

of 100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 6.0/2003

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SECTION OFFICER (Judl.)

(RULE - 4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. 60/03

Misc. Petition No. /

Contempt Petition No. /

Review Application No. //

Applicant (s) Pradip Rajkumar

- V.S. -

Respondent (s) H. G. F. Tore

Advocate for the applicant (s) M. Chanda, G.N. Chakrabarty

Advocate for the respondent (s) CGS

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form but not in time <u>Condonation</u> Petition is filed / not filed for Rs. 2/- vide IPO/ 29607046 Dated..... 7.3.03</p> <p><i>By Registrar Phon. 31/3/03</i></p>	1.4.2003	<p>Heard Mr. M. Chanda, learned counsel for the applicant.</p> <p>Issue notice to show cause as to why the application shall not be admitted. Also, issue notice to show cause as to why interim order as prayed for shall not be granted. Returnable by three weeks.</p> <p>List on 23.4.2003 for admission.</p> <p>In the meantime, the operation of the order No. F.No.10-8(18)/2003-KVS(Estt.III) dated 24.3.2003 transferring the applicant from Kendriya Vidyalaya, Silchar to Kendriya Vidyalaya, Sathaka as well as relieving order No. F.NO.PP/PR/KV-SIL/2002-03 dated 26.3.2003 shall remain suspended till the returnable date.</p>
<p>Steps taken alongwith envelope,</p> <p><i>Done</i></p> <p>Notice prepared and sent to D/s for issuing the Condonation No. 1657 by Regd. A/B.</p> <p><i>2/4/03</i></p> <p>DINo 66715673 dd/10/4/03</p>		<p><i>Vice-Chairman</i></p>

23.4.2003

Heard Mr.G.N.Chakraborty, learned counsel for the applicant, on whose prayer the case is adjourned and is posted on 28.4.2003 for admission.

Also heard Mr.M.K.Mazumdar, learned counsel appearing for the respondents, who submitted his written statement.

24.4.03
W/S Submitted
by the respondents.

bb

28.4.2003

Put up again on 29.4.2003 for admission.

Vice-Chairman

Vice-Chairman

mb

29.4.03

Heard counsel for the parties. The case is taken up for disposal at the admission stage. Judgment delivered in open Court, kept in separate sheets.

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

Vice-Chairman

pg

Received Copy
M.K.Mazumdar
1-5-03

22/5.
Copy of the Judgment
has been sent to
the Office for issuing
the same to the applicant
by post.

AFS

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / R.A. No. of ⁶⁰ 2003.

DATE OF DECISION 29-4-2003.
.....

Sri Pradip Rajkumar APPLICANT(S).

Sri M.Chanda ADVOCATE FOR THE
APPLICANT(S).

- VERSUS -

Union of India & Ors. RESPONDENT(S).

Sri M.K. Mazumdar ADVOCATE FOR THE
RESPONDENT(S).

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

THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the judgment is to be circulated to the other Benches ?

Judgment delivered by Ho'ble Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 60 of 2003.

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

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

Shri Pradip Rajkumar,
Son of Sri Brajendra Rajkumar,
Upper Division Clerk,
Kendriya Vidyalaya,
P.O. Tarapur, Silchar-788003.

...Applicant

By Advocate Sri M.Chanda.

- Versus -

1. Union of India,
through the Secretary to the
Government of India,
Ministry of Human Resources,
New Delhi.
2. The Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shahid Jeet Singh Marg,
New Delhi-16.
3. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office, Silchar,
P.O. Silchar, Dist. Cachar.
4. The Principal,
Kendriya Vidyalaya, Silchar,
P.O. Tarapur, Dist. Cachar.
5. The Education Officer,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shahid Jeet Singh Marg, New Delhi-16.
6. Sri V.Shivaji,
Principal,
Kendriya Vidyalaya, Silchar,
P.O. Tarapur, Dist. Cachar,
Assam.
7. Sri M.M.Joshi,
Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office, Silchar,
P.O.Silchar, Dist. Cachar.

...Respondents.

O R D E R

CHOWDHURY J.(V.C)

The issue relates to the transfer and posting.
The applicant who was working as UDC in Kendriya Vidyalaya
Silchar by the impugned order dated 24.3.2003 was

transferred to Kendriya Vidyalaya, Sathaka, Nagaland with immediate effect. The applicant assailed the said order of transfer as arbitrary and discriminatory.

2. Mr M.Chanda, learned counsel appearing for the applicant in his persuasive manner impugned the order of transfer to a far flung area as malicious. The learned counsel submitted that though the expression "public interest" was recited in the order in effect the applicant was transferred at the behest of the respondent No.6, Shri V.Shivaji, Principal of the Kendriya Vidyalaya, Silchar. In support of his contention Mr Chanda referred to his application for leave dated 15.11.2002 and the endorsement of the Principal made therein. Mr Chanda, the learned counsel submitted that the applicant was not allowed to attend religious ceremony by the Principal by refusing to grant him leave admissible to his account and for that matter the applicant ventilated his grievance before the Regional Office of the Kendriya Vidyalaya Sangathan. Instead of remedying the situation the respondent No.6 took the steps for his transfer and finally by the impugned order dated 24.3.2003 the applicant was transferred to Sathaka, at Nagaland, a remote and inaccessible area from his wife and two young children. The learned counsel submitted that prior to his posting at Silchar which was made on spouse ground the applicant served at remote areas of Manipur etc. The learned counsel also submitted that transferring out the applicant from Silchar without finding any substitute itself a ground that transfer was not in the public interest. Mr Chanda lastly submitted that there are posts in and around Silchar, more particularly at Dhalchera and the applicant could have been posted in any of the nearby places taking into consideration the need of the family consisting of his wife and two minor children who are reading in class V and III respectively

3. Mr M.K.Mazumdar, learned counsel appearing for the respondents referring to the written statement contended that transfer order was made purely on public interest. Mr Mazumdar stated that the post of UDC at Sathaka is lying vacant for years together and applicant was accordingly transferred to Sathaka. In answer to the pleading of mala fide the learned counsel stated that before transfer of the applicant the concerned authority took into confidence the appropriate authority including the Assistant Commissioner KVS and thereafter passed the impugned transfer order. Mr Mazumdar, the learned counsel further submitted that considering all pros and cons the authority finally passed the impugned transfer order which cannot be labelled as a mala fide exercise of power.

4. I have given my anxious consideration on the matter. Mr M.Chanda, learned counsel for the applicant brought to me a communication dated 10.1.2003 sent by the Education Officer to the Assistant Commissioner, KVS. By the said communication the Education Officer brought to the notice of the Assistant Commissioner as to a copy of the letter from the Chairman, VMC, Kendriya Vidyalaya, Silchar for recommending transfer of some of the employees of KV, Silchar. The said communication thus indicated that the authority before acting on the recommendation of the Chairman, VMC made effective consultation and thereafter thought it wise to transfer among others the applicant on administrative ground. The said action of the authority perse cannot be said to be arbitrary or discriminatory, after all transfer is an incident of service and the employer is within its right in transferring and posting an employee unless the said order is vitiated by illegality. No such illegality is discernible by the Tribunal on judicial review. On consideration of

all the aspects of the matter the impugned order of transfer of the applicant cannot be said to be vitiated by malice and/or improper motive. In the facts and circumstances no illegality is discernible calling for judicial review. The applicant may, however, file appropriate representation before the authority on joining Sathaka and if such representation is made the respondents authority shall find out a way out for considering his case genially with empathy for posting him in and around Silchar to tide over the family problem.

Subject to observation made the application stands dismissed.

The interim order dated 1.4.2003 stands vacated.

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

(D.N.CHOWDHURY
VICE CHAIRMAN)

केन्द्रीय अधिकारिक न्यायालय Central Administrative Tribunal
31 MAR 2003
<i>(Signature)</i> गुवाहाटी न्यायालय Guwahati Bench
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH : GUWATI

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

O.A. No. 60 /2003

Sri Pradip Rajkumar

—vs—

Union of India & Ors.

24.9.1996 Imphal Bench of the Gauhati High Court disposed of the Writ Petition No. 832/96 with a direction to the respondents to consider the case of the applicant for posting at KV Silchar or a nearby station if post exists.

