against sanctioned strength of 2 during Session 2002-03. The said fact was known to K.V.S, New Delhi as it had issued the staff sanction order as early as on 13th February, 2003. The said staff sanctioned was issued with the approval of the Commissioner, K.V.S., New Delhi. Besides the post of TGT (Biology), other various posts including primary teachers, non-teaching staff and hostel staff were also indicated therein. The said staff sanction order also indicated the addition as well as deletion of sanctioned strength for various classes and subject. When the staff sanction order was known to the K.V.S, New Delhi and was so notified on 13th February, 2003, what was the justification to transfer Smt. N. Goswami, respondent no. 7 herein from K.V, Guwahati, K to K.V, BRPL, Bongaigaon and letting Smt. N. Goswami to join the post of TGT (Biology)

[Signature]

against zero vacancy on 22nd April, 2003 and thereby making the applicant as senior at Station, remained unexplained. If there was only one sanctioned post of TGT (Biology) at K.V., BRPL, Bongaigaon as on 13th February, 2003, then why respondent no. 7 was transferred and posted to K.V., BRPL, Bongaigaon remains mystery. No efforts were made by the respondents to explain the circumstances under which Ms. N. Goswami, respondent no. 7 was allowed to join against zero vacancy despite the protest lodged by the Principal, BRPL, Bongaigaon. The applicant has specifically raised the contention about malice on the part of respondents besides discrimination in similar circumstances. It was pointed out that in similar circumstance when a Teacher was allowed to join against zero vacancy in K.V. No. 1 Tezpur, the order was reversed and the official was transferred to K.V. Lakra. But similar action was not taken in the applicant's case. Despite the fact that the applicant submitted detailed representations, no action has been taken by the respondents.

Shri P.C. Dey, learned counsel for the applicant relied upon 1984 (2) SLR 328 (Bom.) (Seshrao Nagarao Umap vs. State of Maharashtra and Others), AIR 1986 SC 1955 (B. Varadha Rao vs. State of Karnataka) and 1995 (1) Gauhati Law Reports 465, (Bimal Kumar Deb Medhi vs. State of Assam) in support of his contentions that a transfer is malafide when it is made not for

[Signature]

professed purpose, such as in normal course or in public or administrative interest or in exigencies of service but for other purpose, that is to accommodate another person for undisclosed reasons. Further, the frequent unscheduled and unreasonable transfers can uproot a family, cause irreparable harm to a Government servant and derive him to desperation. It disrupts the education of his children and leads to numerous other complications and problems and results in hardship and demoralisation.

9. We are conscious of the fact that the transfer which carries All India liability cannot be lightly interfered by the Court/Tribunal unless either the same suffers from malafide or has been issued in breach of transfer policy. In the present case, the said order dated 18th July, 2003 as well as consequent relieving order dated 22nd July, 2003 suffers on both account. We find force in the contention raised by the learned counsel for the applicant that the said orders are nothing but colourable exercise of power and had been issued only to accommodate and show favour to respondent no. 7. No provision existed under the Transfer policy notified by the K.V.S to post an official in a School despite the fact that no vacancy existed therein for the said post. As we have already noticed that there was only one sanctioned post of TGT (Biology/Science) for the Session 2003-04 in the K.V.

J

BRPL, Bongaigaon and the applicant was working against the same and this fact was so notified as early as on 13th February, 2003, yet the respondent no.7 was transferred thereafter on 31st March, 2003. If there was no vacancy in the said School and Session then what compelled the respondents to transfer respondent no.7, remained unexplained. What cannot be achieved directly cannot be allowed to achieve by indirect manner, is the settled law. The respondents action in the aforementioned circumstances had no justification to transfer respondent no.7 to the said station. Merely because she was allowed to join on 22nd April, 2003 against zero vacancy on the instructions issued by the Assistant Commissioner, Guwahati Region, the respondents cannot be allowed to contend that on her joining the K.V, BRPL, Bongaigaon, the applicant became surplus in terms of the length of service rendered by her at K.V, BRPL, Bongaigaon. The reliance placed by the respondents on clause 10(1) to clause 10(3) of the transfer policy is misplaced. It would be relevant at this stage to notice the said paras which reads as follows:

"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 as 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.

The aforementioned paras of the Transfer Guidelines in our considered view is not applicable in the facts and circumstance of the present case. The excess staff at KV, BRPL, Bongaigaon, particularly to the cadre of TGT (Biology/Science) against the Session 2003-04 was transferred in the shape of transfer of Smt. Ranjita Das vide order dated 31st March, 2003 and there being no vacancy as on 31st March, 2003, respondents action in transferring Mrs. N. N. Goswami to the said K.V, BRPL, Bongaigaon, is nothing but a colourable exercise of power and suffers from legal malice. It is well settled law that where Government action runs counter to good faith is not supported by reasons and law, it cannot but be described as malafide (2001) 5 SCC 664, Tandon Brothers vs. State of West Bengal and Others). The law noticed herein above squarely applies in the facts of the present case.

10. It is unfortunate that despite notice issued in the aforementioned contempt petition and respondents being served, no reply was filed to the said contempt petition.

11. In view of the discussions made herein above, the O.A is disposed with the following terms:

(i) O.A. No.189/2003 is allowed. Transfer order dated 18.7.2003 (Annexure-E) transferring the applicant from KV, BRPI, Bongaigaon, to KV, Satakh, Nagaland is quashed and set aside. Similarly, the relieving order dated 22.7.03 (Annexure-G) also stands quashed and set aside. In view of the above, the applicant is directed to continue at her posting with KV, BRPI, Bongaigaon.

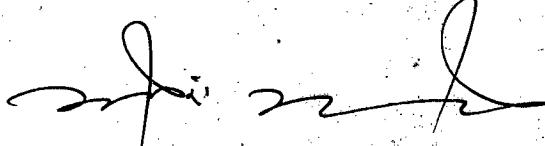
(ii) As far as the C.P. 58/2003 is concerned no further order is required as we have been informed that pursuant to order dated 26.2.2004 passed in O.A. 21/04, the applicant was allowed to join back at KV, BRPI, Bongaigaon and her salary has also been released and the applicant also has been paid service benefits.

[Signature]

(iii) As far as the M.P. 118/03 (In O.A. 189/2003), seeking deletion of Union of India represented by the Secretary to the Government of India, Department of Education is concerned since the matter stands concluded no further order is required to be passed.

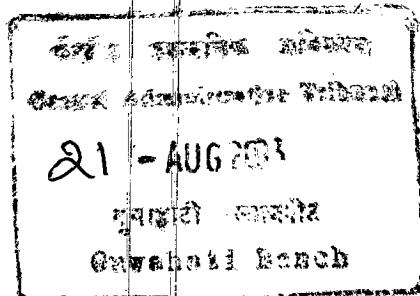
(iv) No order as to costs.


(K.V. PRAHLADAN)
MEMBER (A)


(MUKESH KUMAR GUPTA)
MEMBER (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI : BENCH

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



Title of the Case : O.A.No. 189 /2003.

Smti Pratibha Brahma

..... Applicant.

- VS -

Union of India & others

..... Respondents.

I N D E X

<u>Sl.No.</u>	<u>Particulars</u>	<u>Annexures</u>	<u>Pages</u>
01.	Application.	-	1 - 17
02.	Verification.	-	18
03.	Transfer Order dated 01-4-2003	'A'	19
04.	Transfer Order dated 01-8-2003	'B'	20 - 21
05.	Letter dated 11-4-2003	'C'	22
06.	Letter dated 25-4-2003	'D'	23
07.	Application dated 26-4-2003	'E'	24
08.	Transfer Order dated 18-7-2003	'F'	25 - 26
09.	Relieving Order dated 22-7-2003	'G'	27
10.	Application dated 1-8-2003	'H'	28
11.	Vakalatnama.		

Filed by -


Advocate.

Dated - 20-8-2003

21 - AUG 2003

प्राप्ति स्वाक्षरी

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI.

O.A. NO. 189 OF 2003.

Smti Pratibha Brahma

... Applicant.

-Vs-

Union of India & Ors. ... Respondents.

LIST OF DATES.

- 1.4.2002 The applicant was transferred on request from K.V. No. 1, Tezpur to K.V. BRPL, Bongaigaon by the Dy. Commissioner (Admn), K.V.S. New Delhi -16, and ~~she joined thereon~~ ^{by} (ANNEXURE- A, Page -19).
- 13.2.2003 The K.V., BRPL, Bongaigaon has been made Single Section school vide K.V.S. Letter F.No.1-1-2002-03/ K.V.S. (O&M) dated 13.2.2003 for the Session 2003-2004 and one post of TGT (SC.) declared surplus.
- 31.3.2003 The surplus TGT (Sc) Smti Ranjita Das was transferred on her request from K.V., BRPL, Bongaigaon to K.V., Guwahati, Khanapara vide order dated 31.3.2003 issued under No.7.1 (D)/TGT/BIOL/2003/K.V.S. (Estt.II) and by the same Transfer order Miss N. Goswami was also transferred under Clause 10(2) of the transfer guideline from K.V. Guwahati, Khanapara to KV., BRPL, Bonngaigaon, (ANNEXURE - B, Page -20).
- 11.4.2003 The Principal, K.V. BRPL, Bongaigaon wrote to the Education Officer, K.V.S., 18 Institutional Area, New Delhi -16, informing him that as per transfer order dated 31.3.2003 Smti Ranjita Das has been transferred from K.V., BRPL, Bongaigaon to K.V., Guwahati, Khanapara and also informed that as there was only one sanctioned post of TGT (BIO) for the Sessions 2003-2004 against which the Teacher (the present applicant) has been working and as there is no vacant post in K.V. BRPL to accomodate Miss. N. Goswami so the Principal requested the education Officer to take necessary action in this regard. A copy of the said letter was also send to the Assistant Commissioner K.V.S. (R.O) Guwahati.... (ANNEXURE- C, PAGE 22)

Contd....

