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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./T.A No. 120/2004.....

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SECTION OFFICER (Judl.)

balib
09.11.17

FORM No. 4
(SEE RULE 12)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Org. App./Misc Petn/Cont. Petn/Rev. Appl. 120/2004
In O.A.
Name of the Applicant(s) E.M. Reddy
Name of the Respondent(s) U.O. 1, 2, 3
Advocate for the Applicant No. A.K. Roy, I. Gosai, J. Wapang
Counsel for the Railway/CGSC KVS

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

17.5.2004

Heard Mr. A.K. Roy, learned counsel for the applicant. And also Mr. M.K. Mazumdar, learned counsel for the respondents.

The application is admitted. Issue notice to the parties, returnable within four weeks.

List on 18.6.2004 for orders.

[Signature]
Member (A)

mb
18.6.2004

present; The Hon'ble Smt. Bharati Roy
Member (J)

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

Heard Mr. P.D. Gogoi, learned counsel for the applicant and also Mr. A. Deb Roy, learned Sr.C.G.S.C. for the respondents.

O.A. is admitted. Reply to be filed within four weeks.

List before the next Division Bench.

[Signature]
Member (A)

Member (J)

Notice & order
sent to D/Section
for issuing to
respondent nos - 1, 2 & 3,
by regd. with A/D
post.

[Signature]
25/5/04.

D/memo no No = 913 to 915
Dated - 25/5/04

bb

[Signature]
26/5/04.

18.6.2004 Present: The Hon'ble Smt. Bharati Roy
Member (J).

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

Notice duly

Serve on R.No= 122.

19/8/04.

It is seen from the Order Sheet dated 17.5.2004 that the matter has already been admitted.

Mr.M.K.Mazumdar, learned counsel for the respondents seeks for time to to file counter reply. Accordingly, respondents are directed to file counter reply within four weeks. Applicant may file rejoinder, if any, by the next date. ~~xxx~~ List before the next Division Bench.

K.V. Prahlada
Member (A)

B. Roy
Member (J)

bb

24.9.04.

Present: Hon'ble Mr. Justice

R.K.Batta, Vice-Chairman.

Hon'ble Mr.K.V.Prahladan, Administrative Member.

Heard Mr.A.K.Roy, learned counsel for the applicant and Mr.M.K. Mazumdar learned counsel appearing on behalf of the Respondents.

On the request of learned counsel for the Respondents stand over to 16.11.04 for filing written statement. No further adjournment on the same ground shall be granted and this has been specifically informed to the advocates for the parties.

K.V. Prahlada
Member

R. Batta
Vice-Chairman

lm

30/11/04

1) NO W/S has been filed.

2) Notice duly served on R.NO. 122.

3) S/R is awaited for R.NO.3.

30/11/04

Notes of the Registry Date Order of the Tribunal

01.12.2004

Mr.A.K.Roy, learned counsel for the applicant as well as Mr.M.K.Mazumdar, learned counsel for the K.V.S. were present.

Learned counsel for the K.V.S. seeks further adjournment on the ground that this matter be taken up alongwith the connected matters of the applicant. On the last occasion it was made clear that no further adjournment shall be granted and this was specifically informed to the learned Advocates for the parties.

In view of this, we are inclined to give last and final opportunity to the respondents to file writtent statement, ~~as~~ subject however to payment of costs/ of Rs.500/- to be paid to the applicant or to be deposited in the Tribunal on or before the next hearing. Payment of costs is condition precedent for granting today's adjournment. If costs are not paid to the applicant or ^{not} deposited in the Tribunal on or before the next hearing, respondents shall not be allowed to file written statement.

Stand over to 17.1.2005.

K.P. Bhowmik
Member

R.
Vice-Chairman

25.2.05

bb

A mended application 16.2.05.

Submitted the applicant

Ant

The amendment application is to be filed within 10 days. Thereafter, the respondents will file reply to the amendment application.

List on 17.3.05.

K.P. Bhowmik
Member(A)

M. K. Mazumdar
Member(J)

15.3.05

lm

16.03.2005

post on 17.3.2005 along with O.A. 310/2004.

K.P. Bhowmik
Member

G. K. Bhowmik
Vice-Chairman

bb

Received Copy
M. K. Mazumdar
Advocate
3.12.04

S/D - another

AS

17.3.05. Present: Hon'ble Mr.G.Sivarajan(J),
Vice-Chairman.

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

After hearing the parties we have got the impression that the Assistant Commissioner, Respondent No.3 was not fair to the applicant and that he had even given a go by to the relevant rules ^{Rule 89, leave alone} ~~89, along with~~ ^{respondents} the other rules of the Education Code of the Kenuriya Vidyalaya. In the circumstances, in view of the allegations made before us against the Respondents, we think that it would be appropriate if we give another opportunity to the Respondent No.2 to be present in the Court and to ^{hear} ~~hear~~ and make his submission if any ^{to dispel the said impression} ~~against the said post.~~ Mr.M.Mazumdar, learned counsel for the Respondents submits that he would be out of Station for his wife's treatment and ^{that} ~~he~~ will not be available in the Court for about 45 days. ^{Mr. Sivarajan's counsel postponed} ~~Accordingly,~~ we direct the Deputy Commissioner, K.V.S. Respondent No.2 ^{to instruct the then} ~~instead of~~ Assistant Commissioner, KVS, Silchar, Mr.M.M.Joshi to be present before this Tribunal on 12.4.05. Inform ^{this} ~~to~~ the Dy.Commissioner, Respondent No.2 by fax. ~~If the Respondent No.2 does not appear as required, infact the Standing Counsel submitted that the present incumbent shall appear if Mr.M.M.Joshi fails to appear.~~

List on 12.4.05.

Member

Vice-Chairman

lm

If the said Mr. M.M. Joshi does not appear on the said date, if adverse remarks are made against, it shall not appear that it was made behind his back. The Respondent no. 2 will inform this to the Mr. M.M. Joshi.

List on 12.4.05

Member

Vice-Chairman

Notes of the Registry, Date

17.3.05

Order of the Tribunal

Present: Hon'ble Mr. Justice G. Sivarajan,
Vice-Chairman
Hon'ble Mr. K.V. Prahladan, Administrative Member.

21.3.05

W/s filed by
the Respondents against
the amended petition.



The case records
received to-day only
Fax, not received and
I have seen and sent
the copy of the order
dt. 17/3/05 to the resp.
Nos. 2 & 3 by Speed
Post.

4/4/05

S. O. (C)

0/ Memo no. 560, 561, dt. 4/4/05.
at bile "C"

4/4/05

Fax Not collected from
Asst comm. Silchar.
Fax message could not
be transmitted.

4/4/05

After hearing the parties we have got
the impression that the Assistant Commi-
ssioner, Respondent No.3 was not fair to
the applicant and he had even given a ge
by to the relevant rules/Rule 89, leave
alone the other provisions of the Educa-
tion Code of the Kendriya Vidyalaya. In
the circumstances, in view of the allega-
tions made before us against the Respon-
dents, we think that it would be appro-
priate if we give another opportunity
to the Respondent No.2 to be present in
the Court and to make his submission in
any ^{to} dispel the said impression. Mr. M.
Mazumdar, learned counsel for the Res-
pondents submits that he would be out of
station for his wife's treatment and th
he will not be available in the Court
for about 45 days. Since ^{be} matter cannot
be postponed, we direct the Deputy Commi-
ssioner, K.V.S. Respondent No.2 to in-
struct the then Assistant Commissioner
K.V.S. Silchar, Mr. M.M. Joshi to be pr-
sent before this Tribunal on 12.4.05.
Inform this to the Dy. Commissioner,
Respondent No.2 by fax. If the said
M.M. Joshi does not appear on the said
date, if adverse remarks are made
against, ^{his name} it shall not appear that it
was made behind his back. The Respon-
dent No.2 will inform this to the
Mr. M.M. Joshi.

List on 12.4.05.


Member


Vice-Chairman

Notes of the Registry Date

Orders of the Tribunal

12.4.05.

Mr.S.C.Biswas learned counsel appearing on behalf of Respondent No.3, Assistant Commissioner, Silchar, now at Bombay. The learned counsel for the Respondents submits that if herein the counsel, the Tribunal thinks, his presence is still required he will appear. Post the matter for hearing on 5.5.05. The personal appearance of the Respondent for time being is dispensed with.

Member

Vice-Chairman

lm

11.4.05

Mr.S.C.Biswas learned counsel appearing on behalf of the then Assistant Commissioner, Silchar, now at Bombay. The learned counsel for the Respondents submits that if the Tribunal thinks his presence is still required he will appear. Post the matter for hearing on 5.5.05. The personal appearance of the Respondent for time being is dispensed with.

Member

Vice-Chairman

lm

5.5.05

Counsel for the applicant absent. Counsel for the third respondent, who has written the ACR of the applicant is absent. However, a submission is made on behalf of learned counsel for the 3rd respondent by Mr M.K.Mazumdar, learned standing counsel for KVS.

List on 10.5.05 for hearing.