19.3.97 Division Bench of the Hon'ble Gauhati High Court dismissed the Writ Appeal No. 153/1996 preferred by the respondents.

15/17.7.97 In compliance to Hon'ble High Court's order dated 19.3.97 the applicant was transferred and posted to KV, Silchar.

15.11.02 Application for grant of one day earned leave submitted by the applicant before the respondent no.4 and the said prayer was rejected.

18.11.2002 Applicant submitted a representation to, Regional Grievance Officer Silchar against

Filled by the applicant
 20
 Through advocate
 by Mr. Chakravarty Advocate
 on 31.3.2003. *Pradip*

the arbitrary order rejection of the prayer for grant of one day earned leave.

24.3.2003 Impugned order of transfer and posting has been passed in isolation, transferring the applicant from KV Silchar to KV Sathaka, in the state of Nagaland in total violation of the transfer and posting guidelines issued by the Kendriya Vidyalaya Sangathan dated 25.1.2000 and also in violation of the O.M. dated 12.6.1997 issued by the Govt. of India.

26.3.2003 The relieving order has been issued by the respondent no.4 on 26.3.2003.

27.3.2003 The impugned order of transfer and posting dated 24.3.2003 and the relieving order dated 26.3.2003 as well as office order dated 27.3.2003 has been served upon the applicant through postal services.

12.6.97 Govt. of India issued an O.M directing all the Head of departments of the organization of the Govt. of India for posting of husband and wife who are Govt. employees in the same station.

PRAYER

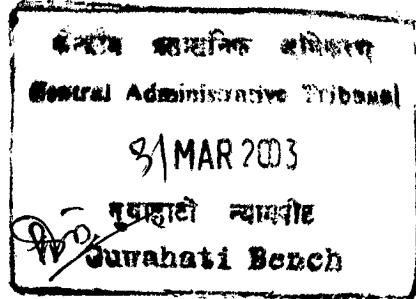
3.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned order of transfer and posting dated 24.3.2003 issued under letter No. F. NO. 10-8(18)/2003-KVS(Estt.III) (Annexure- 6) and the relieving order dated 26.3.2003 and 27.3.2003 issued under letter No.

F. No. PP/PR/KV-SIL/2002-2003 and F. No. 3-12/KV-SIL/2003/1255-1257.

8.2 That the Hon'ble Tribunal be pleased to direct the respondents to allow the applicant to continue in service in his present place of posting i.e. at Kendriya Vidyalaya, KV, silchar in the light of the Office Memorandum dated 12.6.1997 issued by the Government of India, Ministry of Personnel and Training as well as in the light of the transfer and posting guidelines issued by the Kendriya Vidyalaya Sangathan, dated 25.1.2000.

8.2 Costs of the application.

8.3 Any other relief or reliefs as entitled to the applicant under the facts and circumstances stated above as deemed fit and proper by the Hon'ble Tribunal.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

Title of the case : O. A. No. 60 /2003

Sri Pradip Rajkumar : Applicant

- Versus -

Union of India & Others: Respondents.

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Filed by

Date

Advocate

Pradip Rajkumar

Filed by the applicant
through and no case can
be filed by the
Advocate
G. N. Chakraborty
21-3-2003.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

O. A. No. /2003

BETWEEN

Shri Pradip Rajkumar
Son of Sri Brajendra Rajkumar
Upper Division Clerk
Kendriya Vidyalaya,
P.O. Tarapur, Silchar-788003

Applicant

-AND-

1. Union of India,
Through the Secretary to the
Government of India,
Ministry of Human Resource,
New Delhi.
2. The Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shahid Jeet Singh Marg, New Delhi-16.
3. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office, Silchar,
P. O. Silchar, Dist. Cachar.
4. The Principal,
Kendriya Vidyalaya, Silchar.

Pradip Rajkumar

P.O. Tarapur, Dist. Cachar.

5. The Education Officer,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shahid Jeet Singh Marg, New Delhi-16.

6. Sri V. Shivaji,
Principal,
Kendriya Vidyalaya, Silchar,
P.O. Tarapur, Dist. Cachar.
Assam.

7. Sri M. M. Joshi,
Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office, Silchar,
P.O. Silchar, District Cachar.

Respondents.

DETAILS OF APPLICATION

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

This application is made against (a) the impugned order of transfer and posting issued under letter No. 10-S(18)/2003-KVS(Estt.III) dated 24.03.2003, whereby the applicant is sought to be transferred from Kendriya Vidyalaya, Silchar and posted to Kendriya vidyalaya, Sathaka in the state of Nagaland and (b) the consequential order dated 26.03.2003 relieving the applicant of his duty in total violation of the

Pradeep Ray Kerkas

Transfer and Posting Guidelines of Kendriya Vidyalaya Sangathan issued under letter No. F.1-1/99-KVS(Estt.III) dated 25.1.2000 and also in total violation of the Government policy issued under memorandum dated 12.06.1997 in colourable exercise of power.

2. Jurisdiction.

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

3. Limitation

The applicant further declares that this application is filed within the prescribed period of limitation as per Administrative Tribunals Act, 1985.

4. Facts of the Case

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights and privileges as guaranteed under the Constitution of India.

4.2 That the applicant is presently working as Upper Division Clerk (in short UDC) in the Office of the Principal, Kendriya Vidyalaya, Silchar in the state of Assam. It is relevant to mention here that the applicant's wife of Mrs. Sabitri Singha is also a State Government employee and is working as Teacher in Swarnalaxmi Higher Secondary School, Narasinghpur which is nearer to Silchar in the district of Cachar. The applicant has got two minor daughters namely, Miss Sana

Pradip Raykumar

Thaib and Miss Ningthileisna who are reading at Class V. and III respectively in Silchar Kendriya Vidyalaya, Silchar and the youngest daughter is below 10 years of age.

4.3 That the applicant was initially appointed as LDC in the year 1981 and was posted at Kendriya Vidyalaya, Silchar in the state of Assam. Thereafter, he was promoted to the post of UDC in the year 1991. During his short tenure of service career, he has been subjected to transfer to different places in the North Eastern Region at different times including Silchar and he has carried all such transfer orders. The applicant served at KV, Leimakhong in the District of Senapati, Manipur for about four years and he was subsequently posted at KV Silchar in the month of July, 1997. Since July 1997, he is continuously working at KV, Silchar under the Assistant Commissioner.

4.4 That the applicant, while posted at K. V., Leimakhong in the Senapati District, Manipur submitted several representations for his posting in any of the Kendriya Vidyalayas situated at Silchar or adjacent to Silchar. However, finding no response from the competent authority he had to approach the Hon'ble Imphal Bench of the Gauhati High Court by filing an application under Article 226 of the Constitution of India with a prayer for consideration of his posting on spouse ground in any of the Kendriya Vidyalayas at Silchar or nearer to Silchar. The said application was registered

Pradeep Rajkumar

as Civil Rule No. 832 of 1996. The said Civil Rule was disposed of by the Hon'ble High Court on 24.09.1996 with a direction to the respondents to consider the posting of the applicant if there was any post of UDC lying vacant at Silchar. The said order of the learned Single judge was carried on appeal before the Division Bench of the High Court in Writ Appeal No. 153 of 1996 by the present respondents. However, the said Writ Appeal was dismissed by the Hon'ble High Court on 19.03.1997 confirming the order passed by the learned Single Judge.

Copies of the orders dated 24.9.1996 and 19.3.1997 referred to above, are annexed herewith as **Annexure 1 and 2** respectively.

4.5 That the respondents, in compliance with the order of the Hon'ble High Court dated 19.3.1997, transferred and posted the applicant in the vacant post of UDC at KV, Silchar on his request vide letter No. F.4-1/96-KVS(SR)/331-335 dated 15/17.07.97. The applicant accordingly joined thereafter at KV Silchar in the month of July, 1997 and since then he is working there continuously and discharging his duties satisfactorily without any complaint from any corner.