23
Filed by -
Ritika Chander Dey
Advocate
20/01/2003

26.4.2003 Thereafter, the Principal, K.V. BRPL, Bongaigaon as per instruction of the Assistant Commissioner, (GR) allowed respondent No. 7 Miss N. Goswami to Join in K.V., BRPL, against 'Zero' vacancy on 22.4.2003 and her joining report was communicated to the Education Officer vide letter dated 26.4.2003.

... (ANNEXURE-D, PAGE- 23).

26.4.2003 As the Respondent No. 7 Miss N. Goswami was allowed to join in K.V. BRPL, Bongaigaon was ~~allowed to~~ ^{Avy} join in K.V., BRPL, Bongaigaon by the Principal under instruction of the Assistant Commissioner Guwahati Region, though there was no vacant Post, so, the applicant was worried about her stability at K.V. BRPL, Bongaigaon and submitted an application before the Education Officer, K.V. S., Regional Grievances Officer, (GR), Guwahati-12, requesting him not to transfer her again to other place just to accommodate the Respondent No. 7.

... (ANNEXURE-E, Page-24).

18.7.2003 The Respondent authorities without considering the application dated 26.4.2003 of the applicant, surprisingly passed a transfer order on 18.7.2003 issued under No. F.1-3/TGT/2003-04/K.V. S. (Est.- II) whereby the applicant has been transferred from K.V., BRPL, Bongaigaon to K.V. Satkha in Nagaland just to accommodate the Respondent No. 7 but not for any public interest.

... (ANNEXURE- F, Page- 25).

22.7.2003 The applicant was relieved on 22.7.2003 from K.V. Bongaigaon to join at K.V. Satkha, in Nagaland.

.. (ANNEXURE- G, Page- 27).

1.8.2003 The applicant has submitted another application on 1.8.2003 before the Commissioner, K.V. S., New Delhi -16 stating all the facts contending ^{that} ~~inter alia~~ the transfer order was illegal and arbitrary and as such she requested to Commissioner not to transfer her, otherwise

Contd...

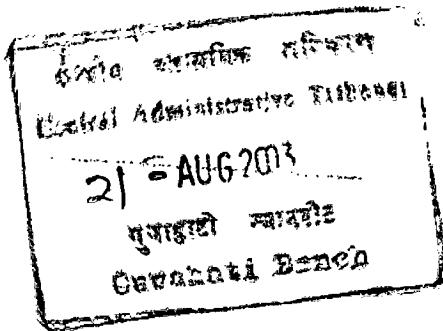
25
3.

she and her family will be adversely affected. But the Respondent authorities did not consider the said application till today.

... (ANNEXURE H, Page-28).

Hence having no alternative the applicant has approached before this Hon'ble Tribunal to protect her from the illegal, arbitrary and discriminatory action of the Respondent authorities and Prayed for setting aside and quashing of the impugned transfer order dated 18.7.2003 and the subsequent order therein for the interest of justice.

....



Filed by
Firjan Chander Dey
Advocate
20/8/2013, 26

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:::GUWAHATI BENCH

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

O.A. No. 189 /2003.

BETWEEN

Smti Pratibha Brahma
w/o Sri Khargeswar Brahma
Resident of Hatimata Road,
Kokrajhar, Ward No.8,
P.O. & District - Kokrajhar,
(Assam), PIN-783370.

Applicant.

-Versus-

1. Union of India

Through 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.

Contd.....2

3. The Joint Commissioner,

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

4. The Education Officer,

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

5. The Assistant Commissioner,

Kendriya Vidyalaya Sangathan,
Regional Officer, Maligaon Chariali,
Guwahati - 781012.

6. The Principal,

Kendriya Vidyalaya (BRPL)
Bongaigaon, P.O. Dhaligaon,
District-Bongaigaon, (Assam).

7. Miss N. Goswami, TGT(CBZ),

Kendriya Vidyalaya (BRPL) Bongaigaon,
P.O. Dhaligaon, District-Bongaigaon.

...

Respondents.

DETAILS OF APPLICATION :-

1. Particulars of order(s) against which this application is made :-

This application is made against the order
No. F.1-3/TGT/2003-04/KVS(Estt.-II) dated 18-7-2003

issued by the Education Officer, Respondent No.4 transferring the applicant from Kendriya Vidyalaya, BRPL, Bongaigaon to Kendriya Vidyalaya Satakha, Nagaland in total violation of the existing transfer and posting guidelines of the Respondents without considering the case of the applicant just to faveur the Respondent No.7 who was allowed to join against 'O' vacancy as per instruction of Assistant Commissioner, Guwahati Region.

2. JURISDICTION OF THE TRIBUNAL :-

The applicant declares that the subject matter of the application is within the jurisdiction of the Hon'ble Tribunal.

3. LIMITATION : -

The applicant declares that the application is within the limitation prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE :-

4.1. That the applicant is the citizen of India and as such entitled the rights and previlages under Constitution of India.

4.2. That the applicant initially joined on 1-8-95 in the Kendriya Vidyalaya, Kokrajhar as Trained Graduate Teacher (CBZ). Thereafter, in the year 2001, she was declared as surplus and posted to Kendriya Vidyalaya No.1 Tezpur from K.V.Kokrajhar.

4.3. That, thereafter, the applicant applied for transferring her from K.V. No.1, Tezpur to her home town K.V.Kokrajhar and on her request she was transferred from K.V.No.1 Tezpur to K.V.B.R.P.L. Bongaigaon in the month of April/2002 and since than she has been serving at KV, BRPL, Bongaigaon to the satisfaction of the concerned authorities.

A copy of the transfer order dated 1-4-2002 is annexed herewith as Annexure-A'

4.4. That vide letter No.F. No.1-1-2002-03/KVS (O & M) dtd. 13-2-2003, the Kendriya Vidyalaya, B.R.P.L. Bongaigaon has been made single section School and one post of trained Graduate Teacher (T.G.T) Science declared surplus and the surplus T.G.T. (Ranjita Das) was transferred on her request to Kendriya Vidyalaya, Guwahati, Khanapara vide KVS Letter No.F-7-1(D)TGT(Bio)2003/KVS/EST-II dtd. 31-3-2003 issued by the Education Officer. By the same letter Miss.N.Goswami was transferred from ~~xx~~ K.V. Guwahati, Khanapara, to K.V. BRPL Bongaigaon though there was no vacant post in the K.V. BRPL, Bongaigaon.

NPF allowed

- 5 -

A copy of the said transfer order dated

31-3-2003 is annexed herewith as Annexure-B

4.5. That the principal of the Kendriya Vidyalaya BRPL Bongaigaon has written to the Education Officer, Kendriya Vidyalaya Sangathan, 18 institutional area, Shaheed Jeet Singh Marg, New Delhi-16, vide his letter dtd. 11-4-2003 issued under Ref.No.31/KV BRPL/2003-04/ 38-40, stating inter-alia that as per order dtd. 31-3-2003 of the Education Officer, Ranjita Das T.G.T (Bio) has been transferred from K.V. BRPL, Bongaigaon to K.V. Guwahati, Khanapara on her request and it was further informed that as there was only one sanctioned post of TGT(Bio) for the Session 2003-04 in the said Vidyalaya against which the teacher has been working and as there was no vacant post the Principal of K.V. B.R.P.L., Bongaigaon did not allow Miss N.Goswami to join in the said Vidyalaya and accordingly informed the Education Officer, Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi, for information and necessary action. A copy of the said letter was also send to the Assistant Commissioner, KVS, RO, Guwahati for information.

A copy of the said letter dated 11-4-2003 is

annexed herewith as Annexure-C

4.6. That the Assistant Commissioner KVS, Regional Office, Guwahati on receipt of the Principal's letter

dated 11-4-2003 immediately directed him to allow Miss.N.Goswami to join in the said KV, BRPL, Bongaigaon though there was no vacant post and accordingly on 22-4-2003 the Principal, KV, BRPL, Bongaigaon allowed Miss N.Goswami to join in the said Vidyalaya against 'O' vacancy as per direction of the Assistant Commissioner, Guwahati Region, which was intimated to the Education Officer, Kendriya Vidyalaya Sangathan, (H.Q.) New Delhi-16 with copy to the Assistant Commissioner, KVS (GR) Guwahati-12 & others vide letter dated 25-4-2003 issued under Ref. No.P.38/KV, BRPL/2003-04/136-39.

A copy of the said letter dated 25-4-2003 is annexed herewith as Annexure-D.