Member

Vice-Chairman

pg

for 11/4/05

order dt. 11/4/05
sent to D/section
for issuing to
M.K. Mazumdar
S.C, KVS, CAT CH-5
19/4/05

101 1011 101

Office Notes	Date	Order of the Tribunal
<div data-bbox="15 184 407 473" data-label="Text"> <p>Case is to be for hearing.</p> </div>	<p>10.5.05.</p> <p>lm</p> <p>19.5.2005</p>	<p>Post the matter for hearing on 19.5.05.</p> <div data-bbox="736 263 1003 368" data-label="Text"> <p><i>[Signature]</i> Member</p> </div> <div data-bbox="1207 131 1489 342" data-label="Text"> <p><i>[Signature]</i> Vice-Chairman</p> </div> <p>We are not satisfied with the affidavit filed on behalf of the respondents. What is required was to place before the Tribunal the relevant rules regarding the writing of ACR and for disposal of representations being filed against adverse remarks etc. and to justify the orders impugned. We do not find that any earnest effort was made in the affidavit to justify the action.</p> <p>In the circumstances, before taking a final decision we afford one more opportunity to the respondents to file a proper affidavit containing the relevant rules and the authorities who are competent under the rules ^{to} write the ACR and also ^{to} consider the representation of the applicant. This will be done within a period of four weeks.</p> <p>Post on 28.6.2005.</p> <div data-bbox="752 1658 987 1763" data-label="Text"> <p><i>[Signature]</i> Member</p> </div> <div data-bbox="1223 1526 1536 1763" data-label="Text"> <p><i>[Signature]</i> Vice-Chairman</p> </div>
<p>Received the order copy dt 19-5-05 of the instant O.A. No 120/04 Kapil Upadhyaya, 24-05-05 Advocate</p> <p>W/S has been filed.</p> <p>20 27.6.05</p> <p>22.6.05</p> <p>An additional affidavit submitted by Assistant Commissioner M.M. Joshi, Bilchan Region.</p>	<p>nkm</p> <p>28.06.2005</p> <p>bb</p> <p>4.8.05.</p> <p>lm</p>	<p>No Division Bench is available. Post on 4.8.2005.</p> <div data-bbox="768 2000 893 2052" data-label="Text"> <p>Member</p> </div> <div data-bbox="752 2263 1003 2368" data-label="Text"> <p><i>[Signature]</i> Member</p> </div> <div data-bbox="1238 1842 1520 2052" data-label="Text"> <p><i>[Signature]</i> Vice-Chairman</p> </div> <p>Counsel for the applicant seeks for adjournment. Post the matter on 9.8.05.</p> <div data-bbox="1191 2210 1489 2368" data-label="Text"> <p><i>[Signature]</i> Vice-Chairman</p> </div>

Received one copy of
judgement dt. 9-8-2005
on behalf of the applicant,

Advocate,
22-8-05

9.8.2005

Heard learned counsel for the 3 parties. Judgment delivered in open Court, kept in separate sheets.

The O.A. is disposed of in terms of the order.

Received a copy of
the judgement dt 9-8-05
on behalf of the Respondents.

Deekhab Upadhyaya
23-8-05

Member
Member

bb

Vice-Chairman
Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL:::GUWAHATI BENCH.

O.A. No. 120 of 2004

DATE OF DECISION:09 .08.2005.

Edunari Mounendar Reddy

APPLICANT(S)

Mr. A.K.Roy

ADVOCATE FOR THE
APPLICANT(S)

- VERSUS -

K.V.S. & Others

RESPONDENT(S)

Mr.M.K.Mazumdar, Standing Counsel
for KVS

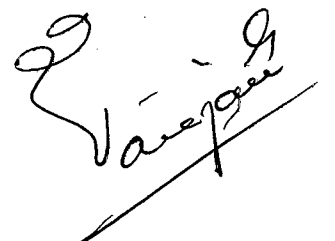
ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

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

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

Judgment delivered by Hon'ble Vice-Chairman.



CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.120 of 2004

Date of Order: This, the 9th Day of August, 2005.

THE HON'BLE MR. JUSTICE G. SIVARAJAN, VICE CHAIRMAN

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

Edunari Mounendar Reddy

P.G.T. Kendriya Vidyalaya, Kokrajhar

P.O: & Dist: Kokrajhar

Assam.

..... Applicant.

By Advocates S/Shri A.K.Roy, I. Gogoi & L. Wapang.

- Versus -

1. Kendriya Vidyalaya Sangathan
Represented by its Commissioner
18, Institutional Area
Shahid Jeet Singh Marg
New Delhi - 110 016

2. Dy. Commissioner (Pers)
Kendriya Vidyalaya Sangathan
18, Institutional Area
Shahid Jeet Singh Marg
New Delhi - 110 016

3. Assistant Commissioner
Kendriya Vidyalaya Sangathan
Regional Office
Silchar - 788 001.

.Respondents

By Mr.M.K.Mazumdar, Standing counsel for KVS.

ORDER (ORAL)

SIVARAJAN, J. (V.C.) :

The applicant is a Post Graduate Teacher in the Kendriya Vidyalaya, Kokrajhar, Assam. He is aggrieved by the adverse remarks made in the ACR

Am

for the year ending 31.3.2003 by the Reviewing Officer. Pursuant to the communication of the said adverse entries by memo dated 4.9.2003 (Annexure-C) by the 3rd respondent, the applicant made representation dated 14.10.2003 (Annexure-D) for expunging the adverse remarks to the 3rd respondent. The said representation was rejected by order dated 27.1.2004 (Annexure-E) by the 3rd respondent himself. The applicant is aggrieved by the said order and hence this O.A.

2. After several opportunities, a written statement was filed on 15.3.2005. Thereafter the parties the parties were heard on 17.3.2005. On such hearing it was felt that the then incumbent of the 3rd respondent was not fair to the applicant and he had given a go by to relevant rules. Therefore, we thought of giving an opportunity to him explain the position. He was asked to appear in person on the next posting date. The incumbent of the 3rd respondent is presently at Bombay. Advocate Mr. S.C.Biswas appeared on behalf of the said person on 11.4.2005. Since the affidavit already filed was not satisfactory, by order dated 19.5.2005, respondents were directed to file a

Sp

proper affidavit containing the relevant rules and the authority who is competent under the rules to write the ACR and also to consider the representation of the applicant. The then incumbent has now filed an additional affidavit on 27.6.2005 wherein he had admitted the mistake in passing the impugned order overlooking the provisions of the Rules 89 (A) of the Education Code. It is stated as follows:-

"There was an inadvertent mistake of the answering deponent, but by the time when the applicant filed his representation on 14.10.2003 he was reverted to PGT. Moreover, the applicant has addressed the representation to the Assistant Commissioner, KVS, Silchar Region to expunge the adverse remark entered by the Reviewing Officer. It may be pertinent to mention here that in respect of PGT, the Reviewing Officer is the Education Officer and the present deponent is the Appellate Authority as the Assistant Commissioner, as such the answering deponent on good faith and bonafide belief held that since the applicant is holding the post of PGT, the answering deponent is entitled to expunge the ACR. This is the mistake of answering deponent for choosing the forum of expunging the ACR by the applicant as PGT addressing the Assistant Commissioner."

It is also stated that for this technical error whatever loss has been suffered by the applicant is

gpi

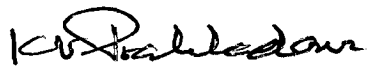
reparable at this stage by the direction of this Tribunal.

3. We have heard Mr. A.K.Roy, learned counsel for the applicant and Mr.M.K.Mazumdar, learned Standing counsel for the Kendriya Vidyalaya. Now the respondents had admitted that the impugned order was passed without following the provisions under Rule 89 (A) of the Education Code. In other words, under Rule 89 (A) of the Education Code the 3rd respondent who have issued Annexure-C memo, on receipt of the representation (Annexure-D) should have forwarded the same to the next higher authority with his own remarks for passing the order on the same, but he himself has rejected the same. Since this is plainly against the provisions under Rule 89 (A) (ii) & (iii) of the Education Code the impugned order at Annexure-D is set aside. The present incumbent of the 3rd respondent is directed to forward the representation (Annexure-D) submitted by the applicant with his remarks to the next higher authority, namely, the 2nd respondent - the Deputy Commissioner within a period of one month from today and the 2nd respondent is directed to consider the representation as mandated under

for

the provisions of Rule 89 (A) (iii) of the Education Code. Mr.M.K.Mazumdar, counsel for the KVS has brought to our notice that Education Code has been recast and the relevant Rules in place of Rule 89 (A) is Article 91 which is in pari materia. In the circumstances, the 2nd respondent will consider the applicant's representation as mandated under Article 91 particularly sub-rule (iii) thereof and pass a reasoned order within the time specified therein.

The Original Application is disposed of as above. The reasoned order to be passed on the representation will also be communicated to the applicant without delay.


(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER


(G.SIVARAJAN)
VICE CHAIRMAN

BB

25 FEB 2001

(Amended Application)

Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH

ORIGINAL APPLICATION NO.120/2004

Eduhari Mounendar Reddy

..... Applicant

120/2004

-VERSUS-

Union of India & Ors

..... Respondents

LIST OF DATES

Sl. No	Dates	Particulars	Para	Annexure	Page
1	1986	Appoint as PGT in KVS	4(i)		2
2	July, 1997- July, 2001	Appointment of Principal Novodaya Vidyalaya on Deputation.	4(i)		2
3	Nov, 2000	Applied for post of Principal	4(ii)		3
4	13.6.2001	Appointment order for the post of Principal on deputation basis	4(v)		2
5	7.7.2001	Letter of Chairman of Navodaya Vidyalaya.]	4(viii)	B	19
6	24.6.2003	Reversion order from the Post of Principal.	4(ix)	A	18
7	2.7.2003	Letter of the Reporting Officer	4(vii)		5
8	July, 2003	Filed O.A No.163/2003 challenging the illegal reversion order.	4(x)		6
9	4.9.2003	Memorandum issued by the Reviewing Officer communicating Adverse remarks.	4(xi)	C	20
10	14.10.2003	Representation/Appeal of the applicant against the Adverse remarks.	4(xii)	D	21-22
11	27.1.2004	Order of Reviewing Authority rejecting the prayer of the applicant regarding expunge of adverse remarks.	4(xiii)	E	23

(Amended Application) 17

-18-

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

ORIGINAL APPLICATION NO.120/2004
Edunari Mounendar Reddy
...Applicant

-Versus-
Union of India & ors

...Respondents

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Sl No.	Particulars	Page No.
1.	Application	1 - 16
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3.	Annexure:- A	18
4.	Annexure:- B	19
5.	Annexure:- C	20
6.	Annexure:- D	21 - 22
7.	Annexure:- E	23.

Filed by :-
Limawapang
Advocate, CAT
Guwahati

For use in the office

Signature
Date:

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

Filed by the Applicant
through: L. Wapang.
Advocate
25/2/05

BETWEEN

Edunari Mounendar Reddy

P.G.T. Kendriya Vidyalaya

Kokrajhar, P.O. & Dist:- Kokrajhar,
Assam.

...Applicant

AND

1. Kendriya Vidyalaya Sangathan
represented by its Commissioner,
18, Institutional Area, Shahid Jeet
Singh Marg, New Delhi:- 110016.

2. Dy. Commissioner (Pers)
Kendriya Vidyalaya Sangathan
18, Institutional Area, Shahid Jeet
Singh Marg, New Delhi:- 110016.