Copy of the order dated 15/17.7.97 is annexed as **Annexure-3.**

4.6 That the applicant begs to state that after his joining in KV, Silchar, he was all along working very

Pradeep Rajkumar

satisfactorily under the guidance of Sri Bhanumurthy, the then Principal and his successor Sri M. Subramhanium. However, since joining of the respondent no. 4 at KV Silchar in the month of June, 2001 the applicant finds it very difficult to discharge his duties. The respondent no. 5 has resorted to harass the applicant every now and then on flimsy grounds and during the course of discharging his duties and this fact would be evident from the following instances as well as from the correspondences mentioned hereunder.

4.7 That the applicant on 15th November, 2002 had submitted an application for grant of earned leave of one day i.e. for 16.11.2002, for attending Shardha Ceremony of his neighbour. But the respondent no. 4 rejected the prayer without showing valid reason. The applicant being aggrieved by the order of rejection of his prayer for one day leave, submitted a representation to the Regional Grievance Officer, Kendriya Vidyalaya Sangathan, Regional Office, Silchar, through proper channel with a copy to the Chairman. The respondent No. 4 got annoyed on receipt of the representation dated 18.11.2002 which was addressed to the Regional Grievance Officer and since then he has started nursing a personal grudge against the applicant and as a result, the respondent no. 4 has developed animosity with the present applicant. Thereafter, the respondent no. 4 started harassing the applicant every now and then on the pretext of official works and started

Pradeep Rajkumar

finding fault always with the applicant on flimsy grounds.

Copies of the leave application dated 15.11.2002 and representation dated 18.11.2002 are annexed herewith as **Annexure-4 and 5** respectively.

4.8 That the applicant came to learn from a reliable source thereafter that the respondent No. 4 being annoyed with him had forwarded a note with adverse remark against the applicant and recommended his transfer from the present place of posting to the office of the Commissioner, New Delhi through Assistant Commissioner. The respondent no. 4 also managed the recommendation of the Chairman, KV, Silchar for transfer and posting of the present applicant from his present place of posting by exercising his influence behind the back of the applicant upon the Assistant Commissioner, Silchar Regional Office as well as Chairman, KV, Silchar. The Assistant Commissioner, Regional Office, Silchar did not make any enquiry for ascertaining the correctness of the fact regarding the adverse remarks endorsed in the letter recommending the transfer of the applicant from the present place of posting.

4.9 That most surprisingly, the Kendriya Vidyalaya Sangathan, New Delhi vide its impugned order bearing letter no. F. No. 10-8(18)/2003-KVS(Estt.III) dated 24.3.2003 now sought to be transferred and posted the applicant from KV, Silchar to KV Sathaka, in the State of Nagaland with immediate effect and the said order

Pradeep Raykher

stated to have been passed in public interest. In the said impugned order dated 24.3.2003 it is instructed to the respondent no.4 to relieve the applicant immediately and also to obtain his signature in the copy of the order of transfer and posting. It is relevant to mention here that on 26.3.2003 the respondents no.4 asked the applicant to wait and receive the impugned order of transfer as well as the order of release w.e.f 26.3.2003 itself. The applicant very humbly and politely requested the respondent no.4 to allow him to continue at least till 31st March, 2003 to enable him to submit a representation before the competent authority against the impugned order of transfer and posting dated 24.3.2003 and also requested the Principal, KV, Silchar to modify the order of release accordingly. The respondent no. 4 did not reject the verbal prayer of the applicant. But surprisingly on 27.3.2003 issued an Office order alleging that the applicant has refused to receive the impugned order of transfer and posting as well as the order of release and by the said Office Order it was further directed to accept the said orders to the applicant and also instructed him to hand over the keys and document on or before 28.3.2003 at 3 p.m. Be it stated that the applicant availed leave on 27.3.2003, however on coming to know about the office order dated 27.3.2003 from a reliable source, he has handed over the relevant keys and documents accordingly within the time scheduled and collected all those orders from the

Pradeep Rajkumar

local post office on 28.3.2003. Therefore contention of the respondent no. 4 that the applicant has refused to accept the impugned order of transfer and posting as well as order of release is not factually correct, rather the hurried attempt of the Principal to deliver the copy of impugned orders of transfer and release order on the same day i.e. on 26.3.2003 which smacks mala fide.

Copies of the order dated 24.3.2003, 26.3.2003, and office order dated 27.3.2003 are annexed as **Annexure 6,7 and 8** respectively.

4.10 That it is stated that the impugned order of transfer and posting dated 24.3.2003 has been passed in isolation only in respect of the applicant and the same has been stated to have been passed in the public interest. Be it stated that till filing of this application the vacant post of UDC which was holding by the applicant has not yet been filled up. The impugned order of transfer does not indicate the same is a routine transfer. Moreover, the impugned order of transfer has been passed in total violation of the professed norms as well as the transfer and posting guidelines issued by the Kendriya Vidyalaya Sangathan on 25.1.2000. Be it stated that in addition to the post of UDC holding by the applicant one more post of UDC at KV, Dhalchera is lying vacant since last six months and the respondents are also well aware that the wife of the applicant is a State Government employee serving as

Pradeep Rayamajhi

Teacher in the Swarnalaxmi Higher Secondary School, Narasinghpur, Assam. As such, in terms of clause 8,9 of the Annual Transfer Guidelines issued by the Kendriya Vidyalaya Sangathan, New Delhi, the applicant is entitled to be considered for posting either in a same station or at least in a nearby school of the Sangathan where the wife of the applicant is posted. But it appears that the respondent no.4 in the instant case of the applicant took an attempt to transfer him out from Kendriya Vidyalaya, Silchar in the light of the instruction laid down in sub clause (i) of clause 5 i.e. on the alleged administrative ground. It is stated that no option was taken from the applicant at any point of time for his posting at KV, Sathaka in the State of Nagaland as well as no opportunity has been provided to the applicant to submit any representation for his retention in the existing place of posting. Therefore the impugned orders of transfer and posting which is passed on the alleged ground of public interest is vague, and the same has been passed in total violation of transfer guidelines, in colourable exercise of power and on that score alone the impugned order of transfer and posting dated 24.3.2003 as well as the impugned order of release dated 26.3.2003 are liable to be set aside and quashed.

4. 2/II That your applicant, begs to state that Kendriya Vidyalaya Sangathan is an autonomous organization under the Government of India, Ministry of Human Resources as

Pradeep Sarker

such all welfare scheme regarding posting of husband and wife in a same station and the Kendriya Vidyalaya is bound to implement those welfare scheme for posting of husband and wife in a same station. In this connection applicant begs to state that the Government of India, Ministry of Personnel and Training also issued O.M. dated 12.6.1997 wherein it is stated that both husband and wife be invariably be posted in a same station when the post exists in the appropriate level and especially when the children of the Government employee is below 10 years of age. In the instant case the applicant is having a female baby aged about 8 years of age and in the absence of the applicant it would be extremely difficult on the part of the applicant who is also an employee of the Govt. of Assam to manage the affairs of the family, as such in the light of the OM dated 12.6.1997 the applicant has acquired a valuable and legal right for retaining him in his present place of posting where the wife of the applicant is presently serving as Teacher i.e. Narsingpur, adjacent to Silchar in the State of Assam. But the respondents in total violation of the scheme issued by the government of India regarding transfer and posting transferring the applicant as stated above. On that score alone the impugned order of transfer and posting dated 24.3.2003 and subsequent orders dated 26.3.2003 and 27.03.03 are liable to be set aside and quashed.

Pradeep Rajkumar

It is further submitted that although the impugned order of transfer and posting has been issued in respect of the applicant stated to have been issued in public interest but no one is posted in place of the applicant as a result the post of UDC is lying vacant at Kendriya Vidyalaya, Silchar as such there will be no difficulty on the part of the respondents to accommodate the applicant in his present place of posting where he is presently working. Be it stated that one more post of UDC is also lying vacant nearby in KV, Dhalchera for last six months which is situated 17/18 kms away from Silchar.

Copy of the Memorandum dated 12.6.97 is Annexed as Annexure-9.

4.9(2) That it is a fit case for the Hon'ble Tribunal to interfere with the impugned order of transfer and posting to protect the rights and interests of the applicant and further be pleased to pass an interim order staying the operation of the impugned order of transfer and posting dated 24.3.2003 and subsequent orders dated 26.3.2003 and 27.3.2003.