4.7. That the applicant states that as there was only one sanctioned post of TGT(Bio) in the said Vidyalaya against which she has been working, joining of Miss.N.Goswami in the same Vidyalaya against 'Zero' vacancy compelled the applicant to think that there is some malice in the mind of the Respondents which may affect the applicant and as such the applicant submitted an application on 26-4-2003 before the Education Officer, Regional Grievance Officer, Kendriya Vidyalaya Sangathan, Guwahati Region, Guwahati-12. In the said application the applicant stated inter alia that

She was transferred to KV, BRPL, Bongaigaon in the year 2002 from K.V. No.1 Tezpur on her request as her husband was working in Kokrajhar being an employee of Assam Government and the KV, BRPL, Bongaigaon is being nearer to her home town (Kokrajhar). It was further stated that as per KVS letter F.No-1-1-2002-03/KVS(O&M) dated 13-2-2003, the KV, BRPL, Bongaigaon has been made single section school and one post of TGT Science declared ~~xxx~~ surplus and the surplus TGT was transferred to K.V., Khanapara vide KVS letter No.F-7-1(D).TGT(Bio) 2003/KVS/EST-II dated 31-3-2003. The displaced TGT (Miss N. Goswami) from KV Khanapara was allowed to join on 22-4-2003 against 'Zero' vacancy in the said KV, BRPL Bongaigaon, as per direction of the Assistant Commissioner, KVS (GR) Guwahati-12, and as such, the applicant was worried about her stability in the said Vidyalaya, so, she requested the Education Officer, Regional Grievance Officer to look into the matter and to do justice by allowing her to complete her tenure at KV, BRPL, Bongaigaon.

A copy of the said application dated 26-4-2003 is annexed herewith as Annexure-E

4.8. That the applicant states that the Respondents authorities without considering the application dated 26-4-2003 of the applicant surprisingly vide

office order dated 18-7-2003 issued by the Respondent No. 4 under No. F-1-3/TGT/2003-04/KVS(Estt.II) transfer the applicant from KV, BRPL, Bongaigaon to KV, Satakha in Nagaland on the plea of staff in ~~excess~~ excess of the sanctioned strength in the Vidyalaya which is required to be redeployed against the existing vacancies on other Kendriya Vidyalayas in the name of Public interest.

A copy of the said office order dated 18-7-2003 is annexed herewith as Annexure-F.

4.9. That in pursuant to the said transfer order the Respondent No. 6, the Principal of the K.V., BRPL, Bongaigaon issued a Relieving order on 22-7-2003 under No. F.31/KV, BRPL/2003-04/437-41 whereby the applicant was relieved in the afternoon of 22-7-2003 to report for duty at Kendriya Vidyalaya, Satakha (Nagaland) immediately.

A copy of the said Relieving order dated 22-7-2003 is annexed herewith as Annexure-G.

4.10. That the applicant on receipt of the said transfer order dated 18.7.2003 issued by the Education Officer, KVS, New Delhi-16 and the relieving order dated 22-7-2003 and having no other alternative submitted an application on 1-8-2003 before the Commissioner, KVS, 18th Institutional Area, Shaheed Jeet Singh Marg, New Delhi-16 stating all the facts. In the said

application the applicant stated inter alia that the joining of Miss N. Goswami against 'Zero' vacancy is illegal and the Assistant Commissioner, (GR) ~~xxxx~~ has acted ~~as~~ illegally and arbitrarily in directing the principal, KV, BRPL, Bongaigaon for allowing Miss N. Goswami to join against the 'Zero' vacancy. It was further stated that the impugned transfer order as well as relieving order will adversely affect her family life as she has two school going children residing with her and she can not take them to such remote area and requested the authority to do justice being a lady teacher. The applicant also stated that in a similar case a teacher joined against 'Zero' vacancy in K.V. No.1, Tezpur has been transferred to K.V. Lakra, but in her case it was reversed. The Respondent instead of transferring Miss N. Goswami who has joined against 'Zero' vacancy, transfer the applicant to Satakha who was working against a sanctioned post in the said vidyalaya. Lastly the applicant requested the Commissioner, KVS, New Delhi to look into the matter sympathetically and to do justice by allowing her to stay at KV, BRPL, Bongaigaon.

A copy of the said application dated 1-8-2003 is annexed herewith as Annexure-H.

4.11. That the applicant begs to state that the Respondent authorities acted illegally and arbitrarily

in transferring the Respondent No.7 vide order dated 31-3-2003 from K.V.Guwahati, Khanapara to K.V.BRPL, Bongaigaon where there was no vacant post and the direction of Respondent No.5 to allow Miss N. Goswami to join against 'Zero' post is also violates the transfer guidelines of the KVS, and as such the impugned order dated 18-7-2003 is bad in law and is liable to be set aside.

4.12. That the applicant begs to state that she had been transferred from K.V.No.1, Tezpur to K.V., BRPL,Bongaigaon, on her request being nearer to her home town as her husband has been working at Kokrajhar, by following all the norms of the transfer guidelines. The Respondent authorities by passing the transfer guidelines, transfer the applicant again to such a remote area i.e. KV, Satakha in Nagaland within a short span of time just to absorb Miss N.Goswami who was allowed to join against 'Zero' vacancy is noting but an arbitrary action on the part of the Respondent authorities just to harass a lady employee and as such the impugned order of transfer is bad in law and is liable to be set aside.

4.13. That the applicant being a lady teacher was transfer to K.V.,BRPL,Bongaigaon in the month of April, 2002 on her request against the sanctioned post, but

- 11 -

the Respondent authorities without considering the case of the applicant issued the impugned transfer order dated 18-7-2003 just to accomodate the Respondent No.7 who was joined as excess TGT(Bio) against 'Zero' vacancy being a lady teacher which is a clear discrimination and arbitrary action on the part of the Respondent authorities and as such the impugned transfer order dated 18-7-2003 and the relieving order dated 22-7-2003 are liable to be set aside and quashed.

4.14. That the applicant states that though the Principal, K.V.,BRPL,Bongaigaon wrote to the Education Officer,K.V.S.,18 Institutional Area, New Delhi-16 stating that as there was only one sanctioned post of TGT (Bio) for the session 2003-04 against which the applicant has been working since April,2002 and as such, it was not possible to accomodate Miss.N.Goswami in the said Vidyalaya. But the Respondent No.5, the Assistant Commissioner,Guwahati Region knowing fully well that there was no vacant post in the K.V.,BRPL, Bongaigaon, directed the Principal,K.V. BRPL to accomodate the Respondent No.7 against 'Zero' vacancy in the said vidyalaya is a clear violation of the transfer guidelines of the KVS and as such the impugned order of transfer dt. 18-7-2003 and the relieving order dated 22-7-2003 are illegal and is liable to be set aside.

4.15. That the applicant begs to state that though she has filed two applications viz.application dated

26-4-2003 made immediately after joining of Respondent No.7 against 'Zero' vacancy, apprehending her stability at the said vidyalaya but the Respondent authorities did not consider the same and another application dated 1-8-2003 by which the applicant requested the Respondent authorities to allow her to stay at K.V.,BRPL, Bongaigaon as her transfer to K.V.Satakha in Nagaland is arbitrary and discriminatory and just to favour the Respondent No.7 to accomodate in place of ^{the} applicant. But the Respondents authorities did not consider the said application of the applicant.

4.16. That what have been narrated above, it is, apparent that the Respondents have meted out differential treatment to the applicant without any justifiable reason. There is no earthly reason to transfer Miss.N.Goswami TGT from K.V.,Guwahati, Khanapara to K.V.,BRPL, Bongaigaon where no post was lying vacant. The Respondents, therefore, duty bound to justify the reason before the Hon'ble Tribunal in this application.

4.17. That the applicant states that it is a fit case for the Hon'ble Tribunal to interfere with the impugned order of transfer dated 18.7.2003 to protect the rights and interest of the applicant and to restrain the Respondent authorities not to disturb the applicant from her present place i.e. K.V.,BRPL,

Bongaigaon and/or for suspension of the operation of the impugned order of transfer dated 18-7-2003 and the relieving order dated 22-7-2003 till the ~~xx~~ case of the applicant is considered by this Hon'ble Tribunal. Be it mentioned herein that the applicant being suffering from Cervical Spondalities and hypertension, she is on medical leave.

4.18. That this application is made bona fide and for the interest of justice.

5. GROUND FOR RELIEF(S) WITH LEGAL PROVISIONS :-

5.1. For that the impugned order of transfer dated 18.7.2003 and relieving order dated 22-7-2003 are illegal and as such are liable to be set aside.

5.2. For that the Respondent authorities acted illegally and arbitrarily in transferring the applicant from K.V., BRPL, Bongaigaon to K.V., Satakha (Nagaland) just to accommodate the Respondent No.7 who was allowed to join at the K.V., BRPL, against 'Zero' vacancy on being transfer from K.V., Guwahati, Khanapara.

5.3. For that the action of the Respondent authorities particularly Respondent No.5 who direct the Principal, K.V., BRPL, Bongaigaon to allow the Respondent No.7 to join there against 'Zero' vacancy means no

vacancy is unknown to the transfer guidelines of the KVS as well as the service jurisprudence and as such the subsequent transfer order of the applicant just to accommodate the Respondent No.7 is illegal and as such is liable to be set aside.