3. Assistant Commissioner,
Kendriya Vidyalaya Sangathan
Regional Office,
Silchar-788001

...Respondents

Edunari Mounendar Reddy

1. PARTICULARS OF ORDER AGAINST WHICH THIS APPLICATION IS DIRECTED:

This application is made against :-

(i) Memorandum dated 4.9.2003 (Annexure:-C by which the Assistant Commissioner who is the reviewing authority has entered and communicated some adverse remarks against the applicant.

(ii) Order dated 27.1.2004 (Annexure:-E) issued by the Asstt. Commissioner through which the said authority illegally and without any authority rejected the applicant representation.

2. JURISDICTION

That the applicant declares that the subject matter of this application is within the jurisdiction of this Hon'ble Court.

3. LIMITATION

That the applicant also declares that this application is made within the time limit as has been prescribed under Section 21 of the Administrative Tribunal Act. 1985.

4. FACTS OF THE CASE:

(i) That the applicant was initially appointed as post graduate teacher in the Kendriya Vidyalaya Sangathan in the year 1986 and thereafter with effect

Edunuri Mounendar Reddy

from July 1997 to July 2001 he was sent on deputation as Principal, Navodaya Vidyalaya.

(ii) That, when the applicant was on deputation he got one advertisement in the month of November 2000, which was published in the "Employment ^{News} ~~News~~" for the post of Principal, Kendriya Vidyalaya Sangathan. The advertisement was to fill up the posts of Principal by transfer on deputation basis. After getting the said advertisement the applicant applied for the same.

(iii) That the applicant states that the written examination for the said Principal Post was held in the month of April, 2001 in which the applicant appeared and did well and hence he was called for the viva-voce/interview which was held in a phased manner w.e.f. 8.5.2001 to 24.5.2001. The applicant appeared for the viva-voce test on 16.5.2001.

(iv) That the applicant states that since 2000 the respondents adopted the method to appoint all the selected candidates for the post of principal on deputation basis, though they follow the selection process of direct recruitment by an open advertisement on All India basis and subsequently they are regularized in the said post on the basis of performance of the respective Principal. Accordingly,

Edumuni Mounendar Reddy

all the selected Principal who were appointed in the year 2000 on deputation basis were regularized.

(v) That in this year also i.e. 2001 all the selected candidates were given appointment on deputation basis. Accordingly, the applicant was also offered appointment vide appointment order dated 13.6.2001.

(vi) That the applicant states that as per Rule, the applicant should be given regular appointment to the post of Principal, but the respondents offered appointment on deputation basis as per the advertisement. As the respondents followed the same ~~procedure~~ ^{Procedure} in the earlier year, the applicant accepted the same and joined the post at Kendriya Vidyalaya, Panisagar with hope that he should be regularized subsequently as were happened in the previous years.

(vii) That since his joining in the post of Principal, he has been doing his duties to the satisfaction of all concern. The applicant took several measures to promote the educational system of the Kendriya Vidyalaya, Panisagar. Be it stated that, the applicant took several measures to eliminate the corruption and mis-discipline of the said school which was prevailing since long back. Due to his

E. dunuri Mounendar Reddy

sincere service the applicant earned good service record for the years together. As the applicant took several measures to eliminate the corruption, the disruptive elements were trying to their best to remove the applicant from the said post. As the disruptive elements in around the Vidyalaya are trying to demoralize any trial to set the things right and was trying to remove the applicant from the post, the reporting officer wrote a letter dated 2.7.2003 to the Commissioner, Kendriya Vidyalaya Sangathan requesting not to remove the applicant from the post.

Copy of the letter dated 2.7.2003 is annexed herewith and marked as Annexure:-A.

(viii) That the applicant states that, when he was in the Navodaya Vidyalaya, he also earn very good service record as an able administrator due to his able guidance, hard work and excellent service and hence the Chairman of the school wrote to the authority vide letter dated 7.7.2001 to retain him in the school when he got the promotion to the post of Principal in the present department. Be it stated that since his joining in the year 1986, the applicant has earned either good or excellent service record through out the years.

Copy of the letter dated 7.7.2001 is annexed herewith and marked as Annexure:-B.

E. Mounendar Reddy

(ix) That the applicant states that though he has rendered an excellent service as a Principal to the Kendriya Vidyalaya, Panisagar, the respondents reverted him from the post of Principal vide memorandum dated 24.6.2003 to his parent post, that is Post Graduate Teacher post.

(x) That being aggrieved without the said reversion order the application approached this Hon'ble Tribunal by filing an Original Application No. 163/2003 in the month of July 2003 which is still pending before this Hon'ble Tribunal.

(xi) That the applicant states that, in the month of September, 2003 he received one memorandum dated 4.9.2003 whereby the Assistant Commissioner has communicated some adverse remarks for the year ending 31.3.2003. By that memorandum the Reviewing Officer has communicated the following points.

Over all performance

Fitness	A below average officer
---------	-------------------------

Fitness for promotion	Unfit
-----------------------	-------

Has the officer any special characteristic and or any outstanding merits or abilities which would	He has poor administrative ability and done various irregularities in contractual appointment
---	---

Eduhuri Mounendar Reddy

justify his advancement management of finance
and special selection for
higher appointment and
special selection out of turn?

Copy of the memorandum dated 4.9.2003 is
annexed herewith and marked as Annexure:-C.

(xii) That the applicant states that he submitted one representation dated 14.10.2003 for expunge of ^{an} adverse remark to the Assistant Commissioner who is the Reviewing Authority. In the said representation the appointment stated in details about the works done by him during the periods. He also stated that about the matters as has been written by the Reviewing Authority in the Annual Confidential Report (in short ACR), no show cause notice was given to him at any time and the entries has made with bias attitudes. The applicant also stated that for the relevant period the Reporting Officer send the confidential report which clearly shows that very good Administrative performance and there was no adverse remark in any column. The applicant also requested to compare his works with the penal inspection report, internal Audit Report and the reply submitted by the applicant and also by the Reporting Officer. Be it stated that no irregularities has been maintained in any penal inspection report and internal Audit Report

Edunuri Mounendar Reddy

and thereby requested to expunge the adverse remark.

Copy of the representation dated 14.10.2003 is annexed herewith as Annexure:-D.

(xiii) That the applicant states that the said representation has been disposed of by the Reviewing Officer vide order dated 27.1.2004 and thereby rejected the prayer of the applicant illegally and without any authority as per law. The same has been rejected without any reason and without applying the mind.

Copy of the said rejection order dated 27.1.2004 is annexed herewith as Annexure:-E.

(xiv) That the applicant states that as he approached this Hon'ble Tribunal challenging the reversion order which had been issued biasly and illegally, the respondents became annoyed with him and hence with the help of Assistant Commissioner who is the Reviewing Officer, the adverse remarks have been entered without any basis and in complete violation of the statutory rules. All the respondents became biased from the very beginning of his joining as Principal in the K.V. Panisagar in as much as their vested interest were hampered due to his various steps against the corruption and hence they first reverted him from the post illegally and whimsically and thereafter recorded the adverse remarks so that

Edunuri Mounendar Reddy

he may not get promotion in near future and can not success in the earlier case. Though the respondents recorded the adverse remarks, but have not supplied the materials basing on which the same have been recorded.

(xv) That the applicant state that in the instant case the respondents have violated the Rules 86(I) (vii), 88(A), 89 and 89(A) of the Education code for the Kendriya Vidyalayas in writing the adverse remarks in the Annual Confidential Reports for the year, ending 31.3.2003. Be it stated that the applicant was never issued any warning during the relevant period and/or thereafter as is required under provision of Rule 86(I) (vii). The Rule 86(I) (vii) reads as follows:-

"Every Warning/reprimand/displeasure issued, in writing need not automatically find a place in the confidential report, only cases in which despite such warning etc, the officer/official has not improved, appropriate mention of such warning etc., may be made in the confidential Report."

That the Rule 88(A) of the Code deals with the time limit for preparation and submission of confidential Report which speaks that the Report to be completed by Reviewing Officer and sent to Administration of C.R.

Edunuri Mounendar Reddy

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Section/Cell within 31st July of every year. But in the instant case the Assistant Commissioner sent the report in the month of September, 2003 when the communication to the applicant has been issued.

That the Rule 89 of the Code deals with "Communication of Adverse Remarks" i.e. as to how the same should be communicated which read as follows:

"(89)

All adverse entries in the confidential reports should be communicated by the Reviewing Officer along with a mention of good points within one month of this being recorded. This communication should be in writing and a record to that effect should be kept in CR dossier of the employee concerned. While communicating the adverse remarks to the employee concerned the time limit prescribed viz., one month, within which representation is to be submitted, should be specifically brought to his notice."

That in the instant case the aforesaid provision has also been violated in as much as there is no mention of good points in the communication dated 4.9.2003.

That the Rule 89(A) of the Code deals with the representation against adverse remarks. As per Rule 89(A) (ii) provides that if a representations is sent to the

Edunuri Mounendar Reddy

authority communicating the adverse remarks, that authority should forward the same to the next higher authority who will deal with such representation but the same has not been followed in the instant case. The aforesaid provision reads as follows:-

"89(A)

(i) Only one representation against adverse remarks should be permitted within one month of the date of communication of such remarks.

(ii) Such a representation should be sent to the authority communicating the adverse remarks, who should forward the same to the next higher authority with his own remarks.

(iii) A representation against the adverse remarks should be decided by the competent authority within three months from the date of submission of the representation.

(iv) Where an appeal/representation against adverse remarks is received after the expiry of the stipulated period of one month, an explanation for delay submission of appeal/representation should also be forwarded with the comments of the reporting and reviewing Officer to the appellate authority. The appellate authority may at his discretion entertain the delayed appeal/representation if he is satisfied

Eduvuri Mounendar Reddy

with the explanation for the delay.

Note: The appellate authority is one stage above the Reviewing Authority and appeals for expunction of adverse remarks should be dealt by the Appellate Authority."

(xvi) That the applicant states and submits that the adverse remarks as has been entered by the Reviewing Officer is not based on records for the relevant period in as much as there was no administrative fault in any matter and there was no irregularities in any matter including contractual appointment and mangamnet of finance. He also states that he was never given any warning during the relevant period in respect of the matter as mentioned in the annual report of the relevant period. In fact, the respondent entered the adverse remark very illegally and in bias manner and hence gone against the report of the Reporting Officer. The said entry is not at all consistent.