4.10 That this application is made bonafide and for the cause of justice.

5. Grounds for relief(s) with legal provision(s):

5.1 For that the applicant has acquired a valuable and legal rights for retaining in the same station where the wife of the applicant is working as Teacher under

Pradeep Raykumar

the Government of Assam in terms of the O.M. dated 12.6.1997 issued by the Government of India, Ministry of Personnel and Training as well as in terms of the transfer and posting guidelines issued by the Kendriya Vidyalaya Sangathan dated 25.1.2000.

- 5.2 For that the applicant is having a female baby aged about eight years as such he has acquired a valuable and legal right for retention in a same station or nearby place when the wife of the applicant is also a state Govt. employee working as Teacher in the light of the O.M. dated 12.6.1997 issued by the Government of India, Ministry of Personnel and Training.
- 5.3 For that the impugned order of transfer and posting has been issued on the basis of confidential complaint lodged by the respondent no. 4 against the applicant behind the back of the applicant in total violation of the principles of natural justice.
- 5.4 For that the impugned order of transfer and posting of the applicant has been issued on the basis of the complaint lodged by the respondent no.4 in total violation of principles of natural justice.
- 5.5 For that no one is replaced in place of the applicant in the office of the Principal, Kendriya Vidyalaya, Silchar till date as such there is no difficulty on the part of the respondents to allow the applicant to continue in his present place of posting i.e. at KV, Silchar Assam.
- 5.6 For that the impugned order of transfer and posting and order of release was served upon the applicant by the

Pradeep Gyawali

respondent no.4 on the same day i.e. only on 28.3.2003 through Postal services without providing any opportunity to the applicant for submitting any representation for his retention in the present place of posting on spouse ground.

5.7 For that the applicant and his wife are working in the nearby station i.e. at Narasinghpur.

5.8 For that impugned order of transfer and posting has been issued on extraneous consideration, in colourable exercise of power and the said order has not been passed in public interest.

5.9 For that the respondent no.4 has developed animosity with the applicant and as such recommended his case for transfer behind the back of the applicant and also managed the recommendation of the Chairman KV, Silchar as well as the recommendation of the Assistant Commissioner, KV, Silchar without any enquiry.

5.10 For that one more post of Upper Division Clerk is lying vacant since last six months at KV, Dhalchera which is situated about 17/18 kms. away from the present place of posting of the applicant and as such there will be no difficulty on the part of the respondents to accommodate the applicant even in the nearby station as stated above.

6. Details of remedies exhausted.

That the applicant states that he has no other alternative or other efficacious remedy available before him than to file this application. The applicant further states that he had no scope to file any

Pradeep Rajkumar

representation against the impugned order of transfer and posting as because in the same order.

7. Matters not previously filed or pending with any other Court/Tribunal.

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any Court or any other Tribunal nor any such application, writ petition or suit is pending before any of them.

8. Relief(s) sought for :

Under the facts and circumstances stated in paragraph 4 of this application, the applicant prays for the following relief(s):

- 8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned order of transfer and posting dated 24.3.2003 issued under letter No. F. NO. 10-8(18)/2003-KVS(Estt.III) (Annexure-67) and the relieving order dated 26.3.2003 and 27.3.2003 issued under letter No. F. No. PP/PR/KV-SIL/2002-2003 and F. No.3-12/KV-SIL/2003/1255-1257.
- 8.2 That the Hon'ble Tribunal be pleased to direct the respondents to allow the applicant to continue in service in his present place of posting i.e. at Kendriya Vidyalaya, KV, silchar in the light of the Office Memorandum dated 12.6.1997 issued by the Government of India, Ministry of Personnel and Training

Pradeep Rajkumar

as well as in the light of the transfer and posting guidelines issued by the Kendriya Vidyalaya Sangathan, dated 25.1.2000.

8.2 Costs of the application.

8.3 Any other relief or reliefs as entitled to the applicant under the facts and circumstances stated above as deemed fit and proper by the Hon'ble Tribunal.

9. Interim reliefs prayed for :

During the pendency of this application the applicant prays for the following reliefs:

9.1 That the Hon'ble Tribunal be pleased to stay the operation of the impugned order of transfer and posting dated 24.3.2003 and relieving order dated 26.3.2003 issued under letter No. F. No. PP/PR/KV-SIL/2002-2003 (Annexure-67) till disposal of this application.

Alternatively;

That the Hon'ble Tribunal be pleased to direct the respondents to keep at least one post of U.D.C. vacant either at KV, Silchar or at KV, Dhalchera till disposal of this application.

10. That this application has been filed through advocate.

11. Details of the I.P.O.

i. I.P.O. No.	26607046	:
ii. Date of Issue	7/3/03	:
iii. Issued from		: G.P.O., Guwahati.
iv. Payable at		: G.P.O., Guwahati.

12. Details of enclosures

Pradeep Rajkumar

VERIFICATION

I, Sri Pradip Rajkumar, Son of Sri Brajendra Rajkumar aged about 45 years, working as Upper Division Clerk in the Kendriya Vidyalaya, Silchar, P.O. Tarapur, do hereby verify and declare that the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are the legal advice which I believe to be true and I have not suppressed any material facts.

I, sign this verification on this the 30th day of March, 2003.

Pradip Rajkumar

25 P.	25 P.	25 P.	25 P.	25 P.	25 P.
THIRTY FIVE PAISE					
प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	रटाप और फोटोग्राफ ग्राहित राशा रुपयों की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित रटाप और फोटोग्राफ देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जब तक दोनों के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदन को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.	Annexure - 1

5-09-1996	25-09-1996	25-09-1996	27-09-1996	27-09-1996
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IN THE GAUTAMI HIGH COURT

(The High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram & Arunachal Pradesh)

INITIAL DECISION

CIVIL RULE NO.832 OF 1996

Shri Pradip Rajkumar, aged about 37 years, S/o Shri Brijendra Rajkumar a permanent resident of Cachar district, Assam, presently residing at Leimakhong P.O. Kenterjor, Panch, P.O. Kukakhar, Manipur.

... . . . PLAINTIFF:

- VERSUS -

The Assistant Commissioner-Central-Regional Commissioner Officer Kendriya Vidyalaya, Kendriya Vidyalaya Sangathan (Administration) New Delhi.

2. The Principal Kendriya Vidyalaya, Leimakhong, Manipur.

... . . . RESPONDENTS:

4. The Union of India. ... RECEIVED/RESPONDENT

PRESENT

THE HON'BLE MR. JUSTICE R.K. SENA

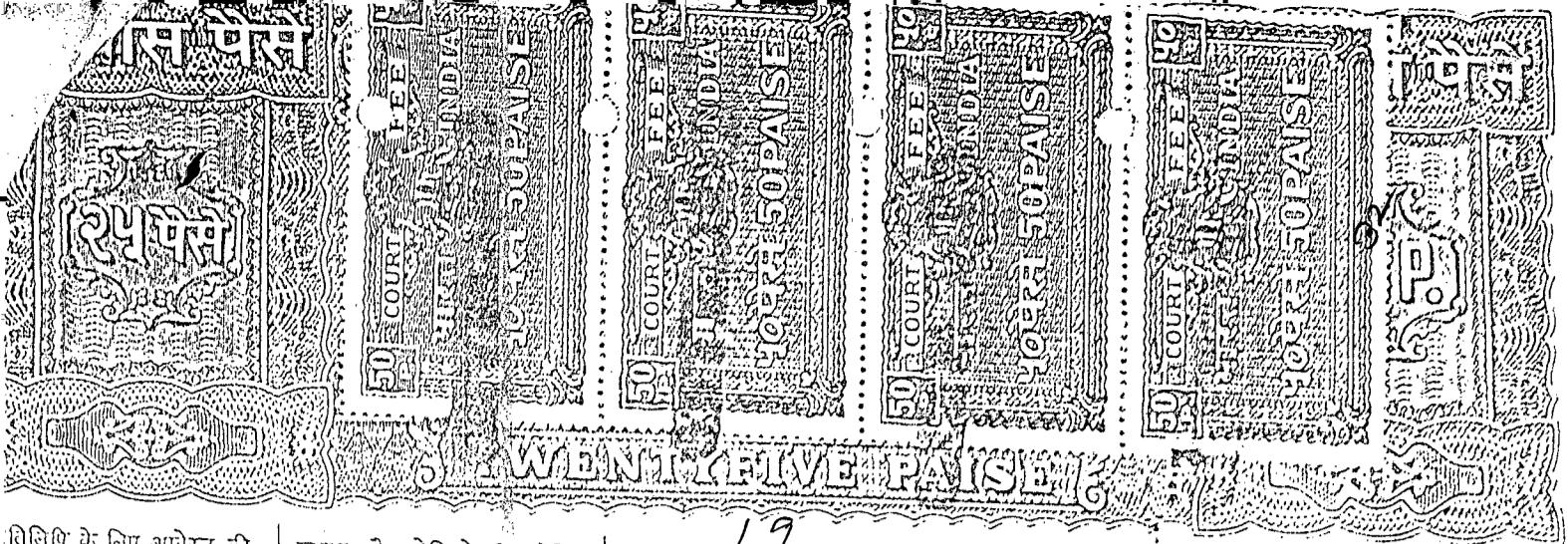
For the Plaintiff :: Mr. B. H. K. Singh, Sr. Advocate.