5.4. For that the applicant has joined in the K.V., BRPL, Bongaigaon in the month of April, 2002 on being transferred from K.V. No.1, Tezpur on her request as the said vidyalaya is nearest to her home town i.e. Kokrajhar where her husband has been working as an Assam Govt. employee, leaving two school going children and the Respondent authority without considering the said aspect of the applicant issued the impugned order of transfer from K.V., BRPL, to K.V., Satakha in Nagaland just to accommodate the Respondent No.7 but not for any public interest and as such the impugned transfer order dated 18-7-2003 and the relieving order dated 22-7-2003 are bad in law and are liable to be set aside.

5.5. For that Respondents authority acted illegally and arbitrarily in considering the provisions of Clause 10(2) of the Transfer guidelines of the K.V.S. in favour of Respondent No.7 and against the applicant being both are lady teachers and as such the impugned order is liable to be set aside.

- 5.6. For that the Respondent authorities has issued the impugned order with an ulterior motive and mala fide intention just to harass her and to favour the Respondent No.7.
- 5.7. For that the Respondents have meted out a hostile discrimination to the applicant in transferring her from K.V., BRPL to a remote disturbed area K.V. Satakha, Nagaland, just for the purpose of accommodation of Respondent No.7 & not for any public interest.
- 5.8. For that in any view of the matter, the impugned order of transfer dated 18.7.2003 and the relieving order dated 22-7-2003 are bad in law and as such are liable to be set aside.

6. DETAILS OF REMEDIES EXHAUSTED :-

That the applicant states that he has no other alternative and other efficacious remedy than to file this application. Representations through proper channel were submitted by the applicant but no favourable action has yet been taken by the Respondents.

7. MATTER NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OF THE TRIBUNAL OR ANY OTHER AUTHORITY :-

The applicant further declares that she 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 of the case the applicant prays that your Lordships would be pleased to issue notice to the Respondents to show cause as to why the reliefs sought for by the applicant shall not be granted, call for the records of the case and on perusal of the records and after hearing the parties on cause ~~or~~ or causes that may be shown be pleased to grant the following relief(s) :-

8.1. That the impugned order of transfer issued under letter No.F.1-3/TGT/2003-04/KVS(Estt.II) dated 18.7.2003 (Annexure-F) transferring the applicant from Kendriya Vidyalaya, BRPL, Bongaigaon to Kendriya Vidyalaya, Satakha, Nagaland, and the relieving order dated 22-7-2003 issued under No.F.31/KV ERPL)2003-04/437-41 (Annexure-G) be set aside and quashed.

8.2. Costs of the Application.

8.3. Any other relief(s) to which the applicant is entitled to under the facts and circumstances of the case and as may be deemed fit and proper by this Hon'ble Tribunal.

9. INTERIM RELIEF(S) :-

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

9.1. That the Respondents authority may be directed not to disturb the applicant from her present place i.e. Kendriya Vidyalaya, BRPL, Bongaigaon till disposal of this application and/or suspend the operation of the impugned order of transfer dt. 18.7.2003 and the relieving order dated 22-7-2003 till disposal of this application.

10.

That this application has been filed ~~xxx~~ through Advocate.

11. PARTICULARS OF THE I.P.O/BANK DRAFT :-

(i) I.P.O./Bank Draft No. :- 9G 158995

(ii) Date of issue :- 18-8-2003

(iii) I.P.O./Bank draft issued from :- G.P.O., Guwahati

(iv) I.P.O/Bank Draft parable at :- Guwahati

12. LIST OF ENCLOSURES :-

As stated in the Index.

VERIFICATION

I, Smti. ~~Ramkali~~ Pratibha Brahma, wife of Sri Khargeswar Brahma, aged about 34 years, resident of Ward No.8, Hatimata Road, P.O. & P.S. Kokrajhar, District-Kokrajhar, Assam, do hereby verify and declare that the statements made in paragraphs 1,2,3,4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to my legal advice which I believe to be true and I have not suppressed any material facts.

And I sign this verification on this the 26th day of August/2003.


Pratibha Brahma
Signature

KENDRIYA VIDYALAYA SANGATHAN
18, INSTITUTIONAL AREA,
SHAHEED JEET SINGH MARG
NEW DELHI - 110 016

F-7-1(TGT/BIOL)/2002/KVS(Estt.III)

Date : 01/04/2002

TRANSFER ORDER

Transfer of the following Trained Graduate Teachers (Biology) are hereby ordered on request.

POST : TGT SUBJECT : BIOL

SNo.	EMPLOYEE-NAME	FROM	TO		
RNo.	ID No.	KV STATION	REGION	KV STATION	REGION
1	BIJAYA PRADHAN	154	103	04	300 171 07
21	7365	KHARAGPUR NO.II (RLY)		PATIALA NO.III (NEW LAL BAGH C	
2	R K PANDIT	152	103	04	154 103 04
22	7366	KALAIKUNDA NO. I		KHARAGPUR NO.II (RLY)	
3	H K BINDHANI	149	099	04	152 103 04
23	7367	GOMOKH		KALAIKUNDA NO. I	
4	D K MAMGAIN	793	454	18	313 174 08
24	7368	LOKTOP (HEP)		BAREILLY, IZZAT NAGAR (IVRI)	
5	CHANCHAL GUMBER	517	188	08	349 196 08
25	7369	MUZAFFAR NAGAR		SRINAGAR (SSB)	
6	SNEH P ARORA	355	198	09	352 198 09
26	7370	BADARPUR (NTPC)		ANDREWS GANJ	
7	KARANJIT KAUR V	458	241	11	360 198 09
27	7371	HYDERABAD, UPPAL NO.II(SOI)		DELHI CANTT NO.I	
8	SARITA SURI	018	010	01	379 203 09
28	7373	GANDHIDHAM (IPPCO)		MURAD NAGAR	
9	KANCHAN PARASHAR	576	316	13	358 199 09
29	7374	SURATGARH NO.I (APB)		DADRI (APB)	
10	PRATIBHA BRAHMA	437	231	10	407 212 10
30	7375	TEZPUR NO.I		BONGAIONGAON (BRPL)	

This issues with the approval of the competent authority of KVS.



(M.K. RAO)
DY. COMMISSIONER(Admn.)

DISTRIBUTION :

1. The individual concerned.
2. The Principal concerned with the direction to relieve the employee immediately. They are also directed to intimate this office/RO concerned about relieving/joining of the employee.
3. Asstt. Commissioner, KVS, RO concerned for information and necessary action.
4. Audit and Accounts officer of the Region concerned for necessary action.
5. General Secretaries of the recognised associations of KVS.
6. Office Copy

*Certified to be true copy
S. Rao
06/04/02*

43
Annexure-B'

(Type Copy)
(Relevant portion)

Kendriya Vidyalaya Sangathan
is Institutional Area,
Shaheed Jeet Singh Marg
New Delhi - 110016.

No. 7-1(D)/(TGT)/BIOL/2003/KVS(Estt. II).

Date : 31/03/2003

TRANSFER ORDER

In terms of clause 10(1)&(3) of the transfer guidelines which inter-alia, provides to create a Vacancy so as to accommodate the persons who are figuring in priority list. If, as per their priority position, transfer of the following is hereby ordered on request/in public interest.

The lady employees getting displaced out of National zone have been adjusted against the vacancy within the ~~displaced~~ National Zone, subject to its availability. Otherwise the seniormost male teacher in the National Zone has been displaced out of National zone to restrict female employees displacement within the National Zone. In case both the above options were not possible, the female employees have been displaced out of National Zone. This is as per amended clause 10(2) of the said guidelines circulated vide 1-1/2002-2003/KVS(E.III dated 8.1.03. The employees transferred in public interest is entitled for all transfer benefits as per KVS Rules. The transfers are with effect from 1/4/2003.

POST : TGT SUBJECT : BIOL

<u>Employee Name</u>	<u>ID. No.</u>	<u>Sex</u>	<u>Transferred from</u>	<u>To</u>	<u>Female Nature Disp. of transfer</u>
1. Ranjita Das 4665 (By Displacing)		F	Bongaigaon(BRPL)		On Req. Guwahati, Khanapara In public int.
2. N. Goswami, 4666		F	Guwahati, Khanapara		U/c 10(2) Bongaigaon(BRPL)

.....
.....

Certified & true copy
Devasena
Education Officer

Sd/- P. Devasena,
Education Officer

F. No. 37

46
601

S. P. K. S. (Dr. B. A.)

KENDRIYA VIDYALAYA SANGATHAN
10, INSTITUTIONAL AREA,
SHRIHED JEET SINGH MARG
NEW DELHI - 110 016

F. No. 37 (CONT'D) KVS(E.III) Dated 10/03/2003

Date : 31/03/2003

TRANSFER ORDER

In terms of clause 10(1)(b) (3) of the transfer guidelines which inter-alia provides to create a vacancy so as to accommodate the persons who are figuring in priority list II, as per their priority position, transfer of the following, is hereby ordered on request in Public Interest. The lady employees getting displaced out of National zone have been adjusted against the vacancy within the National Zone subject to its availability. Otherwise the seniormost male teacher in the National Zone has been displaced out of National Zone to restrict female employees displacement within the National Zone. In case both the above options were not possible, the female employees have been displaced out of National Zone. This is as per amended clause 10(2) of the said guidelines circulated vide 1-1/2002-2003/ KVS(E.III) dated 8.1.03. The employees transferred in public interest is entitled for all transfer benefits as per KVS Rules. The transfers are with effect from 1/4/2003.