Being aggrieved with the adverse remarks, the applicant approach this Hon'ble Tribunal by following this Original Application on the following grounds amongst others:

GROUND FOR RELIEF

(I) For that the action of the respondents is

Edunuri Mounendar Reddy

biased and not based in records and hence the same is not sustainable in the eye of law.

(II) For that the reviewing authority entered the adverse remarks without giving prior warning/reprimand/displeasure at any time during the relevant period as is required under Rule 86(I)(vii) and hence the same is liable to be set aside and quashed.

(III) For that the reviewing authority failed to exercise the positive and independent judgment in writing the confidential report of the relevant period and hence the adverse remark has been entered only with intention to substantiate their earlier action of reversion of the applicant from the post of principal.

(IV) For that the adverse remarks are untenable in as much as no irregularities in contractual appointment and in the management of finance had been done by him at any time, more particularly, during the relevant period i.e., 1st April, 2002 to 31st March, 2003 and hence adverse remarks should be expunged.

(V) For that the present adverse remarks are not sustainable so far the same is compared with his

Edunuri Mounendar Reddy

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earlier annual reports since his date of joining in the service.

(VI) For that had he committed any irregularities during the relevant period, he could have been punished by following due process, but the same has not been done and hence the adverse remarks are not maintainable.

(VII) For that the adverse remarks have been recorded and communicated in violation of the statutory rules as provided in the Code of Kendriya Vidyalaya and hence the same should be expunged.

(VIII) For that the representation of the applicant against the adverse remarks have been considered illegally and without any authority.

(IX) For that the respondents disposed of the representation in a perfunctory manner and without considering all the points as raised in the same and hence the same is not maintainable.

(X) For that the adverse entries as have been entered are arbitrary, inconsistent and not based on the materials on records and hence that should be expunge.

Edunuri Monnen-dar Reddy

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(XI) For that the action of the Respondent are whimsical and bias and hence the same should be expunge.

(XII) For the actions of the Respondents in making the adverse entries is against the principles of natural justice and administrative fair play.

(XIII) For that the adverse entries made by the respondents are in complete violation of the statutory provisions as laid in the code of Kendriya Vidyalaya and hence the same is not sustainable.

(XIV) For that the action of the Respondent is violative of Article 14, 16 and 21 of the Constitution of India and hence the same is liable to be expunge.

(XV) For that at any rate the action of the respondent are not maintainable in the eye of law and the same are liable to be set aside and quashed.

6. DETAILS OF REMEDIES EXHAUSTED:

1) That the applicant states that he has availed all the remedies as stated in paragraphs 4 of this application but failed and hence there is o other alternative remedy to him other than to approach this

Eduhuri Mounendar Reddy

Hon'ble Tribunal.

7. MATTER NOT PREVIOUSLY FILED OR PENDING BEFORE ANY COURT:

That the applicant further declares that the applicant has not filed any application, writ petition or suit regarding this matter before any court or any other bench of this Hon'ble Tribunal or any such petition or suit is pending before any of them.

8. REMEDIES SOUGHT FOR:

Under the facts and circumstances stated above the applicant prays the following reliefs.

(i) To expunge the Adverse remark of the Reviewing Officer as entered in the A.C.R. for the year ending 31.3.2003.

(ii) To pass any other further order or orders as Your Lordships may deem fit and proper.

(iii) Cost of the application.

9. INTERIM RELIEF PRAYED FOR:

Under the facts and circumstances stated above the applicant prays that Your Lordships maybe pleased to pass necessary order directing the respondents to keep in abeyance the adverse entries as has been communicated by; memorandum dated 4.9.2003 (Annexure- C)

Edunuri Mounen das Reddy

10.
11. PARTICULARS OF I.P.O.
- (i) I.P.O. NO
- (ii) DATE OF ISSUE
- (iii) PAYABLE AT : GUWAHATI
12. LIST OF ENCLOSURES:
- As stated above

VERIFICATION

I, Shri Edunari Mounendar Reddy, son of Shri Ranga Reddy aged about 46 yeas, resident of Ram Krishna Mission, Kokrajhar, P.O. and district Kokrajhar (Assam) at present working as post graduate teacher Kendriya Vidyalaya Kokrajhar, do hereby verify that the statement made in paragraph 1 to 12 of the application are true to my personal knowledge and the submission made therein I believe the same to be true as per legal advice and I have not suppressed any material fact of the case.

And I sign this verification on this 20th day of February, 2004 at Guwahati.

Edunari Mounendar Reddy

Date: 20.02.04

Signature

Place: Guwahati

No.PA/34 Bn/KV/2003/ 8098-100
 HQ 34 Bn BSF
 Panisagar
 Dist-Tripura(N)

07 July 2003

To
 The Commissioner
 Kendriya Vidyalaya Sangathan
 18- Institutional area
 Shaheed Jeet Singh Marg
 New Delhi-110016.

Sir,

In reference to your letter No; F.7-7/2002.KVS (Estt-1) dated 24/26-06-2003 delivered to Mr. E.M.Reddy (Principal, KV-Panisagar, North Tripura) I would like to mention a few words of my conviction in consultation with the actual Chairman of the Vidyalaya Management Committee-KV-Panisagar.

This is our personal and general observation that the Vidyalaya has witnessed a tremendous progress under the able guidance of Mr. E.M.Reddy especially in the matters of eliminating the corruption and indiscipline. The Vidyalaya is now in a pace of progressing firmly. I also understand that there are certain disruptive elements in and around the Vidyalaya who are trying to demoralize any trial to set the things right in the Vidyalaya.

Therefore this is my opinion that Mr. E.M.Reddy doesn't deserve such an adverse punishment and your dignity may look into the matter personally so as to conduct a thorough Inquiry about the matter accordingly.

Yours faithfully,

(A K SINHA)
 DY COMMANDANT
 OFEC COMPT FOR CHAIRMAN/VMC

Copy to :-

1. Jt Commissioner(Adm)
 K V S New Delhi
2. Sh E M Reddy
 Principal K V Panisagar.

Attested
 20/2/05
 Advocate.

Attested by - [Signature]
 Attested by - [Signature]



मुनीर मुजावर

भा.प्र.से.
जिल्हाधिकारीजिल्हाधिकारी कार्यालय,
वाशिम

-19-

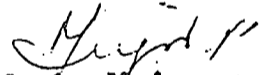
Dear Sir,

7th July-2001

It was brought to my notice that, Mr.E.M.Reddy, Principal,JNV-Washim has been promoted to the post of the Principal in his parent organisation. He is a very able administrator and under his guidance and hard work this vidyalaya has brought glory to Washim District. He has rendered excellent service to this vidyalaya by providing consistantly good results in the Board Examinations. If he is retained in this vidyalaya this institution will become a pride of this district. Otherwise, you are requested to send a dynamic Principal to uphold the dignity and integrity of the vidyalaya which Mr.Reddy has established.

With regards,

Yours sincerely,


(Munir Mujawar)

Collector & Chairman,VNC

To,
Mr.S.P.Gaur,IAS,
Director,
Navodaya Vidyalaya Samiti,
A-39, Kailash Colony,
New Delhi - 110 048.

Attested by


20/2/05
Advocate

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ANNEXURE - C

KENDRIYA VIDYALAYA SANGATHAN
REGIONAL OFFICE: SILCHAR-788001

CONFIDENTIAL
REGD. POST

No.F.ACR/2003/KVS(SR)/

11304-07

Date : 04-9-2003.

M E M O R A N D U M

Entries recorded in the Annual Confidential Reports for the year ending 31-03-2003 in respect of Sri/~~Smt~~ E. M. Reddy Ex-Principal, KV, Panisagar now reverted as PGT (Chem), KV, Kokrajhar, Kendriya Vidyalaya

are reproduced below for his/her information and necessary improvement.

Part-III: Remarks of the Reviewing/Reporting Officer

Over all performances

Fitness - A below average Officer.

Fitness for promotion - Unfit.

Has the Officer any special characteristics and or any outstanding merits or abilities which would justify his advancement and Spl. selection for higher appointment and Spl. selection out of turn? - He has poor administrative ability and done various irregularities in contractual appointment and management of finance.

The undersigned wishes to give Sri/~~Smt~~/~~Mr~~ E. M. Reddy, Ex-Principal (now reverted as PGT) above mentioned entries made in the ACRs for the year 2002-03 for expungement, if justified.

Hence Sri/~~Smt~~/~~Mr~~ E. M. Reddy should submit his/her representation along with justification to this office within a month of the receipt of this communication. In the absence of any representation it will be presumed that he/she has nothing to say against the adverse entry.

The receipt of this memorandum should be acknowledge.

(M. M. JOSHI)
ASSTT. COMMISSIONER

EDUCATION OFFICER

To
Shri E. M. Reddy, Ex-Principal,
(now reverted as PGT (Chem))
KENDRIYA VIDYALAYA Kokrajhar.

Copy to:- 1. ACR/Dossier in respect of Shri E.M. Reddy, KV, Kokrajhar.

2. The Principal, KV, Kokrajhar. The Sr. Admn. Officer, KVS (Hqrs), New Delhi.

3. The Asstt. Commissioner, KVS (RO), Guwahati.

ASSISTANT COMMISSIONER
EDUCATION OFFICER

Received
17th Sept
2003
Attested by
20/9/05
Advocate.

14th October 2003

To,
The Assistant Commissioner
Kendriya Vidyalaya Sangathan
Regional Office
Hospital Road Silchar
PIN 788001.

THROUGH PROPER CHANNEL
PRINCIPAL KENDRIYA VIDYALAYA KOKRAJHAR

Subject: - Expunge of the adverse remarks entered by the Reviewing officer request.
Reference: - No. F. ACR/2003/KVS (SR)/11304-07 Dated 4th September 2003 and received on 17th September 2003.

Sir,

With due respect, I do hereby state that I have received on 17th September 2003, the remarks of the reviewing officer, vide memorandum No F. ACR/2003/KVS (SR)/11304-07 Dated 4th September 2003. I submit this representation for your kind consideration and request to expunge the adverse remarks.