For the Respondents :: Mr. B. B. Bora, Advocate.

Date of order :: 24-09-1996.
5-10-1996

Contd.... 1/2.

*Blessed
by
my
wife
sister*



प्रिविलिंग के लिए आवेदन नो तारीख Date of application for the copy.	राजाप और फोलियो की अपेक्षित रोक्या राजिन नुम्बर की अपेक्षित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित राजाप और फोलियो दोनों की तारीख Date of delivery of the requisite stamps and folios.	गारीत, जबकि देवे को भिल अपिविलिंग तैयार नो Date on which the copy was ready for delivery.	आवेदन को प्रिविलिंग देने की तारीख Date of making over the copy to the applicant.
		19	- 19 -	

- 19 -

Order

Heard Mr. H.H.K. Singh, I.A. Sr. counsel for the petitioner as well as Mr. N. Ibotombi Singh, learned counsel for the respondents.

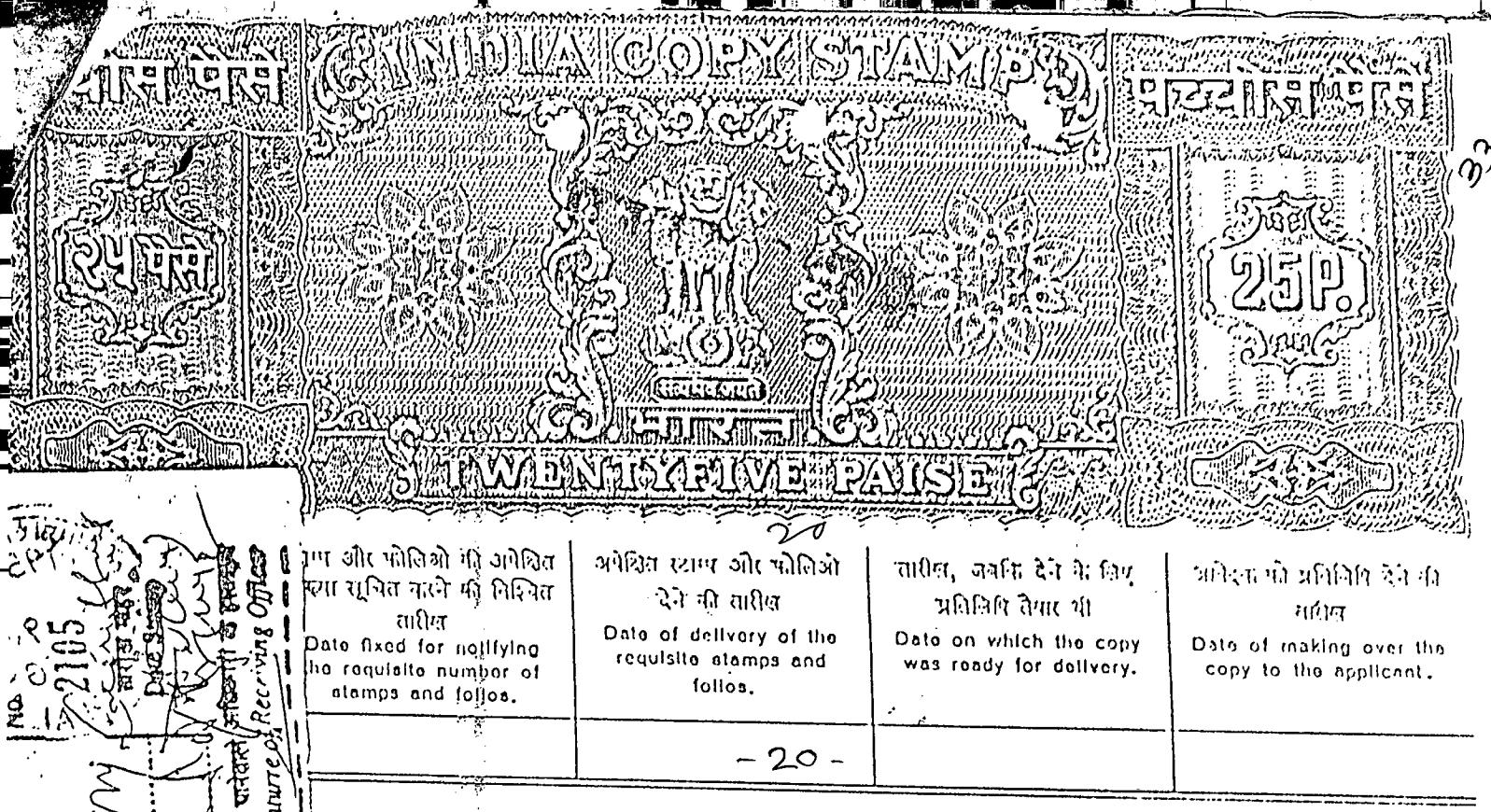
Petitioner is now working as Upper Division Clerk in the Kendriya Vidyalaya Sangathan under the Regional Office, Silchar and presently posted at Kendriya Vidyalaya, Leimakhong.



The Board of Governors in its 54th meeting held on 22-8-1990 issued several guidelines for transfer of Teachers including Vice principal and Principal. In para 6(iii) of the said guidelines, it has been provided that the transfer of spouse for joining the family after completion of a cut-off period of one year. Petitioner is married and his wife is serving as teacher in the local school at Silcher. The grievances is that despite of the several representations vide Annexure-A/2 dated 29-5-95, Annexure-A/3 representation dated 23-6-95, Annexure-A/5 representation dated 18-7-96 and the another representation dated 26-8-96 the case of the petitioner has not been considered in terms of paragraph 6(iii) of the guidelines.

On perusal of the guidelines, it clearly appears that the guidelines is applicable for transfer of teachers. As already stated the petitioner is working as ²⁰⁵

Cont'd... p/3.



जाग और फोलियो की अपेक्षित राया रूपयत करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्थाप और फोलियो को की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि दोनों विषय प्रतिलिपि तैयार थीं Date on which the copy was ready for delivery.	प्रतिलिपि को प्राप्तिकर्ता को दिया गया तारीख Date of making over the copy to the applicant.
	- 20 -		

- 3 -

ULC. It is, however, brought to my notice by the counsel for the petitioner that by his application dated 31-7-96, it has been brought to the notice of the competent authority the instances in which the ULC has been transferred on spouse ground.

After hearing learned counsels of both sides, this writ petition is accordingly disposed of with the direction to the respondents 1 and 2 to dispose of the representations at Annexure-A/2, A/3 and A/5 within a period of one month from the date of receipt of this order.

It is stated by Mr. H. K. Singh that one post of ULC is lying vacant at Silchar. If that is so, the competent authority may consider posting of the petitioner in that post.

With the aforesaid direction, this petition is closed.

Sd/- H. K. SEMA,
JUDGE.