POST : TGT SUBJECT : BIOL

(1) PNo. EMPLOYEE-NAME RNo. ID.NO.	(2) SEX	(3) TRANSFERRED FROM	(4) TO	(5) Disp. of KV STN RGN NZ KV STN RGN NZ I-Z Y/N
---------------------------------------	---------	-------------------------	--------	--

(1) (2)	(3)	(4)	(5)
1 RANJITA DAS 17 4665 (BY DISPLACING)	1434 224 10 4 F BONGAIGAON (BRPL)	1442 227 10 4 GUWAHATI, KHANAPARA	On Req. In Pub. Int.
1 N. GOSWAMI 17 4666	1442 227 10 4 F GUWAHATI, KHANAPARA	1434 224 10 4 BONGAIGAON (BRPL)	U/c 10(2)

(1) (2)	(3)	(4)	(5)
2 ILAFOCU SWARNALATHA AZARAIH 18 4667 (BY DISPLACING)	1217 132 05 3 F DEHURROAD NO.II	1492 251 11 5 SECUNDERABAD, PICKET	On Req. In Pub. Int.
2 C RENUKA DEVI 18 4668 (VICE)	1492 251 11 5 F SECUNDERABAD, PICKET	1713 382 16 5 CHENNAI, AVADI (AFS)	U/c 10(2) CHENNAI, AVADI (AFS)
2 SELVIN ROBERT M 18 4668	1713 382 16 5 M CHENNAI, AVADI (AFS)	1217 132 05 3 DEHURROAD NO.II	In Pub. Int.

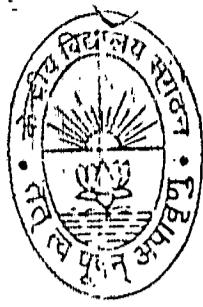
This issues with the approval of the Competent Authority of KVS.

NZ=National Zone

(F. DEVASENA)
EDUCATION OFFICER

- DISTRIBUTION :
1. The individual concerned.
 2. The Principal concerned with the direction to relieve the employee immediately. They are also directed to intimate this office/ RO concerned about relieving/ joining of the employee.
 3. Asstt. Commissioner, KVS/ RO concerned for information and necessary action.
 4. Audit and Accounts officer of the Region concerned for necessary action.
 5. General Secretaries of the recognised associations of KVS.
 6. Office Copy

39
10/04/2003Received By
10/4/03Certified to be true all
R. K. S.
10/4/03

Copy to

केन्द्रीय विद्यालय (बी.आर.पी.एल.) बंगाईगाँव

48

पो. ढालीगाँव, जिला : बंगाईगाँव (असम), पिन नं. ७८३३८५
फोन : (०३६६४) ५३०२६, ४१२६५, आन्तरिक : ८२२५, ७६९

Kendriya Vidyalaya (B.R.P.L) Bongaigaon

P.O. DHALIGAON-783385 . DIST. BONGAIGAON (ASSAM)

○ : (03664) 42026, 41265 & Intercom : 8225, 761

प्राप्ति नं :

Ref. No. : 0...51/KV/estt.II/2003-04/110

दिनांक :

Date : 11/04/2003

M. P. Devasena
Education Officer,
Kendriya Vidyalaya Saganthan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi-110 016.

Sub: TRANSFER ORDER – Reg.

Ref.: No. 7-1(D)/(TGT/BIOL)/2003/KVS(Estt.II) dated 31.03.2003

Sir,

With reference to the transfer order No. cited above Ranjita Das TGT(Bio) of this Vidyalaya has been transferred to K. V. Guwahati, Khanapara on Request and N. Goswami of K. V. Khanapara posted to this Vidyalaya in public interest.

In this connection I am to inform you that there is only one sanctioned post of TGT(Bio) for the session 2003-04 in this Vidyalaya against which the teacher is already working.

This is for your kind information and necessary action please.

Yours faithfully,

(A.M.KHAN)

PRINCIPAL

Copy to:- 1. The Assistant Commissioner, KVS, RO, Guwahati for information.

2. The Principal, K. V. Khanapara, Guwahati for information.

PRINCIPAL

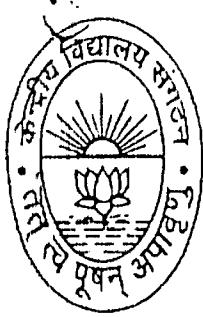
प्राचार्य/Principal,

केन्द्रीय विद्यालय (बी.आर.पी.एल.)

१८ असम राज्य एवं बंगाईगाँव/बी.प्ल. बंगाईगाँव

प.स. ७८३३८५

Copy to be done on
20/04/2003
Certified to be true copy
Deva Sena



केन्द्रीय विद्यालय (बी.आर.पी.एल.) बंगाइगाँव

पो.० ढालीगाँव, जिला : बंगाइगाँव (असाम), पिन कोड-७८३३८५
फोन : (०३६६४) ५३०२६, ४१२६५, आंन्तरिक : ८२२५, ७६१

Kendriya Vidyalaya (B.R.P.L) Bongaigaon

P.O. DHALIGAON-783385 . DIST. BONGAIGAON (ASSAM)

Office : (03664) 43026, 41265 & Intercom : 8225, 761

पत्रांक सं. :

Ref. No. : 6/35/प्र० अ. ३६१/२. - ३०४/ १३६. ३७

दिनांक :

Date : २५/०४/२००३

The Education Officer, (एस.ए. - II)

Kendriya Vidyalaya Sangathan,
(H.Q), New Delhi - 16.

Subject :- Intimation regarding joining of Teachers.

Sir,

With reference to the subject cited above, It is informed you that the following teachers have joined in this Vidyalaya on transferred.

Details are given below :-

Sl.No.	Name of Teachers	Latter No. & Date	Date of joining	Remarks
01.	Miss N. Goswami TGT(CBZ)	F. 7-1(D)(TGT/BIOL) 2003/KVS(Estt.II) dt. 31/03/2003	22/04/2003 (F/N)	Joined against '0' vacancy as AC's (GR) Instruction.
02.	Smt. Minati Nobis PRT	F. 2-1(PRT/2003/KVS/ (Estt.II) dt. 31/04/2003	11/04/2003 (F/N)	

Yours faithfully,

११०५/८०८
(M.P. Pathak)
PGT (Maths)
Offg. Principal
प्राचार्य/Principal.

Copy for information & necessary action to :-

- 1) The Asstt. Commissioner, KVS(GR), Guwahati - 12.
- 2) The Principal, KV, Khanapara, Guwahati - 22.
- 3) The Principal, KV, Panbari, Dhubri.

११०५/८०८
PRINCIPAL

प्राचार्य/Principal.

केन्द्रीय विद्यालय (बी.आर.पी.एल.)
बंगाइगाँव, असाम/ केन्द्रीय विद्यालय
बंगाइगाँव, असाम/ B.R.P.L. Bongaigaon
Assam, India

Certified to be true
20/4/2003

From:
Pratibha Brahma
K.V.BRPL,Bongaigaon
26th,April.2003

To
The Education officer,
Regional Grievance Officer,
Kendriya Vidyalaya Sangathan,
Guwahati Region,
Guwahati-12

Through Proper channel

Sub:- Joining of TGT (Bio)in Zero vacancy

Sir,

With due respect and honour I would like to bring the following few lines for your kind consideration and favorable action.

1. Sir,I Joined the KVS in the year 1.8.1995 and was initially posted at K.V Kokrajhar as TGT (CBZ).
2. In the year 2001 I was declared surplus from K.V.Kokrajhar and posted to K.V.No.1,Tezpur.
3. I was then transferred to K.V.BRPL in the year 2002 on request transfer.
4. Sir,as per KVS letter F.No.1-1-2002-03/KVS(O&M),Dated 13.2.2003,the KV,BRPL ,Bongaigaon has been made Single Section school and one post of TGT Science declared surplus. The surplus TGT was transferred (On request)to KV,Khanapara,as per KVS letter F-7-1(D).TGT(Bio)2003/KVS/EST-II.Dated 31.3.2003.The displaced TGT from KV Khanapara has Joined KV.BRPL on 22.04.2003 against Zero Vacancy.
5. Sir, as another TGT has joined in this Vidyalaya, I am worried of my stability at this Vidyalaya, although I have completed only one year of tenure. My husband is an permanent employee of Assam government and presently working in Kokrajhar, which is also my home town. I have requested transfer in KV, BRPL as the said KV is nearer to my home town. So if I am transferred to some other places I will have to face great difficulties which will also adversely affect my children.

Hence I request your good self to kindly look into the matter and do justice by allowing me to complete my tenure at K.V B.R.P.L and oblige.

Enclos :- As above

Thanking you in anticipation

Yours faithfully,

Pratibha Brahma

TGT(Bio)

26/04/03
KENDRIYA VIDYALAYA
SANGATHAN
GUWAHATI-12
Assam
State Board of Secondary
and Higher Secondary Education

Certified to be true copy
26/04/03

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

No.F.1-3/TGT/2003-04/KVS(Estt-II)/

SPEED POST

Date : 18.7.2003

OFFICE ORDER

Due to fixation of staff strength in Kendriya Vidyalayas for the year 2003-2004 the staff in excess of the sanctioned strength in certain Vidyalayas is required to be redeployed against the existing vacancies in other Kendriya Vidyalayas in terms of KVS (Uqis.) office memorandum No.F.1-1/2002-2003-KVS(Estt-II) dated 20.1.2003. Accordingly, the following Trained Graduate Teachers (Biology) are redeployed in the Kendriya Vidyalayas shown against their names in public interest with immediate effect.