The adverse remarks, as communicated vide memorandum dated 4.9.2003, has been entered whimsically and thought in as much as, the irregularities as has been mentioned, has neither been proved by any enquiry committee nor I was given any show cause notice for the same during the relevant period and the said entries is bias and after thought which has been made after filing the case in CAT. Be it stated that at the relevant period my reporting officer also sent the annual confidential report which also clearly shows that very good administrative performance and there was no adverse remark in any column of the report and hence the remarks entered by the reviewing officer is not at all justified and is liable to be quashed.

I earned good name and fame to the Kendriya Vidyalaya Panisagar and to the Sangathan by providing corruption free administration, which were appreciated by all except corrupt people who were mismanaged and defamed the institution. This may please be confirmed from The Chairman VMC, who had regularly supervised the activities and Vidyalaya Management Committee Members who were seen the progress of the Institution. Moreover reporting officer in recognition of my works reported well where as the reviewing officer with out Applying mind entered adverse remarks with out any basis. The following are my works during the period under report.

1. Purchased eight computers, started computer Education and also imparted computer aided learning to the students by purchasing required software.
2. Provided basic amenities for primary children by constructing toilets, which was neglected for several years.
3. Developed primary resource center.

(Continued on Page-2)

Attested by

[Signature]
20/10/05
Advocate.

4. Library is made functional by opening the sealed cupboards. Made available nearly thirty periodicals and magazines for the benefit of students and staff members. (When I took the charge the library was under locked cupboards, not even a single magazine or news paper was available)
5. Constructed a platform for morning assembly and for cultural programmes these programmes were organized effectively and appreciated by all including inspection teams.
6. Internal and external white wash carried out. (Which was not done earlier).
7. Electrical repairs carried out.
8. Provided running water supply to the students by purchasing and fixing a water pump set to the Vidyalaya.
9. By providing fencing given a shape to the Vidyalaya and also Developed a beautiful Vidyalaya garden which was appreciated by the panel inspection team.
10. Implemented all the suggestions given by the panel inspection team and surprise inspections with true spirit.
11. Carried out regular classroom supervision.
12. Constituted VMC, VEC, VAC and PTA (These fundamental bodies were not functional since a decade) and also conducted regular meetings of these committees).
13. Planned the Vidyalaya Budget and effectively utilized for the benefit of the students.
14. Organized annual Sports Day and Annual Day celebrations with great success
15. First time in the history of K.V.Panisagar Vidyalaya Broacher was brought out.
16. Vidyalaya Patrika was brought out.
17. Most of the outstanding audit objections were settled (these were pending since a decade).
18. Purely because of my efforts 13 Acres of land has been allotted to the Vidyalaya which was pending since more than a decade.

These works may please be confirmed by comparing panel inspection reports of the year 2001 and 2002, also internal audit reports and the replies submitted, and also from the reporting officer. Be it stated that the panel inspection report and internal audit report nowhere mentioned any irregularity in any work done by me and hence these adverse entries are not sustainable.

By considering all the above-mentioned facts I pray your honor to expunge the adverse remarks entered by the reviewing officer.

Yours faithfully

E.M.REDDY
Principal {reverted to PGT}
Joined Under Protest against the Reversion.
Kendriya Vidyalaya Kokrajhar-783370.

23-

Phone - { 34131 (AC) Room
34134 (AO)
45237 (FO)

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केन्द्रीय विद्यालय संगठन
KENDRIYA VIDYALAYA SANGATHAN

ANNEXURE-E

Regional Office
Hospital Road,
Silchar - 788 001

क्रमांक
F No

2-8(ACR)/2003-KVS(SR) / 21376-79

Date
Dated 27-01-2004

ORDER

Royd. Cink. Lohr.

Whereas Shri E.M.Reddy, Ex-Principal, KV, Panisagar (reverted to the post of PGT and posted to KV, Kokrajhar) was communicated adverse remarks from his ACR for the period ending 31.3.03 vide memorandum No. ACR/2003/KVS(SR)/11304-07 dated-04.9.2003.

And, whereas Shri E.M.Reddy made a representation dated 14.10.2003 against the adverse remarks.

Now after careful consideration, the undersigned has come to the conclusion that there is no ground/justification for expunction of adverse remarks conveyed from the ACR of Shri E.M.Reddy, Ex-Principal and presently working as PGT (Chem), KV, Kokrajhar.

His representation to expunge the adverse remarks is therefore rejected.

(M.M. JOSHI.) 28/1/04
ASSISTANT COMMISSIONER, Panisagar

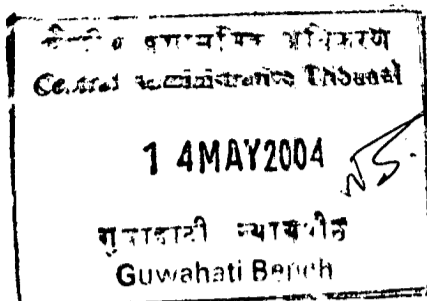
Copy to:

1. Shri E.M.Reddy, Ex-Principal, KV, Panisagar presently working as PGT at KV, Kokrajhar on reversion.
2. The Deputy Commissioner (Pers), KVS (HQRS), New Delhi.
3. The Asstt. Commissioner, KVS, RO, Guwahati.
4. The Principal, KV, Kokrajhar.

Attested by

Advocate
20/2/04
Advocate.

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**



ORIGINAL APPLICATION NO. 120 /2004

Edunari Mounendar Reddy

----- Applicant

-Vs-

Union of India & Ors.

----- Respondent

LIST OF DATES

Sl.No.	Dates	Particulars	Para	Annexure	Page
1	1986	Appointed as P.G.T. in K.V.S..	4(i)		2.
2	July, 1997 to July, 2001	Appointed as Principal Navodaya Vidyalaya on Deputation	4(i)		2.
3.	Jan, 2001	Applied for post of Principal , K.V.S. against 66.2/3% direct quota appointment.	4(ii)		2 - 3.
4.	13-6-2001	Appointment order for the post of Principal on deputation basis.	4(v)		3.
5.	7-7-2001	Letter of Chairman of Navodaya Vidyalaya	4(viii)	B	4.
6.	24-6-2003	Reversion order from the Post of Principal	4(ix)	A	5.
7.	2-7-2003	Letter of the Reporting Officer	4(vii)		4.
8.	July, 2003	Filed O.A. No. 163/2003 challenging the illegal reversion order.	4(x)		5.
9.	4-9-2003	Memorandum issued by the Reviewing Officer communicating adverse remarks.	4(xi)	C	5.
10.	14-10-2003	Representation/ Appeal of the applicant against the Adverse remarks.	4(xii)	D	6 - 7.
11.	27-1-2004	Order of Reviewing Authority rejecting the prayer of the applicant regarding expunge of adverse remarks.	4(xiii)	E	7

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 Filed by the applicant through -
 Jindravel Gogoi
 Advocate, CAT 14/5/04

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under Section 19 of the Administrative
Tribunal Act 1985)

ORIGINAL APPLICATION NO.120...../2004

Edunari Mounendar Reddy

-----Applicant

-vs-

Union of India & Ors.

----- Respondents

I N D E X

Sl. No.	Particulars	Page No.
1.	Application	1 - 14.
2.	Verification	15.
3.	Anenxure - A	16.
4.	Annexure - B	17.
5.	Annexure - C	18.
6.	Annexure - D	19 - 20
7.	Annexure - E	20 21.

For use in the Office :-

Signature -

Date -

Edunari Reddy

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH, GUWAHATI

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

- Between -

1. Edunari Mounendar Reddy,
PGT, Kendriya Vidyalaya, Kokrajhar,
P.O. & Dist- Kokrajhar, Assam

----- -Applicant

-AND-

1. Kendriya Vidyalaya Sangathan
Represented by its Commissioner,
18, Institutional Area,
Shahid Jeet Singh Marg
New Delhi - 110016.

2. Dy. Commissioner (Pers)
Kendriya Vidyalaya Sangathan,
Shahid Jeet Singh Marg,
New Delhi - 110016.

3. Assistant Commissioner,
Kendriya Vidyalaya Sangathan
Regional Office,
Silchar - 788001.

----- Respondents

1. PARTICULARS OF ORDER AGAINST WHICH THIS APPLICATION IS DIRECTED :

This application is made against :-

(i) Memorandum dated 4-9-2003 (Annexure -C) by which the Assistant Commissioner who is the reviewing authority has entered and communicated some adverse remarks against the applicant.

ii) Order dated 27-1-2004 (Annexure -E) issued by the Asstt. Commissioner through which the said authority illegally and without any authority rejected the applicant representation.

2. JURISDICTION :

That the applicant declares that the subject matter of this application is within the jurisdiction of this Hon'ble Court.

3. LIMITATION :

That, the applicant also declares that this application is made within the time limit as has been prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE :

i) That the applicant was initially appointed as post graduate teacher in the Kendriya Vidyalaya Sangathan in the year 1986 and thereafter with effect from July, 1997 to July 2001 he was sent on deputation as Principal, Navodaya Vidyalaya.

ii) That, when the applicant was on deputation he got

one advertisement in the month of January 2001, which was published in the "Employment News" for the posts of Principal, Kendriya Vidyalaya Sangathan. The said advertisement was for direct recruitment of principal post against 66.2/3 % of total vacant post. After getting the said advertisement the applicant applied for the same.

iii) That, the applicant states that the written examination for the said principal post was held in month of April 2001 in which the applicant appeared and did well and hence he was called for the viva voce/interview which was held in a phased manner w.e.f. 8-5-2001 to 24-5-2001. The applicant appeared for viva voce test on 16-5-2001.

iv) That, the applicant states that since 2000 the respondents adopted the method to appoint all the selected candidate for the post of Principal on deputation basis, though they follow the selection process of direct recruitment by an open advertisement on All India basis and subsequently they are regularised in the said post on the basis of performance of the respective principal. Accordingly, all the selected principal who were appointed in the year 2000 on deputation basis were regularised.

v) That, in this year also i.e., 2001, all the selected candidates were given appointment on deputation basis. Accordingly, the applicant was also offered appointment vide appointment order dated 13-6-2001.

vi) That the applicant states that though as per the advertisement as well as per the Rule, the applicant

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should be given regular appointment to the post of principal, the respondent offered appointment on deputation basis. As the respondent followed the same procedure in the earlier year, the applicant accepted the same and joined the post at Kendriya Vidyalaya, Panisagar with hope that he should be regularised subsequently as were happened in the year 2000.

vii) That since his joining in the post of Principal, he had been doing his duties to the satisfaction of all concern. Immediately after his joining, the applicant took several measures to promote the educational system of the Kendriya Vidyalaya, Panisagar. Be it stated that he also took several measures to eliminate the corruption and misdiscipline of the said school which was prevailing since long time back. Due to his sincere service the applicant earned good service record for the years together. As the applicant took several measures to eliminate the corruption, the disruptive elements were trying to their best to remove the applicant from the said post. As the disruptive elements are in around the Vidyalaya are trying to demoralize any trail to set the things right and was trying to remove the applicant from the post, the reporting officer wrote a letter dated 2-7-2003 to the commissioner, Kendriya Vidyalaya Sangathan requesting not to remove the applicant from the post.