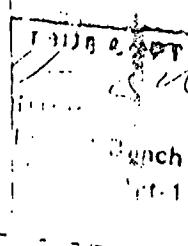
Signature of the Copyiest:

M. Jhalajit Singh
(M. JHALAJIT SINGH)

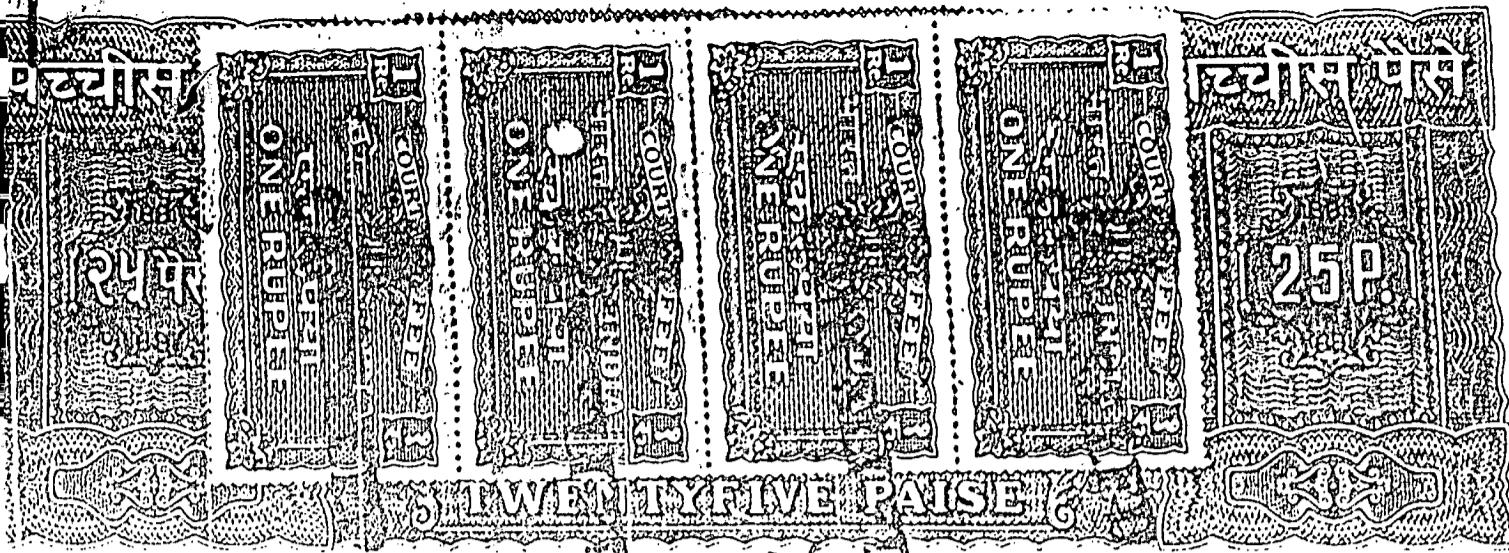
Read by me : H. K. Sema Sd/-

Compared by me : H. K. Sema Sd/-
Date : 27/9/96

NAME: THE ASSTT. COMMISSIONER NO: OF 6 OFFICER CITY: SILCHAR	RS. 0 / P-5145P RS. 30 Date: 24th ANTI HILL / 27/09/96 From: H. K. SINGH IMPHAL
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27/9/96



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	आवाग और पोस्टिंग की अपेक्षित रास्ता सूचित करने की तिथि पारित Date fixed for notifying the requisite number of stamps and folio.	अपेक्षित रास्ता और पोस्टिंग के लिए तिथि पारित Date of delivery of the requisite stamps and folio.	तारीख, जबकि दोनों के लिए अपेक्षित मिलाए गए तारीख Date on which the copy was ready for delivery.	आपेक्षित दो प्रतिलिपि दोनों की तारीख Date of making over the copy to the applicant.
21-03-97	31-03-97	31-03-97	01-04-97	01-04-97

IN THE GAURANTI HIGH COURT

(The High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram & Arunachal Pradesh)

IMPHAL BENCHWRIT APPEAL NO. 153 OF 1996

*NO. HCM/723
DT. 31/3/97*

1. The Assistant Commissioner-cum-Regional Grievances Officer, Kendriya Vidyalaya Sangathan, Silchar Region, Hospital Road, Silchar.
2. The Deputy Commissioner, Kendriya Vidyalaya Sangathan (Administration), New Delhi.
3. The Principal, Kendriya Vidyalaya, Leimakhong, Manipur.
4. Union of India.

... . . APPELLANTS/RESPONDENT'S IN THE WRIT PETITIONS:- versus -

Shri Pradip Rajkumar, aged about 37 years, s/o Shri Projendra Rajkumar, a permanent resident of Cachar District, Assam, presently residing at Leimakhong, P.O. Mantripukhri, P. P. O. Karakhur, Manipur.

... . . RESPONDENT/WRIT PETITIONERP R E S E N T

THE HON'BLE MR. JUSTICE J.N. SARIA
THE HON'BLE MR. JUSTICE P.K. SARKAR

For the Appellants :: Mr. N. Ibotombi, C.G.S.C.

For the Respondent :: Mr. H.N.K. Singh, Sr. Advocate
Mr. Jagjit Singh, Advocate.

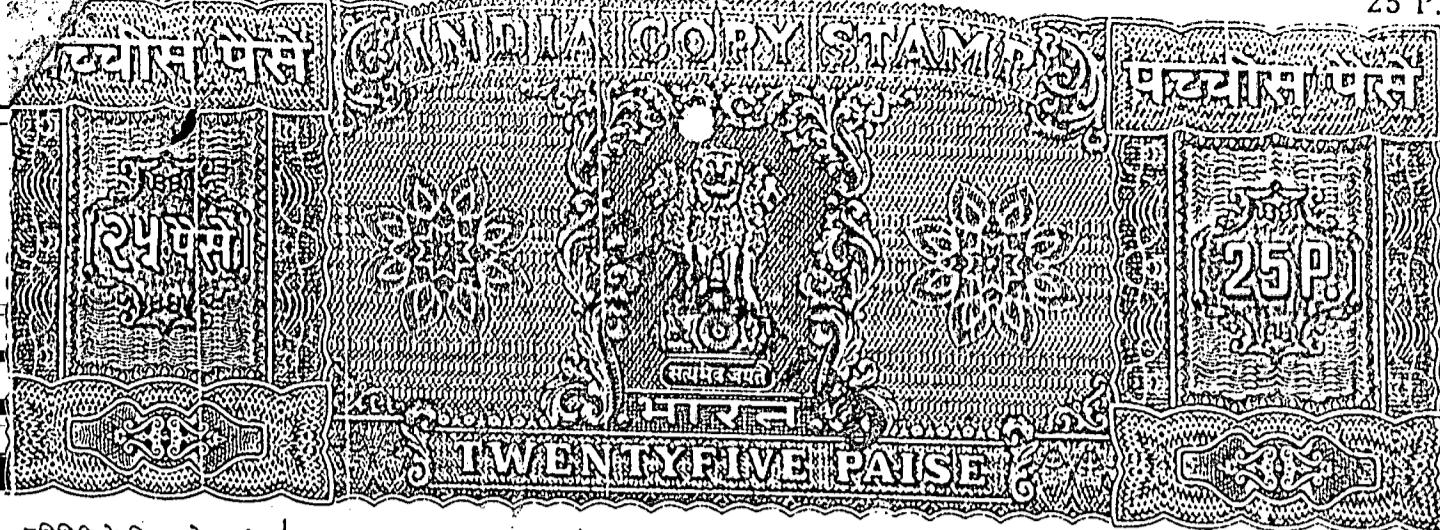
Date of Order

:: 19/03/1997.

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*23
F.4/97*

*Filed
Advocate*



प्रतिलिपि के लिए आगेदान की तारीख Date of application for the copy.	राष्ट्रांग और फोलियो की अपेक्षित राशना घोषित करने की तिथि तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित राष्ट्रांग और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार की तारीख Date on which the copy was ready for delivery.	आगेदान को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

-2-

OR D E R

Heard Mr. N. Ibotombi Singh, 1d. counsel for the appellant as well as Mr. Jagjit Singh 1d. counsel for the respondent.