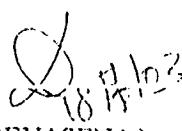
S. No.	Name of the PGT	Present KV	Redeployed to KV	Name of the Region
	Slv/Smt/Ms.			
1.	V. Chawla	No.1, Hindon	Mashrak	Patna
2.	Anju Arora	No.1, Delhi Cantt.	No.2, Akhnoor	Jammu
3.	S.L. Gupta	No.1, Faridabad	Kathua	Jammu
4.	Tripti Adhikari	Keshavpuri	SIPB Guratgarh	Jaipur
5.	Uma Sharma	No.2, Hindon	Jalipa Cantt.	Jaipur
6.	S.K. Vaid	AFS Gurgaon	Singrauli	Jabalpur
7.	Dhira Srivastava	NF Centre	Chirumiri	Jabalpur
8.	Vinod Malhotra	NTPC Badarpur	No.4, BCPP Korba	Jabalpur
9.	Geeta Bajaj	Vikaspuri	No.4, Jalandhar	Chandigarh
10.	Veena	Shalimarbagh	Motihari	Patna
11.	Kawaljit Kaur	Gole Market	No.1, Udhampur	Jammu
12.	Ruby Sharma	Vikaspuri	Dharamshala Cantt.	Jammu
13.	Prabha Bidani	Janakpuri	Patratu	Patna
14.	A.K. Dubey	Hissar Cantt.	Anantnag	Jammu
15.	Shashi Dhar	Rohitak	No.4, Bhatinda	Chandigarh
16.	P.S. Lekhraj	Muradnagar	Clement Town, Dehradun	Dehradun
17.	Shashi Bali	Manesar	No.3, Patiala	Chandigarh
18.	D. Das	Borjhar	Silchar	Silchar
19.	Rupali Saikia	Khanapara	Panisagar	Silchar
20.	P. Brahma	BRPL Bongaigaon	Satakhia	Silchar
21.	Uma Dutta	Srikakulam	Angul	Bhubneshwar
22.	S.K. Mohanty	ONGC Rajamundry	Balasore	Bhubneshwar
23.	Ms. Mangala Mohan Gaikwad	No.1, Vijayawada	Cuttack	Bhubneshwar
24.	Smt. Padmavathy	No.2, Vijayawada	Khurda Road	Bhubneshwar
25.	G. Ramamoorthy	No.1, Tirupathi	No.1, AFS Pune	Mumbai
26.	V. Pandey	Old Cantt. Allahabad	Dipatoli Ranchi	Patna
27.	Ms. Radhika Pandey	Phulpur Allahabad	No.1, STC Jabalpur	Jabalpur
28.	Ms. Manju Singh	Bulandshahar	Alwar	Jaipur
29.	Sh. Subedar Singh	Faizabad Cantt.	Jawaharnagar	Patna
30.	Sh. R.C. Veena	Gonda	Bokaro Thermal	Patna
31.	A. Mehtotta	AMC Lucknow	No.1, GCF Jabalpur	Jabalpur
32.	Sh. K.M. Yadav	Gomtingar	Ganpara	Patna
33.	R.A. Singh	MRN Mathura	Pachmarhi	Bhopal

Certified to be true
July 2003

34.	Lalita Singh	Raebareli	No.3, Jhansi	Bhopal
35.	Hunjan S.K.	Kalpakkam No.1	Donimalai	Bangalore
36.	Ms. Farida Begum	No.2, Kalpakkam	MIRC Ahmednagar	Mumbai
37.	Ms. Mary Varghese	Port Blair No.1	Cossipore	Kolkata
38.	Sh. Peter Alosius V	Karaikudi	Paradip Port	Bhubheshwar
39.	Smt. Loganayaki	Coimbatore	Kudreinukh	Bangalore
40.	Sivadasan T.P.	Ottapalam	MIRC Ahmednagar	Mumbai
41.	Ms. Savithanath K.S.	No.2, Trichy	Raichur	Bangalore
42.	Laila R.G.	Palaghat No.2	ASC Bangalore	Bangalore
43.	Shyamala E.R.	PT Cochin	IIT Powai	Mumbai
44.	Aleyamma George	No.2 Cochin	INS Mandovi	Bangalore
45.	M.J. Joseph	PT Cochin	No.1, Bhusawal	Mumbai

45 Only

This issues with the approval of the competent authority.


 (P. DEVASEENA)
 EDUCATION OFFICER

Distribution to-

1. The Individual concerned.
2. The Principal, KV concerned.
3. The Assistant Commissioner, KVS(RO), concerned.
4. Guard File.

KENDRIYA VIDYALAYA, BRPL,
BONGAIGAON

No. F. 31/KVBRPL/2003-04/ 437 - 41

Dated :- 22/07/2003.

RELIEVING ORDER

Consequent upon her transfer order No. F. 1-3/TGT/2003-04/KVS(Estt-II) dated 18/07/2003 Smt. P. Brahma, TGT(Bio.) is hereby relieved in the afternoon of 22/07/2003 to report for duty at Kendriya Vidyalaya, Satakh (Nagaland) immediately.

Her service Book and personal file will be sent separately by Registered post. However a copy of the LPC is enclosed herewith.

To

Smt. P. Brahma, TGT(Bio.)
 Kendriya Vidyalaya ,BRPL,
 Bongaigaon

(A.M.KHAN) —
 PRINCIPAL
 प्राचार्य/Principal,

केन्द्रीय विद्यालय/KENDRIYA VIDYALAYA
 गो. गारा. नि. ४८, लोकार्थम/BRPL, Bongaigaon.

Copy for information and necessary action to :-

- 1) The Principal, Kendriya Vidyalaya, Satakh (Nagaland). असम/ASSAM
- 2) The Asstt. Commissioner, KVS (GR), Guwahati.
- 3) The Asstt. Commissioner, KVS (SR), Silchar.
- 4) Ms.P.Devasena, Education Officer, KVS(Hqrs.) New Delhi
- 5) Personal file of Smt.P. Brahma, TGT(Bio.)
- 6) Office file.

(A.M.KHAN)
 PRINCIPAL

Certified to be true copy
Ally 20/8/2003

Dated. 01/08/03

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

Subject: Transfer Order Regarding

Sir,

With due respect and honor I would like to bring the following few lines for your kind consideration and favorable action.

1. Sir, I joined the KVS on 1st August, 1995 and was initially posted at K.V.Kokrajhar as TGT (CBZ).

2. In the year 2001 I was declared surplus from K.V.Kokrajhar and posted to K.V.No.1 Tezpur.

3. Then I applied for my transfer to K.V.B.R.P.L.Bongaigaon, which is the nearest station to my hometown Kokrajhar.

4. I was transferred to K.V.B.R.P.L., Bongaigaon in April 2002 on request transfer.

5. Sir, as per KVS letter F.No.1-2-2002-03/KVS (O&M) Dated 13-2-2003, the K.V. B.R.P.L. Bongaigaon has been made Single Section School and one post of TGT, Science declared surplus. The surplus TGT was transferred on request to K.V.Khanapara, as per KVS letter F.7-1(D). The displaced TGT from K.V..Khanapara joined K.V.B.R.P.L. on 22-04-2003 against zero vacancy. Principal of K.V. B.R.P.L. did not allow her to join as I was already working in the existing post of TGT Science. But Assistant Commissioner (GR) gave her special permission to join K.V. B.R.P.L. The Principal of K.V.B.R.P.L immediately intimated all these matters to the Assistant Commissioner (GR) and KVS Headquarter New Delhi for correction.

6. In such a critical situation, I requested AC Sir to let me know about my position in K.V.B.R.P.L. but he refused to do so.

7. Sir, now unexpectedly I've been transferred to Satakha Nagaland as per KVS letter No.F.1-3/TGT/2003-04/KVS ESTT-11 Dated 18-7-2003 although I've completed only one year of tenure in K.V. B.R.P.L. This is a sheer injustice meted to a helpless lady teacher like me.

8. Sir, this transfer will adversely affect my family especially, my two children because I'll not be able to take them to remote area like Satakha along with me. Besides I don't have any one to look after them in my absence.

Tezpur

9. Sir, similar case of a teacher joining against zero vacancy in K.V.No.1 has been transferred to K.V. Lakra. But in my case reverse has happened without any fault of mine.

10. Sir, I've always tried my level best to be a good teacher and devotedly rendered my service for the well-being of students & school as a whole. Students & Annual Inspection Team conducted by KVS has always appreciated my teaching. But continuous transfer has greatly disturbed my service life and I'm mentally depressed. Presently, I'm severely suffering from Cervical Spondalities and Hypertension.

Hence, I request your good self to kindly look into the matter sympathetically and do justice by allowing me to complete my tenure at K.V.B.R.P.L.. Bongaigaon and oblige.

Thanking you in anticipation.

Confidential to be done copy
Pratibha Brahma
20/7/2003

Yours faithfully,
Pratibha Brahma
PRATIBHA BRAHMA TGT, CBZ

(29) S4

State of Assam	Central Administrative Tribunal
26 OCT 2003	
Smti. Pratibha Brahma Guwahati Bench	

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,
GUWAHATI.