Copy of the letter dated 2-7-2003 is annexed herewith and marked as Annexure -A.

viii) That the applicant states that, when he was in the

Navodaya Vidyalaya, he also earn very good service record as an able administrator due to his able guidance, hard work and excellent service and hence the Chairman of the school wrote to the authority vide letter dated 7-7-2001 to retain him in the school when he got the promotion to the post of Principal in the present department. Be it stated that since his joining in the year 1986, the applicant has earned either good or excellent service record through out the years.

Copy of the letter dated 7-7-2001 is annexed herewith and marked as Annexure -B.

ix) That the applicant states that though he has rendered an excellent service as a principal to the Kendriya Vidyalaya, Panisagar, the respondents reverted him from the post of principal vide memorandum dated 24-6-2003, to his parent post, that is Post Graduate Teacher post.

x) That being aggrieved with the said reversion order the applicant approached this Hon'ble Tribunal by filing an Original Application No. 163/2003 in the month of July 2003 which is still pending before this Hon'ble Tribunal.

xi) That the applicant states that, in the month of September 2003 he received one memorandum dated 4-9-2003 whereby the Assistant Commissioner has communicated some adverse remarks for the year ending 31-3-2003. By that memorandum the Reviewing Officer has communicated the following points :

Over all performance

Fitness - A below average officer.

Fitness for promotion - Unfit

Has the officer any special --He has poor administrative characteristics and or any ability and done various outstanding merits or irregularities in abilities which would contractual appointment justify his advancement management of finance. and special selection for higher appointment and special selection out of turn ?

Copy of the memorandum dated 4-9-

2003 is annexed herewith and marked

as Annexure - C.

xii) That the applicant states that he submitted one representation dated 14-10-2003 for expunge of adverse remark to the Assistant Commissioner who is the Reviewing Authority. In the said representation the applicant stated in details about the works done by him during the periods. He also stated that about the matters as has been written by the Reviewing Authority in the Annual Confidential Report (in Short ACR), no show cause notice was given to him at any time and the entries has made with bias attitudes. The applicant also stated that for the relevant period the Reporting Officer send the confidential report which clearly shows that very good Administrative performance and there was no adverse remark in any column. The applicant also

ENReddy

requested to compare his works with the penal inspection report, internal Audit Report and the reply submitted by the applicant and also by the Reporting Officer. Be it stated that no irregularities has been mentioned in any penal inspection report and internal Audit Report and thereby requested to expunge the adverse remark.

Copy of the representation dated 14-10-2003 is annexed herewith as Annexure - D.

xiii) That the applicant states that the said representation has been disposed of the Reviewing Officer vide order dated 27-1-2004 and thereby rejected the prayer of the applicant illegally and without any authority as per law. The same has been rejected without any reason and without applying the mind.

Copy of the said rejection order dated 27-1-2004 is annexed herewith as Annexure - E.

(xiv) That the applicant states that as he approached this Hon'ble Tribunal challenging the reversion order which had been issued biasly and illegally, the respondents became annoyed with him and hence with the help of Assistant Commissioner who is the Reviewing Officer, the adverse remarks have been entered without any basis and in complete violation of the statutory rules. All the respondents became biased from the very beginning of his joining as principal in the K.V. Panisagar inasmuch as their vested interest were hampered due to his various steps against the corruption and

hence they first reverted him from the post illegally and whimsically and thereafter recorded the adverse remarks so that he may not get promotion in near future and can not success in the earlier case. Though the respondents recorded the adverse remarks, but have not supplied the materials basing on which the same have been recorded.

(xv) That the applicant states that in the instant case the respondents have violated the Rules 86(I) (vii), 88(A), 89 and 89(A) of the Education code for the Kendriya Vidyalayas in writing the adverse remarks in the Annual Confidential Reports for the year ending 31-3-2003. Be it stated that the applicant was never issued any warning during the relevant period and/ or thereafter as is required under provision of Rule 86(I) (vii), The Rule 86(I)(vii) reads as follows :-

"Every Warning / reprimand / displeasure issued in writing need not automatically find a place in the confidential report, only cases in which despite such warning etc, the officer / official has not improved, appropriate mention of such warning etc., may be made in the confidential Report."

That the Rule 88(A) of the Code deals with the time limit for preparation and submission of confidential Report which speaks that the Report to be completed by Reviewing Officer and sent to Administration of C.R. Section/Cell within 31st July of every year. But in the instant case the Assistant Commissioner sent the report in the month of September 2003 when the communication to the applicant

has been issued.

That the Rule 89 of the Code deals with "Communication of Adverse Remarks" i.e., as to how the same should be communicated which read as follows :

"(89)

All adverse entries in the confidential reports should be communicated by the Reviewing Officer along with a mention of good points within one month of this being recorded. This communication should be in writing and a record to that effect should be kept in CR dossier of the employee concerned. While communicating the adverse remarks to the employee concerned the time limit prescribed viz., one month, within which representation is to be submitted, should be specifically brought to his notice."

That in the instant case the aforesaid provision has also been violated inasmuch as there is no mention of good points in the communication dated 4-9-2003.

That the Rule 89 (A) of the Code deals with the representation against adverse remarks. As per Rule 89(A) (ii) provides that if a representation is sent to the authority communicating the adverse remarks, that authority should forward the same to the next higher authority who will deal with such representation but the same has not been followed in the instant case. The aforesaid provision read as follows :

EMReddy

" 89 (A)

(i) Only one representation against adverse remarks should be permitted within one month of the date of communication of such remarks.

(ii) Such a representation should be sent to the authority communicating the adverse remarks, who should forward the same to the next higher authority with his own remarks.

(iii) A representation against the adverse remarks should be decided by the competent authority within three months from the date of submission of the representation.

(iv) Where an appeal/representation against adverse remarks is received after the expiry of the stipulated period of one month, an explanation for delay submission of appeal/representation should also be forwarded with the comments of the reporting and reviewing Officer to the appellate authority. The appellate authority may at his discretion entertain the delayed appeal/representation if he is satisfied with the explanation for the delay.

Note : The appellate authority is one stage above the Reviewing Authority and appeals for expunction of adverse remarks should be dealt by the Appellate Authority. "

(xvi) That the applicant states and submits that the adverse remarks as has been entered by the Reviewing Officer is not based on records for the relevant period inasmuch as there was no administrative fault in any matter and there was no irregularities in any matter including contractual appointment and management of finance. He also states that he was never given any warning during the relevant period in respect of the matter as mentioned in the annual report of the relevant period. In fact, the respondent entered the adverse remark very illegally and in bias manner and hence gone against the report of the Reporting Officer. The said entry is not at all consistent.

Being aggrieved with the adverse remarks, the applicant approach this Hon'ble Tribunal by filing this Original application on the following grounds amongst others :

GROUND FOR RELIEF :

(I) For that the action of the respondents is biased and not based in records and hence the same is not sustainable in the eye of law.

(II) For that the reviewing authority entered the adverse remarks without giving prior warning /reprimand /displeasure at any time during the relevant period as is required under Rule 86(I) (vii) and hence the same is liable to be set aside and quashed.

(III) For that the reviewing authority failed to exercise the positive and independent judgment in writing the confidential report of the relevant period and

hence the adverse remark has been entered only with intention to substantiate their earlier action of reversion of the applicant from the post of principal.

(IV) For that the adverse remarks are untenable in as much as no irregularities in contractual appointment and in the management of finance had been done by him at any time, more particularly, during the relevant period i.e., 1st April 2002 to 31st March 2003 and hence adverse remarks should be expunged.

(V) For that the present adverse remarks are not sustainable so far the same is compared with his earlier annual reports since his date of joining in the service.

(VI) For that had he committed any irregularities during the relevant period, he could have been punished by following due process, but the same has not been done and hence the adverse remarks are not maintainable.

(VII) For that the adverse remarks have been recorded and communicated in violation of the statutory rules as provided in the Code of Kendriya Vidyalaya and hence the same should be expunged.

(VIII) For that the representation of the applicant against the adverse remarks have been considered illegally and without any authority.

(IX) For that the respondents disposed of the representation in a perfunctory manner and without considering all the points as raised in the same and hence the same is not maintainable.

(X) For that the adverse entries as have been entered are arbitrary, inconsistent and not based on the materials on records and hence that should be expunge.

(XI) For that the action of the Respondent are whimsical and bias and hence the same should be expunge.

(XII) For the actions of the Respondents in making the adverse entries is against the principles of natural justice and administrative fair play.

(XIII) For that the adverse entries made by the respondents are in complete violation of the statutory provisions as laid in the code of Kendriya Vidyalaya and hence the same is not sustainable.

(XIV) For that the action of the Respondent is violative of Article 14, 16 and 21 of the Constitution of India and hence the same is liable to be expunge.

(XV) For that at any rate the action of the respondent are not maintainable in the eye of law and the same are liable to be set aside and quashed.

6. DETAILS OF REMEDIES EXHAUSTED :

I) That the applicant states that he has availed all the remedies as stated in paragraphs 4 of this application but failed and hence there is no other alternative remedy to him other than to approach this Hon'ble Tribunal.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY COURT:

That the applicant further declares that the applicant has not filed any application, writ petition or suit regarding the matter before any court or any other bench of this Hon'ble Tribunal nor any such petition or suit is pending before any of them.

8. REMEDIES SOUGHT FOR :

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

(i) To expunge the Adverse remark of the Reviewing Officer as entered in the A.C.R. for the year ending 31-3-2003.

(ii) To pass any other further order or orders as your Lordships may deem fit and proper.

(iii) Cost of the application.