This appeal arises out of an order dated 24-9-96 passed by the learned single Judge of this Court in Civil Rule No. 832 of 1996. That matter arose out of an petition by which the writ petitioner prayed that he may be transferred to Silchar where his wife is working and for entitlement of this benefit he relied on paragraph 6(iii) of the guideline. The 1d. single Judge rightly found that this guideline is not applicable to the petitioner as it applies only in the case of transfer of teacher.

But the 1d. single Judge found that the authority also applied this principle in case of UDC. Accordingly the 1d. single Judge directed that as and when vacancy is available at Silchar the case of the petitioner for posting at Silchar shall be considered.

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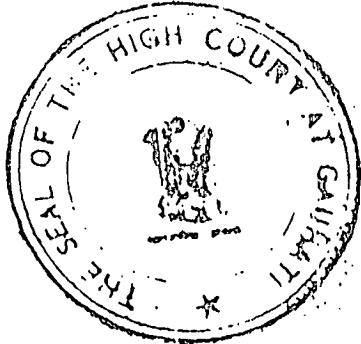




प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	राया और फोलोजो की आवश्यक राया यूनिट कानून की तिथि तारीख Date fixed for notifying the requisite number of stamps and folios.	आवश्यक राया और फोलोजो की तिथि Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	गोपनीय तो प्रतिलिपि देने की तिथि Date of making over the copy to the applicant.

-3-

After hearing the learned counsel for the parties and on perusal of the material on records, we do not find any ground to interfere with the order passed by the learned Single Judge. Accordingly, this appeal is dismissed.



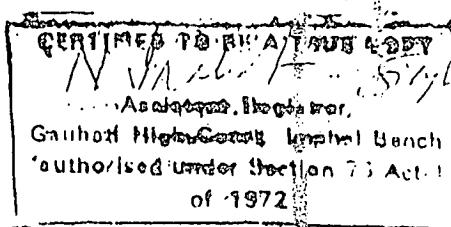
Sd/- P.K. SARKAR,
JUDGE.

Sd/- J.N. SARMA,
JUDGE.

Signature of the Copyist:
M. Jhalajit Singh
(M. JHALAJIT SINGH)

Read by : M. Jhalajit Singh 11/1/97

Compared by : C.P. Sharma
11/1/97



F. 4-1/96-KVS(SR)/ 92/335

PT: 15-07-97
T1

3X

REGISTERED

TRANSFER ORDER

In compliance to Hon'ble Gauhati High Court's order dated 19-3-97 in writ Appeal No. 153/1996 arising out of CR No 832 of 1996 there by dismissing the writ appeal preferred against the order dated 24-9-96, Shri Pradip Raj Kumar, UDC, KV Leimakhong is hereby transferred to K.V. Silchar on his request.

Pradip
15-07-97
(B.R. Moh. S/ARY.)
OFFICE OF THE COMMISSIONER

DISPATCHED:

1. To Shri Pradip Raj Kumar, KV Leimakhong. Registered.
2. The principal, KV Leimakhong to relieve him immediately.
3. The principal, Silchar to intimate his date of joining.
4. The Administrative Officer (Vis.) KVS(HQ) New Delhi - for information alongwith a copy of the order dated 19-03-97 of Hon'ble High Court amending out of CR No. 832.
5. Transfer File.
6. Guard File.

28
SICER HADP. RAVI KUMAR

1. Name of Applicante

UDC

2. Post held

3. If working in a section, state the name of the section

4. If a deputationist state the name of parent office

5. Basic Pay drawn in the present post

6. House rent, dearness, city compensatory & other allowances

Re. 126/-

7. Nature and period of leave applied for and date from which are required

Evening leave for one day on 16/11/2002

8. Sunday and holidays, if any proposed to be prefixed to leave

17/11/2002

9. Ground on which leave is applied for

To attend Health ceremonial of my neighbour

10. Date of return from last leave, and the nature and period of that leave

06.11.2002

11. I propose/donot propose to avail myself of leave, travel concession for the block years, during the ensuing leave

12. I undertake to Refund amount unpaid (a) The difference between the leave salary drawn during leave on average pay/half pay leave which would not have been admissible had not provision to F.R. 81(b)(ii) / Rule 30(i)(a) of the CCS (Leave) Rules, 1972 not been applied in the event of my retirement from service at the end or during the currency of the leave.

(b) The leave salary drawn during leave not due which would not have been admissible had F.R. 81(a) / Rule 31(2)(a) of the CCS (Leave) Rules, 1972 not applied in the event of my voluntary retirement from service at the end or during the currency of the leave.

Signature of applicant with date

Ans 81D not to
apply for leave
avail leave
on 16/11/2002Attested
for
AdvocateLeave address K.V. Complex6210-7806

From : P. Rajkumar
U.D.C., K.V. Silchar
Dist. Cachar, Pin-788 003

Dated : 18. 11. 2002

39

To

The Regional Grievance Officer
Kendriya Vidyalaya Sangathan
Regional Office, Silchar - 788001

(THROUGH PROPER CHANNEL)

Sub :

Prevention of participation in purely religious activity
such as Shradh Ceremony of neighbour.

Sir

With due respect I would like to inform you that :

1) I applied Earned Leave application for one day on 15. 11. 2002 for availing on 16. 11. 2002 to attend purely religious activity such as Shradh Ceremony of my neighbour held on 16. 11. 2002 at my village Budpatil, Dist. Cachar, Silchar - 788003 :

2) The application was endorsed with the remark that "Mrs. S. B. / inform not to avail any leave on 16. 11. 2002" by the Principal, Kendriya Vidyalaya, Silchar (copy enclosed).

In this connection, I would like to mention here that whether I am as a Hindu not guaranteed under the constitution of India to attend such precious and religious Shradh Ceremony.

I availed last earned leave for one day on 06. 6. 2002, but on the other hand, some of teaching staff members were allowed to avail leave during crucial period e.g. Examination, Social Sciences Exhibition and Sports Day.

Keeping in view of the above, I fervently request your honour kindly to look into the matter judiciously so that I may reap the harvest of KVS.

Yours faithfully,

P. Rajkumar (P. RAJKUMAR) 18/11/2002

Copy to the Chairman, VMC, K.V. Silchar & D.C. Cachar for his kind information.

PRINCIPAL 18/11/2002

Personal copy

*Attis Ted
Adv.
Advocate*

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

F.No.10-8(18)/2003-KVS(Estt.III)

Dated: 24.3.2003

TRANSFER ORDER

Transfer of Shri P.Raj Kumar, UDC, Kendriya Vidyalaya, Silchar is hereby ordered to Kendriya Vidyalaya, Sathaka with immediate effect in public interest.

He is entitled to TA, joining time etc., as per KVS rules.

This issues with the approval of competent authority, KVS.

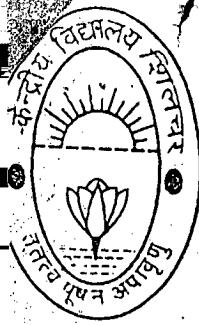
24/3/03
(P.DEVASENA)

EDUCATION OFFICER

COPY TO:

1. Individual concerned.
2. The Principal, KV Silchar alongwith the copy of transfer order in respect of Shri P.Raj Kumar, UDC with the direction to handover the copy to him and dated signatures may please be obtained. He may be relieved immediately. He may be paid TA etc., as per KVS rules. His date of relief should immediately be intimated to the undersigned.
3. The Principal, KV Sathaka. The date of joining in respect of Shri P.Rajkumar should promptly be intimated to the undersigned.
4. The Assistant Commissioner, KVS(RO) Silchar.
5. Guard file.

Allesled
Advocate



केन्द्रीय विद्यालय, सिलचर Kendriya Vidyalaya, Silchar

DIST.: CACHAR, ASSAM (OPPOSITE TO DOORDARSHAN KENDRA, SILCHAR)
PIN - 788 003

No. PP/PR/KV-SL/2002-03

Date: 26.3.2003

RELIEVING ORDER

DATE: 26/3/2003

With reference to the letter no. F.10-8 (18)/2003-KVS/Estt III, dated 24.03.2003 Shri P. Rajkumar UDC, K.V. Silchar is hereby relieved in the AN of 26.03.03 with an instruction to report the Principal K.V. Sataka immediately as he has been transferred in public interest.