Q.A. NO. 189/2003.

Smti. Pratibha Brahma.

-versus-

Union of India & Ors.

In the matter of -

written statement filed by the
Respondent No. 1, 2, 3, 4, 5 & 6.

-And-

In the matter of -

Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Guwahati Region, Guwahati - 12.

..... Respondent No. 5.

the humble written statement of the
Respondent abovenamed. -

Most Respectfully sheweth :-

1. That the respondent states that in the instant application the answering respondent No. 5 is made a party respondent along with respondent No. 1, 2, 3, 4 & 6 and one private respondent No. 7. That a copy of application was served upon him. He has gone through the contents of the original application and have understood

the same....

Filed by / to Respondent
Through Mr. M. Johnson
Standing Counsel KWS
31-10-03

the same and he is competent to file this written statement on behalf of him and other respondent number as stated above as they being the official respondent.

2. that the respondent states that the statement and averments made in the original application are totally denied. the statement which are not born out of record are denied. the respondent further states that the statements which ~~exist~~ are not specifically denied are deemed to be denied.

3. that the respondent states that before controverting the statements and averments made in the original application the respondent craves leave of this Hon'ble Tribunal to submit the following facts and brief for appreciation.

PRELIMINARY SUBMISSION.

4.(i) Kendriya Vidyalaya Sangathan is an Autonomous Body Registered under Societies Registration Act of 1860 and fully financed by the Govt. of India with the main object of catering to the educational needs of children of transferrable Central Govt. Employees including children of defence personnel by providing a common programme of education all over the country.

4.(ii).....

4.(ii) There are 900 Kendriya Vidyalayas situated all over India and abroad. The employees appointed in K.V.S. are liable to be transferred anywhere in India in the light of Article 54(k) of Education Code and in terms of Appointment Order at the time of entry into the service in K.V.S. It contains the service condition of the employees of Kendriya Vidyalaya Sangathan. No employee has any inherent to stick to a particular place of posting.

4.(iii) Excess to requirement situation arising in Kendriya Vidyalayas is regular feature. The said situation is not because abolition of post but because of its need elsewhere in other K.V.S. Transfer and posting being part and parcel of appointment, the employer has the inherent power to transfer its employee from one place to another as the exigency warrants in public service. In short, as per as Kendriya Vidyalaya system is concerned, teacher renders excess to requirement in one K.V. are not excess to the organisation as a whole but only to that K.V. needing redeployment at any other K.V. where the services are required to be transferred. Annual exercise of staff fixation/modification of staff strength in respect of each K.V. is done on yearly basis, which is common feature in K.V.S. During the course of such exercise, sanction of additional staff or rendering the existing staff as excess to requirement is a consequential action.

4. (iv) KVS has issued comprehensive instructions regarding the identification of the excess staff of a K.V. and his/her redeployment elsewhere, vide OM NO.F/1/2002-2003-KVS (Estt.II) according to the instruction contained in the said O.A. in para 1 identification and redeployment of excess staff has been done as under : -

"The teacher/staff of the particular category who has the maximum stay in a Kendriya Vidyalaya in terms of length of service will be identified as excess to the requirement (surplus) on the basis of the staff sanction order for that Kendriya Vidyalaya for a particular year. The teacher/staff thus identified as excess to the requirement at Kendriya Vidyalaya level will be transferred out of station only if no vacancy exists in that station, in that category and also the teacher/staff so identified happens to be the one who has the maximum stay in terms of the length of service at that station. In case the teacher/staff, if in a particular category, identified as excess to the requirement at Kendriya Vidyalaya level, on the basis of staff sanction order is not the one with maximum stay in terms of length of service at that station, and there is no vacancy in that category in that station, then the teacher/staff....

/staff who has the maximum stay in terms of length of service in that station will be transferred out of that station and the teacher/staff identified at Kendriya Vidyalaya level will be adjusted against this created vacancy.

4.(v) Clause 10(1) of transfer guideline has been amended vide KVS Hqrs. Office Memorandum dated 11.3.2002 and 10.9.2002 and this was applicable for the transfers effected for the year 2003-04. The said clause 10(1) reads as follows :-

"Where transfer is sought by a teacher under para 8 of the guidelines after continuous stay of 3 years in N.E. and hard stations and x 5 years elsewhere 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 teacher with longest period of stay at that station provided they have served for not less than five years at that station. provided that principal who have been retained under para 4 to promote excellence, would not be displaced under this clause. For the purpose of counting the length of stay at a station, of teachers seeking transfers, a break caused by a transfer on surplus grounds or because of the school shall not be

given.....

given cognizance for considering the person for inclusion in priority list-II for all stations except the station from which the persons had been rendered surplus. This is confined only to cases where teachers have been transferred out on being rendered surplus from the North-East, J. & K. and the other hard stations only".

4.(vi) In the instant case Smt. P. Brahma, TGT (Bio), KV BRPT, Bongaigaon, who has been redeployed at the K. V. Satakha (Nagaland) vide KVS. Hqrs. order F.1-3/TGT/2003-04/KVS(E-II) dated 18.7.2003, in accordance with the instructions contained in KVS Hqrs OM F.1-1/2002-03/KVS(E-II) dated 20.1.2003 has challenged the said order dated 18.7.2003. It is submitted that the applicant had to be necessarily redeployed at KV Satakha, keeping in view that Smt. N. Goswami, TGT (Bio) KV Khanapara joined at KV BRPT, Bongaigaon consequent on her displacement transfer effected vide KVS Hqrs dated 31.3.2003. Her date of joining at KV BRPT, Bongaigaon is 22.4.2003 and as such she is junior to Smt. P. Brahma, who's date of joining at KV BRPT, Bongaigaon is in the month of April, 2002. Thus being senior in the vidyalaya/station, the applicant was identified as excess to requirement, leading to her redeployment at KV Satakha.

- 7 -

5. that with regard to the statement made in para 1, the respondent states that, there are matter of record, the applicant has been redeployed from K. V. BRPT, Bongaigaon to KV Satakha, well in accordance with the instruction contained in KVS Hqrs. OM dated 20.1.2003, as already submitted in the preliminary submission. The statement of the applicant is totally incorrect and hence denied.
6. that with regard to statement made in para 2 and para 3 and 4.(i) of the application the respondent states that these are matter of record and does not forwarded any comments.
7. that with regard to statement made in para 4.2 that the applicant's joining in the Sangathan as TGT(CBZ) at KV Kokrajhar and her subsequent posting at KV No.1 Tezpur on redeployment, is a matter of record.
8. That with regard to statement made in para 4.3 it is stated that, it is a fact that, the applicant was transferred on her request from KV No.1 Tezpur to KV BRPT, Bongaigaon, vide transfer order dated 1.4.02.

9.....

9. That with regard to statement made para 4.4 the respondent states that Smt. Ranjita Das, TGT(Bio.), KV BRPL Bongaigaon had requested for her transfer to Guwahati station, in response to KVS, Hqrs. circular dated 14.8.2002. She was figuring at priority No.1 in the priority list II and as such her request was acceded to by transferring her to KV, Khanapara Guwahati vide transfer order dated 31.3.2003. She displaced Smt. N. Goswami, TGT (Bio.) from KV, Khanapara Guwahati as the 7th respondent had a length of service of 23 years 3 months at Guwahati station and was the senior most at Guwahati station. As such the transfer of the said teachers effected under clause 10(1) to 10(3) of transfer guidelines is perfectly in order.

10. That with regard to statements made in para 4.5 the respondent states that the 7th respondent had to be permitted to report for duty at KV, BRPL Bongaigaon, as she was displaced from KV, Khanapara, Guwahati irrespective of the fact that already the applicant was working at KV, BRPL Bongaigaon. This is due to the fact that while effecting the transfer of the teachers who had requested for the same by submitting application in the prescribed format in response to KVS, Hqrs. circular dated 14.8.2002, KVS, Hqrs. had followed the priority position of each teacher for the station of their choice and as Smt. Ranjita Das was

figuring.....

figuring at priority No.1 in the second priority list, naturally she got her request transfer to Guwahati station by displacing the 7th respondent.

11. That with regard to the statement made in para 4.6 the respondent states that as already submitted in the above paras, the displaced teacher (7th respondent) was permitted to report for duty at KV, BRPT, Bongaigaon, as per the order dated 31.3.2003, the KV to which she was displaced by Smt. Ranjita Das, TGT (Bio.), KV, BRPT, Bongaigaon. KVS, Hqrs permitted such transfers, since transfer was effected through computer processing and thus the priority position of the teachers who applied for their transfer, had to be necessarily followed, leading to their request getting materialised. The applicant, thus should not have any complaint in this aspect as the 7th respondent was displaced to KV, BRPT, Bongaigaon. The 7th respondent was not shown any favour during the said transfer.