9. INTERIM RELIEF PRAYED FOR :

Under the facts and circumstances stated above the applicant prays that Your Lordships may be pleased to pass necessary order directing the respondents to keep in abeyance the adverse entries as has been communicated by memorandum dated 4-9-2003 (Annexure - C)

10.

ENR_{eddy}

11. PARTICULARS OF I.P.O.

- (i) I.P.O. No. : 11G 389296
(ii) Date of issue : 06/05/2004
(iii) Payable at : Guwahati

12. LIST OF ENCLOSURES

As stated above.

VERIFICATION

I, Shri Edunari Mounendar Reddy, Son of Shri Ranga Reddy... aged about 46.... years resident of RamKrishna Mission, Kokrajhar, P.O. and district Kokrajhar (Assam) at present working as post graduate teacher Kendriya Vidyalaya Kokrajha, do hereby verify that the statement made in paragraph 1 to 12 of the application are true to my personal knowledge and the submission made therein I believe the same to be true as per legal advice and I have not suppressed any material fact of the case.

And I sign this verification on this day of May, 2004 at Guwahati.

Date : 14/05/04

Place: Guwahati

Edunoori Mounendar Reddy
Signature

No.PA/34 Bn/KV/2003/ 8098-100
HQ 34 Bn BSF
Panisagar
Dist-Tripura(N)

07 July 2003

To

The Commissioner
Kendriya Vidyalaya Sangathan
18- Institutional area
Shaheed Jeet Singh Marg
New Delhi-110016.

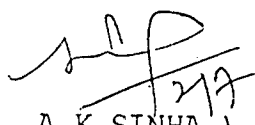
Sir,

In reference to your letter No; F.7-7/2002.KVS (Estt-1) dated 24/26-06-2003 delivered to Mr. E.M.Reddy (Principal, KV-Panisagar, North Tripura) I would like to mention a few words of my conviction in consultation with the actual Chairman of the Vidyalaya Management Committee-KV-Panisagar.

This is our personal and general observation that the Vidyalaya has witnessed a tremendous progress under the able guidance of Mr. E.M.Reddy especially in the matters of eliminating the corruption and indiscipline. The Vidyalaya is now in a pace of progressing firmly. I also understand that there are certain disruptive elements in and around the Vidyalaya who are trying to demoralize any trial to set the things right in the Vidyalaya.

Therefore this is my opinion that Mr. E.M.Reddy doesn't deserve such an adverse punishment and your dignity may look into the matter personally so as to conduct a thorough Inquiry about the matter accordingly.

Yours faithfully,


(A.K SINHA)
DY COMMANDANT
OFFG COMDT FOR CHAIRMAN/VMC
64 Bn BSF

Copy to :-

1. Jt Commissioner (Adm)
K V S New Delhi
2. Sh E M Reddy
Principal K V Panisagar.

Advocate
Certified to be
true copy



मुनीर मुजावर

भा.प्र.से.
जिल्हाधिकारी

Annexure - B

51

- 17 -

जिल्हाधिकारी कार्यालय,
वाशिम

Dear Sir,

7th July-2001

It was brought to my notice that, Mr.E.M.Reddy, Principal, JNV-Washim has been promoted to the post of the Principal in his parent organisation. He is a very able administrator and under his guidance and hard work this vidyalaya has brought glory to Washim District. He has rendered excellent service to this vidyalaya by providing consistantly good results in the Board Examinations. If he is retained in this vidyalaya this institution will become a pride of this district. Otherwise, you are requested to send a dynamic Principal to uphold the dignity and integrity of the vidyalaya which Mr.Reddy has established.

With regards,

Yours sincerely,

Munir Mujawar
(Munir Mujawar)

Collector & Chairman, VMC

To,
Mr.S.P.Gaur, IAS,
Director,
Navodaya Vidyalaya Samiti,
A-39, Kailash Colony,
New Delhi - 110 048.

*Thin Advocate
certified to be*

true copy

KENDRIYA VIDYALAYA SANGATHAN
REGIONAL OFFICE: SILCHAR-788001

CONFIDENTIAL
REGD. POST

No.F.ACR/2003/KVS(SR)/

11304-07

Date : 04-9-2003.

M E M O R A N D U M

Entries recorded in the Annual Confidential Reports for the year ending 31-03-2003 in respect of Sri/~~Smt~~ E. M. Reddy Ex-Principal, KV, Panisagar now reverted as PGT (Chem), KV, Kokrajhar, Kendriya Vidyalaya

are reproduced below for his/her information and necessary improvement.

Part-III: Remarks of the Reviewing/~~Reporting~~ Officer

Over all performances

Fitness - A below average Officer.

Fitness for promotion - Unfit.

Has the Officer any special characteristics and or any outstanding merits or abilities which would justify his advancement and Spl. selection for higher appointment and Spl. selection out of turn? He has poor administrative ability and done various irregularities in contractual appointment and management of finance.

The undersigned wishes to give Sri/~~Smt~~ E. M. Reddy, Ex-Principal (now reverted as PGT) an opportunity to represent against the above mentioned entries made in the ACRs for the year 2002-03 for expungement, if justified.

Hence Sri/~~Smt~~ E. M. Reddy should submit his/her representation along with justification to this office within a month of the receipt of this communication. In the absence of any representation it will be presumed that he/she has nothing to say against the adverse entry.

The receipt of this memorandum should be acknowledge.

(M. M. JOSHI)
ASSTT. COMMISSIONER

~~EDUCATION OFFICER~~

To

Shri E. M. Reddy, Ex-Principal,
(now reverted as PGT (Chem))
KENDRIYA VIDYALAYA Kokrajhar.

Copy to:- 1. ACR/Dossier in respect of Shri E.M. Reddy, KV, Kokrajhar.

2. The Sr. Admn. Officer, KVS (Hqrs), New Delhi.

3. The Asstt. Commissioner, KVS (RO), Guwahati.

ASSISTANT COMMISSIONER
~~EDUCATION OFFICER~~

certified to be
true copy.

for
Advocate

Received
17th Sept
2003
Amulya
17/9/03

14th October 2003.

To,
The Assistant Commissioner
Kendriya Vidyalaya Sangathan
Regional Office
Hospital Road Silchar
PIN 788001.

**THROUGH PROPER CHANNEL
PRINCIPAL KENDRIYA VIDYALAYA KOKRAJHAR**

Subject: - Expunge of the adverse remarks entered by the Reviewing officer request.
Reference: - No. F. ACR/2003/KVS (SR)/11304-07 Dated 4th September 2003 and received on 17th September 2003.

Sir,

With due respect, I do hereby state that I have received on 17th September 2003, the remarks of the reviewing officer, vide memorandum No F. ACR/2003/KVS (SR)/11304-07 Dated 4th September 2003. I submit this representation for your kind consideration and request to expunge the adverse remarks.

The adverse remarks, as communicated vide memorandum dated 4.9.2003, has been entered whimsically and thought in as much as, the irregularities as has been mentioned, has neither been proved by any enquiry committee nor I was given any show cause notice for the same during the relevant period and the said entries is bias and after thought which has been made after filing the case in CAT. Be it stated that at the relevant period my reporting officer also sent the annual confidential report which also clearly shows that very good administrative performance and there was no adverse remark in any column of the report and hence the remarks entered by the reviewing officer is not at all justified and is liable to be quashed.

I earned good name and fame to the Kendriya Vidyalaya Panisagar and to the Sangathan by providing corruption free administration, which were appreciated by all except corrupt people who were mismanaged and defamed the institution. This may please be confirmed from The Chairman VMC, who had regularly supervised the activities and Vidyalaya Management Committee Members who were seen the progress of the Institution. Moreover reporting officer in recognition of my works reported well where as the reviewing officer with out Applying mind entered adverse remarks with out any basis. The following are my works during the period under report.

1. Purchased eight computers, started computer Education and also imparted computer aided learning to the students by purchasing required software.
2. Provided basic amenities for primary children by constructing toilets, which was neglected for several years.
3. Developed primary resource center.

(Continued on Page-2)

*certified to be
true copy.
This
Advocate.*

page-2

4. Library is made functional by opening the sealed cupboards. Made available nearly thirty periodicals and magazines for the benefit of students and staff members. (When I took the charge the library was under locked cupboards, not even a single magazine or news paper was available}
5. Constructed a platform for morning assembly and for cultural programmes these programmes were organized effectively and appreciated by all including inspection teams.
6. Internal and external white wash carried out. (Which was not done earlier).
7. Electrical repairs carried out.
8. Provided running water supply to the students by purchasing and fixing a water pump set to the Vidyalaya.
9. By providing fencing given a shape to the Vidyalaya and also Developed a beautiful Vidyalaya garden which was appreciated by the panel inspection team.
10. Implemented all the suggestions given by the panel inspection team and surprise inspections with true spirit.
11. Carried out regular classroom supervision.
12. Constituted VMc, VEC, VAC and PTA (These fundamental bodies were not functional since a decade) and also conducted regular meetings of these committees).
13. Planned the Vidyalaya Budget and effectively utilized for the benefit of the students.
14. Organized annual Sports Day and Annual Day celebrations with great success
15. First time in the history of K.V.Panisagar Vidyalay Broacher was brought out.
16. Vidyalaya Patrika was brought out.
17. Most of the outstanding audit objections were settled (these were pending since a decade}.
18. Purely because of my efforts 13 Acres of land has been allotted to the Vidyalaya which was pending since more than a decade.

These works may please be confirmed by comparing panel inspection reports of the year 2001 and 2002, also internal audit reports and the replies submitted, and also from the reporting officer. Be it stated that the panel inspection report and internal audit report nowhere mentioned any irregularity in any work done by me and hence these adverse entries are not sustainable.

By considering all the above-mentioned facts I pray your honor to expunge the adverse remarks entered by the reviewing officer.

Yours faithfully

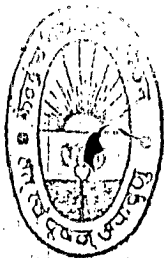
E.M.REDDY

Principal {reverted to PGT}
Joined Under Protest against the Reversion.}
Kendriya Vidyalaya Kokrajhar-783370.