He is entitled to TA, journey time as per KVS Rules.

26/3/03
26/3/03

Yours faithfully,

26/3/03
V. SIVAJI
(PRINCIPAL)

Copy to :

Principal

KENDRIYA VIDYALAYA

SILCHAR
Dated: 26/3/03

1. The Individual concerned
2. The Principal, K.V. Sataka for information and request to intimate to the undersigned for information.
3. The AC. KVS, R.O. SR, Silchar.
4. The Chairman, VMC, KV Silchar for information.
5. Ms. P. Devasena, Education Officer, KVS, HQ, anew Delhi.
6. The Personal file.

Advocate

KENDRIYA VIDYALAYA SILCHAR

Dist. : Cachar, Assam
(Opposite to Doordarshan Kendra, Silchar)
Pin : 788003

No. 3-12/KV-SIL/2003/1255 - 1257

Date 27.3.03

OFFICE ORDER

Mr. P. Rajkumar, UDC of this vidyalaya is transferred to K.V. Sataka vide letter No. 10-8 (18)/2003-KVS(Estt-III) dated 24.3.2003 accordingly you have been served with the relieving order and transfer order in the A.N. of 26.3.03. But you had refused to accept the same saying that you will receive the same on 27.3.03. But you had taken leave to avoid coming to the school purposefully. Hence you are hereby directed once again to acknowledge the transfer order, relieving order and handover the keys and other important documents immediately as per the office order or before

28/3/03 at 3.00 pm

To

Mr P. Rajkumar,
UDC, K.V. Silchar

Copy to:

- (1) The Chairman, V.M.C. K.V. Silchar
- (2) The Assistant Commissioner,
KVS, Regional Office, Silchar.

27/3/03

(V. SIVAJI)
PRINCIPAL
KENDRIYA VIDYALAYA

केन्द्रीय विद्यालय
SILCHAR सिलचर
Pin-788001

(V. SIVAJI)
PRINCIPAL

Attested
Jaswinder
Advocate

Annexure-9

No. 28034/2/97-Estt.(A)
Government of India
Ministry of Personnel, Public Grievances & Pensions
(Department of Personnel & Training)

New Delhi, the 12th June 1997

OFFICE MEMORANDUM

Sub: Posting of husband and wife at the same Station.

The undersigned is directed to say that on the subject mentioned above, Government has issued detailed guidelines vide O.M. No. 28034/7/86-Estt.(A) dated 3.4.1986. The Fifth Central Pay Commission has now recommended that not only the existing instructions regarding the need to post husband and wife at the same station need to be reiterated, it has also recommended that the scope of these instructions should be widened to include the provision that where posts at the appropriate level exist in the organization at the same station, the husband and wife may invariably be posted together in order to enable them to lead a normal family life and look after the welfare of the children, especially till the children are 10 years of age.

2. The Government, after considering the matter, has decided to accept this recommendation of the Fifth Central Pay Commission. Accordingly, it is reiterated that all Ministries/Departments should strictly adhere to the guidelines laid down in O.M. No. 28034/7/86-Estt. (A) Dated 3.4.86 while deciding on the requests for posting of husband and wife at the same station and

*Attested
by
Advocate*

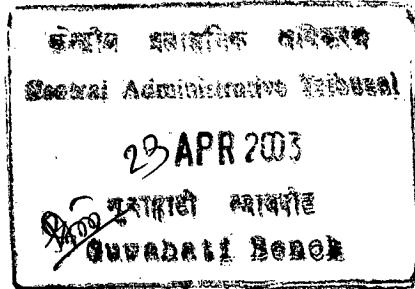
should ensure that such posting is invariably done, especially till their children are 10 years of age, if posts at the appropriate level exist in the organization at the same station and if no administrative problems are expected to result as a consequence.

3. It is further clarified that even cases where only the wife is a government servant, the concession elaborated in para 2 of this O.M. would be admissible to the government servant.
4. These instructions would be applicable only to posts within the same department and would not apply on appointment under the Central Staffing Scheme.
5. A copy of this Department's OM No. 28034/7/86-Estt. (A) Dated 3.4.86 is enclosed for ready reference and guidance.
6. Hindi version of the OM is enclosed.

Sd/- Illegible
(Harinder Singh)
Joint Secretary to the Govt. of India
Tel. No. 301 1276

To

1. All Ministries/Departments of the Government of India.
2. Department of Women & Child Development.
3. The National Commission for Women, 4, Deendayal Upadhyay Marg, ITO, New Delhi.



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Filed by the Respondent
through M.R. Maggendorf
Advocate
23-04-03

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 60 of 2003.

Sri Pradip Rajkumar

• • • Applicant

- Versus -

Union of India & Ors.

• • • Respondents

In the matter of :

Written statement on behalf of the
respondents.

- AND -

In the matter of :

Assistant Commissioner,

Kendriya Vidyalaya Sangathan,
Silchar Region.

• • • Deponent

The humble written statement of the Respondent are as follows -

Most respectfully sheweth :

1. That the respondent state that in the original Application he has been made party and a copy of the same has been served upon him. The Respondent has gone through the contents of the petition and understood the same and he is competent to file the written statement on behalf of him and for others they being the official Respondents.
2. That the Respondent state that the statement and averments made in the Original application are totally denied. The statements which are not born out of records

contd..2

are denied. The respondents further statesthat the ~~which~~ statements which are not specifically admitted may be deemed to be denied.

3. That the Respondents state that before controverting the statement and averments made in the above application the Respondent craves leave of this Hon'ble Tribunal to submit the following facts of the case in brief for application.

4. That the respondents submit that the applicant is an UDC in the office of the Principal, Kendriya Vidyalaya Sangathan, Silchar.

He has been transferred and posted in the present place of posting by transfer order dated ¹⁵ ~~17~~ -07-97 in compliance to Hon'ble Gauhati High Court's order dated 19.3.97 on request.

Since then the applicant has completed 5 years 8 months 9 days of his service in the station.

5. That the applicant while he was posted at K.V. Leimakhong in the Senapati District, Manipur made application for transfer on spouse ground.

During his stay at Leimakhong he agitated before the authority for his transfer on spouse ground (on joining his family after completion of a cut off period of one year and accordingly he was transferred at present place of posting that is at Silchar.

6. That the respondent submits that the present order of transfer was passed by the Education Officer only in public interest for filling up the post at Sathaka after lapse of about 6 years.

7. That the respondents submits that the present order is made purely on administrative ground to fill up the post at Sathaka and accordingly by the said order the Principal, K.V. Silchar was directed to release him immediately.
8. That the respondents submits that from the order itself it is very much clear that the order is purely on administrative ground which is not in the nature of annual transfer nor transfer to any choice station and as per the Article of the Education Code. There is no violation of any rule.
9. That the respondent state that the present O.A. is placed in a twisted manner to show the sympathy on flimsy ground whereas, the authority been always sympathetic to its employees and allowed the applicant to stay with although family ~~xxxxxxxx~~ the wife is not an employee of the same department, which is a resptictive point as envisaged under paragraph 4 of the office memorandum dated 12th June 1997.
10. That the respondent submits that the above facts has been submitted for appreciation and the respondent crave leave of this Hon'ble Tribunal to submit further written statement.
11. That the respondent submits that under the facts the Hon'ble Tribunal be pleased to vacate the stay order suspending the transfer on score that the applicant being already relieved and dismiss the Original Application.

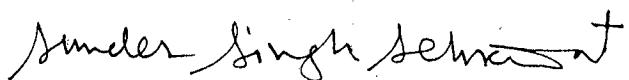
. . . . Verification

VERIFICATION

I, Sunder Singh Sehrawat, S/O Shri Harish Chander, Age about 52 years, presently working as the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Guwahati Region, Maligaon Chariali, Guwahati - 12, do hereby verify that the statement made in Paragraphs 1, 2, 3, 6, 7, 8 and 9 are true to my knowledge and those made in paragraphs — 4 and 5 — are based on records.

And I sign this verification on this the 23rd
^{April} day of 2003 at Guwahati.

Place : Guwahati



DEPONENT

Date : 23-04-03