12. That with regard to statement made in para 4.7 the respondent states that, it is submitted that the applicant is having all India transfer liability in terms of article 54 (k) of Education Code. In terms of clause 3 of transfer guidelines, all the employees of the KVS are liable.....

liable to be transferred at any time depending upon the administrative exigencies/grounds, organizational reasons or on request, as provided in these guidelines. It is also been made clear in the transfer guidelines that transfers cannot be claimed as of right by those making requests. It is pertinent to submit that the applicant herself has admitted that she was transferred on her request during the year 2002 from KV, No.1, Tezpur to KV, BRPT, Bongaigaon. Likewise, when the circumstances warranted her redeployment out of KV, BRPT, Bongaigaon as she was found excess to requirement, she should not have any reservation for moving out of KV, BRPT, Bongaigaon. None can demand for sticking to a particular place of posting, especially when they are governed by all India transfer liability. It is once again reiterated that permitting the 7th respondent to join duty at KV, BRPT, Bongaigaon is well in accordance with the transfer order dated 31.3.2003 as the 7th respondent was displaced from Guwahati station. She was not transferred to KV, BRPT, Bongaigaon on her request and as such the applicant cannot attribute any mala fide intention on the part of the respondent.

13. That with regard to statement made in para 4.8 the respondent states that in the matter of redeployment, the instructions issued vide KVS, Hqrs. Memorandum dated

dated 20.1.2003 has been scrupulously followed and accordingly the applicant was redeployed at KV, Satakha, Nagaland. The Annexure -F reveals the redeployment of 45 teachers, excess to requirement in the post of MGT (Bio.) at various KVs outside the region, which includes Jammu, Silchar Regions also.

14. that with regard to statement made in para 4.9, the respondent states that, in accordance with the instructions contained in the transfer order dated 18.7.2003, according to which the redeployment has been done with immediate effect, the applicant was relieved by the principal, KV, BRP, Bongaigaon on 22.7.2003.

15. that with regard to statement made in para 4.10 the respondent states that as already explained in the above paras, the displacement transfer of the 7th respondent to KV, BRP, Bongaigaon is well in accordance with the instructions contained in the transfer guidelines. Regarding the applicant's contention that the joining of 7th respondent at KV, BRP, Bongaigaon against zero vacancy is arbitrary, the respondent respectfully submits that the 7th respondent had to be permitted to resume duty at KV, BRP, Bongaigaon in accordance with the instructions contained in the transfer order dated 31.3.2003. The personal problems put forth by her, like the education of

her.....

her children are common to every employee and as such the said problems cannot be quoted for avoiding the transfer. When the transfers are ordered for reasons like liquidating the excess to requirement situation, the employee concerned has to accept it and cannot get agitated over the transfer. A transfer is almost in all cases involves some amount of inconvenience which has to be borne by the applicant. Accordingly the applicant, being excess to requirement at KV, BRP, Bongaigaon cannot be permitted to continue against a post which has been withdrawn.

16. That with regard to statements made in para 4.11 the respondent states that, the transfer of the respondent No. 7, in public interest, under x clause 10(1) to 10(3) of the transfer guidelines from KV, Khanapara Guwahati to KV, BRP, Bongaigaon in order to accede to the request of Smt. Ranjita Das, TGT (Bio.), KV, BRP, Bongaigaon, by virtue of her priority position is in conformity with the existing transfer guidelines. As such no mala fide intention can be pointed out in the said transfer since KVS, Hqrs. always acceded to the request of the teachers with reference to the priority position to their choice stations. As already submitted, Smt. Ranjita Das got her transfer to KV. Khanapara by virtue of her 1st priority in priority list II.

17. that with regard to statement made in para 4.12 the respondent states that, the applicant herself has accepted that her request for her transfer from KV No.1, Tezpur to KV, BRPL, Bongaigaon was considered by KVS during the year 2002 and accordingly she was transferred to KV, BRPL, Bongaigaon. When she accepts such order as a lawful one, her allegation that her present order is bad in law is not convincing. She should realise that her colleague Smt. R. Das was also transferred on her request from KV, BRPL, Bongaigaon during April, 2003 resulting the joining of Smt. Goswami at KV, BRPL, Bongaigaon. She should accept that transfer, being an incidence of service should be readily accepted keeping in view that she is having all India transfer liability. As far as her spouse's employment at Kokrajhar, being an employee of Assam Govt., the applicant is informed that already KVS considered her request once during the year April, 2002 due to which she could get her transfer to KV, BRPL, Bongaigaon. There can be no doubt that ordinarily and as far as practicable, the spouses who are both employed would be posted at the same stations even if their employers be different, subject to availability of vacancies. Desirability of such course is obvious. However, this does not mean that their place of posting should invariably be one of their choices. Even though their preference may be taken into account

while.....

while making the transfer in accordance with the administrative needs, in case of all India services, the hardships resulting from the two being posted at different stations may be unavoidable at times particularly when they belong to different services and one of them cannot be transferred to the place of other's posting. The applicant should understand the reality that only because she became excess to requirement, the necessity to redeploy her at KV, Satakhia amse.

18. that with regard to statement made in para 4.13 the respondent states that, sufficiently explained the reasons in the above paras for permitting the 7th respondent to report for duty at KV, BRPT, Bongaigaon.
19. that with regard to statements made in para 4.14 the respondent states that, permitting the 7th respondent, who was displaced from KV, Khanapara Guwahati, to report for duty at KV, BRPT, Bongaigaon is perfectly correct and hence does not require any interference.
20. that with regard to statement made in para 4.15 the respondent states that, the redeployment of the applicant at KV, Satakhia, Nagaland is in accordance with the instructions contained in KVS, Hqrs. OM dated 20.1.2003

and.....

and accordingly she has to necessarily report for duty at the place of posting. Domestic difficulties, spouse's employment etc. cannot be cited as grounds for agitating against valid transfer order.

21. That with regard to statement made in para 4.16 the respondent states that, as explained in the above paras, it is once again respectfully submitted that the 7th respondent was transferred to KV, BRP, Bongaigaon, in public interest on displacement and not on her request. In fact the said transfer was effected as Smt. Ranjita Das, TGT (Bio.), K. V., BRP, Bongaigaon requested for her transfer in response to KVS Hqrs. circular dated 14th August, 2002 and stood at priority No.1 for Guwahati station KVS, Hqrs. permitted such request transfers as transfers have been been effected through computer processing and the second priority list was operated to the extent of availability of displaces.

22. That with regard to statement made in para 4.17 the respondent states that, the transfer of the applicant to KV, Satakha effected vide KVS, Hqrs. order dated 18.7.2003 is perfectly in order as not only the applicant but also 44 other teachers in the category of TGT(Bio.)

who

who were excess to requirement, have been redeployed elsewhere against clear vacancies in other regions. No discrimination has taken place in the redeployment of these teams.

23. That with regard to statement made in paragraph 4.18 the respondent states that, from the fore foregoing submission, it is clear that the applicant had to be necessarily redeployed as she was the senior most at KV, BPR, Bongaigaon than Smt. Goswami and accordingly the transfer order may be upheld as no violation has taken place.

24. That with regard to the grounds set forth by the applicant to substantiate her case it is submitted that these are no good grounds since already narrated in the preliminary submissions and parawise comments, the transfer of respondent No. 7 to KV, BPR, Bongaigaon, in public interest on displacement grounds under clause 10(1) to 10(3) of transfer guidelines is perfectly in order. The identification of the applicant as excess to requirement at KV, BPR, Bongaigaon is in conformity with the instructions contained in KVS OM dated 20.1.2003 & and accordingly she has been redeployed at KV, Satakh, Nagaland, vide order dated 18.7.2003. The applicant's

contention.....

contention of mala fide intention on the part of the respondent is unfounded because the transfer of Smt. Ranjita Das, TGT (Bio.) KV BRP, Bongaigaon had to be necessarily effected to KV, Khanapara Guwahati as she was placed at priority No.1 for the said station from where she displaced Smt. Goswami. The domestic difficulties being faced by the applicant cannot be cited as grounds for resisting the transfer which has been ordered because she is became excess to requirement at KV, BRP, Bongaigaon. Hence the transfer order dated 18.7.2003 may please be upheld.

25. That with regard to the relief sought by the applicant under the above facts and circumstances as contended by the respondent at the same time placing the correct position it is submitted that, the transfer order dated 18.7.2003 in respect of the applicant, which is perfectly in order may be upheld as the said redeployment order has been issued not only in respect of the applicant but also in respect of 44 other teachers who were found excess to requirement. The applicant, having all India transfer liability, has to necessarily accept the order issued with the approval of the competent authority without agitating over it.

It is, therefore, humbly prayed that the Hon'ble CAT may very graciously be pleased to uphold the order dated 18.7.2003 transferring the applicant from KV, BRP, Bongaigaon to KV, Satakha, Nagaland, at the time of liquidating the excess to requirement situation and also the relieving order dated 22.7.2003 in pursuance to the above said transfer order and be further pleased to dismiss the O.A. along with the interim relief sought for by the applicant, in limine.

VERIFICATION.

18 81

VERIFICATION

I, Shri D. Manivannan, Son of Shri M. Doraisamy aged about 37 years, presently working as the Officiating Assistant Commissioner, Kendriya Vidyalaya Sangathan, Guwahati Region, Maligaon Chariali, Guwahati-12, do hereby verify that the statement made in paragraphs 1, 2, 3, 4(v)-4(vi), 11, 15-23 are and 25 true to my knowledge and those made in paragraphs 4(vi), 5, 10, 12-14 are based on records.

And I sign this verification on this the 28th day of Oct. 2003 at Guwahati.

Place : Guwahati

D. Manivannan

DEponent

Date : 28/10/03