Attested by —

(Gandharail Gogoi)
Advocate, CAT

14-05-2004



- 2 -

Phone : 0361 (200)
0361 (200)
0361 (200)

केन्द्रीय विद्यालय संगठन KENDRIYA VIDYALAYA SANGATHAN

ANNEXURE-E

प्रमुख, केन्द्रीय विद्यालय संगठन
असम, गुवाहाटी
दिनांक : 27.01.2004

Regional Office
Hospital Road,
Silchar - 788001

पत्रांक
F.No. 2-8 (ACR) / 2003-KVS (SR) / 21376-79

Date: 27-01-2004

ORDER

Regd. Cont. Cont.

Whereas Shri E.M.Reddy, Ex-Principal, KV, Panisagar (reverted to the post of PGT and posted to KV, Kokrajhar) was communicated adverse remarks from his ACR for the period ending 31.3.03 vide memorandum No. ACR/2003/KVS (SR)/11304-07 dated-04.9.2003.

And, whereas Shri E.M.Reddy made a representation dated 14.10.2003 against the adverse remarks.

Now after careful consideration, the undersigned has come to the conclusion that there is no ground/justification for expunction of adverse remarks conveyed from the ACR of Shri E.M.Reddy, Ex-Principal and presently working as PGT (Chem), KV, Kokrajhar.

His representation to expunge the adverse remarks is therefore rejected.

(M.M. JOSHI.) 28/1/04
ASSISTANT COMMISSIONER, Panisagar

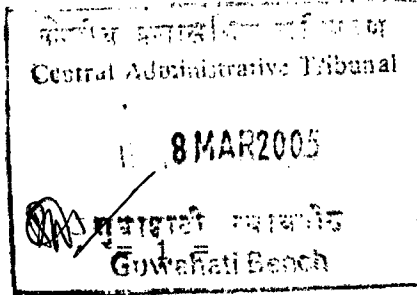
Copy to:

1. Shri E.M.Reddy, Ex-Principal, KV, Panisagar presently working as PGT at KV, Kokrajhar on reversion.
2. The Deputy Commissioner (Pers), KVS (HQRS), New Delhi.
3. The Asstt. Commissioner, KVS, RO, Guwahati.
4. The Principal, KV, Kokrajhar.

XXXX

*certified to be
true copy.*

*For
Advocate.*



Filed by the Respondent
through Keshab Bhattacharya
Advocate
16-03-05

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH - GUWAHATI

D.A No.120/2004

E.M. Reddy

_____ Applicant

-V E R S U S-

Kendriya Vidyalaya Sangathan & Ors.

_____ Respondents

IN THE MATTER OF:

Written Statement filed by the
Respondents against the amended peti-
tion.

-AND-

IN THE MATTER OF:

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

_____ Deponent

The humble written statement on
behalf of the respondents:

I, Sri U.N Khawarey, the Assistant Commission-
er, Kendriya Vidyalaya Sangathan, Regional Office, Guwa-
hati, on being authorized by the respondents, is compe-

Contd...../-

tent to submit this written statement, do hereby solemnly affirm and file written statement on being supplied with the para-wise comments from the Head Quarter.

1. That the respondents have been served with a copy of the Original Application and on being supplied with comments from the Head Quarters this reply has been submitted on behalf of the respondents.

2. That the deponent states that the allegations / averments which are not borne out of records are denied and not admitted. Any allegations / averments which are not specifically admitted hereinafter are deemed to be denied.

3. That the deponent before controverting the contents of the paragraphs made in Original Application begs to apprise that the Kendriya Vidyalaya Sangathan is registered under the Societies Registration Act XXI of 1860 and fully financed by the Government of India with the objective of -----

(I) to meet the educational need of children of transferable Central Government Employees including defence personnel by providing common syllabus of education.

(II) to develop Vidyalaya as a model school in the context of National goal of Indian education.

Contd...../-

(III) to initiate / promote experimentation in the field of Education in collaboration with other bodies like C.B.S.C, N.C.E.R.T etc and

(IV) to promote national integration.

4. That in the instant case the applicant has challenged the Kendriya Vidyalaya Sangathan's Memorandum dated 04-09-2003 relating to entries in the ACR and Memorandum dated 27-01-2004 by which the reviewing authority has communicated the order passed against his representation so made against the entries in the ACR.

Para-wise Comment:

5. That with regard to the statement made in paragraph 1.1, the deponent states that the same is a matter of record and with regard to statement made in paragraph 1.2, the deponent states that adverse entries in the ACR for the year 2003 were communicated by the Assistant Commissioner (Reviewing authority) for improvement on the points and also with a view to provide him a reasonable opportunity for making representation in pursuance of the direction of the competent authority received by letter dated 27-08-2003. The representation made by the applicant was considered carefully based on the facts and circumstances of the case and decision arrived at was communicated to him vide order dated 27-01-2004.

Contd...../-

6. That with regard to the statements made in paragraphs 2 & 3, the deponent states that as these are matter of records, as such he does not offer any comment.

7). That with regard to the statements made in paragraphs 4.1, 4.2 and 4.3 of the amended petition, the deponent offers no comments as the same are matter of records.

8). That the deponent states that the averment made in paragraphs 4.4 and 4.5 is misleading. The applicant was appointed as Principal on deputation basis as per the Recruitment Rules for the post of Principal. It is also a fact that the appointment of the Principals on deputation basis are regularized based on their performance and subject to availability of vacancies. Moreover,, Clause 3 of memorandum dated 12-06-2001 wherein it is clearly mentioned that the period of deputation can be curtailed by the competent authority of KVS on his sole discretion.

9. That the deponent states that the averment made in paragraph 4.6 is misleading. The Recruitment Rules for the post of Principal provides for 66.2/3% by direct recruitment on all-India basis advertisement and 33.1/3% by promotion. The said rules further envisages that if suitable candidates are not available, the authority may fill up the vacancies on deputation basis provided the candidate fulfills all the qualification prescribed for

Contd...../-

direct recruits. The averment of the applicant that he accepted and joined the post with the hope that he will be regularized subsequently is baseless as the advertisement was made for appointment of Principals on deputation basis only.

10. That the averment made in paragraph 4.7, the deponent denies the correctness of the same. The deponent states that the applicant failed to maintain the dignity of the post held by him. The then Nominee Chairman, VMC made a complaint vide his D.O letter dated 19-03-2002 against the applicant on his functions to the Commissioner, KVS and during the fact finding enquiry conducted by KVS the allegations were found to be correct. The applicant appointed his wife as contractual teacher in KV, Panisagar in contravention of rules on the subject. The applicant was lacking in Administrative skill. He failed to follow the procedure prescribed and a Advisory Memo was served upon him.

11. That with regard to the statement made in paragraph 4.8, the deponent begs to state that the facts stated in this paragraph are irrelevant for it has no bearing on the work and conduct for his stay at Panisagar.

12. That with regard to the statements made in paragraphs 4.9 and 4.10, the deponent states that the averment made by the applicant is not correct. Further it

Contd...../-

is stated that this Hon'ble Tribunal has also considered O.A No.163/2003 and rejected the application vide order dated 02-12-2004.

13. That the statements made in paragraphs 4.11 and 4.12, the deponent states that those are matter of records and hence offers no comment. The adverse entries were made based on the performance of the applicant as indicated against the respective column as communicated vide Memorandum dated 04-09-2003. Hence the adverse remarks could not be expunged.

14. That with regard to the statements made in paragraphs 4.13, 4.14, 4.15 and 4.16, the deponent states that the same were baseless and fabricated. The representation made by him has been considered carefully by the authority keeping in view the facts and circumstances and accordingly disposed of. The action of the respondent(s) is strictly in accordance with the terms and conditions governing the appointment of the applicant on deputation basis. Since the performance of the applicant was not found satisfactory he was reverted to his original post as per the terms and conditions for appointment on deputation basis. The adverse entries were recorded in the ACR for the year 2003 and communicated by the competent authority based on the facts and circumstances. Advisory Memorandum were issued and various lapses on the part of the applicant were found during the fact finding enquiry. The representation made by the applicant was considered

Contd...../-

by the respondents as per the direction of the higher authorities vide letter dated 27-08-2003. Hence the action of the respondent(s) which is as per rule is justified and correct.

15). That with regard to the grounds set forth by the applicant, the deponent states that these are not good grounds on the face of the para-wise comments as referred herein above and it is further stated that the action of the respondent(s) is based on the facts and is as per rules. The allegations pointed out by the then Nominee Chairman were found to be correct. The applicant appointed his wife Mrs. E. Sridevi as PRT on part-time contractual basis during the year 1991 in contravention of rules. Past good records have no bearing upon the lapses / irregularities came to notice at a point of time. Recording of adverse entries in ACR of an employee is not a penalty as the penalties for the misconduct / misbehaviour have been specifically mentioned under Rule 11 of CCS (CCA) Rules, 1965. Adverse entries / remarks have been recorded on the basis of the facts / materials by the competent authority. The applicant was given a reasonable opportunity to put forth his defence. The representation made by the applicant has been considered carefully by the authority on the basis of the facts and materials of the case and disposed of accordingly. Hence the action of the respondent(s) is justified and lawful and the O.A is liable to be dismissed with cost.

Contd...../-

16. Under the facts and circumstances explained it is respectfully submitted that this Tribunal may be pleased to dismiss the instant O.A to meet the ends of justice.

..... Verification / page-9

Contd...../-

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VERIFICATION

I Shri Uday Narayan Khawarey, Son of Shri Jagat Narayan Khawarey, aged about 44 years, presently working as Assistant Commissioner in the Regional Office of Kendriya Vidyalaya Sangathan, Maligaon, Guwahati, do hereby verified that the statement made in paragraphs 1 to 15 are true to my knowledge and those made in paragraphs are _____ based on records.

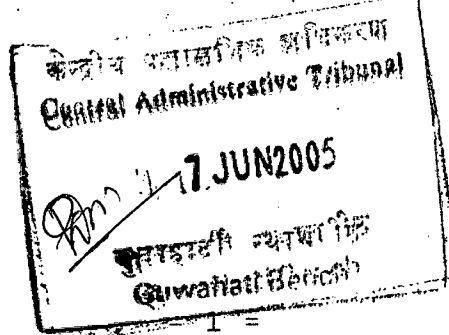
And I sign this verification on this the 15th day of March, 2005 at Guwahati.

Uday Narayan Khawarey

Place: Guwahati

DEPONENT

Date: 15-03-05



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Filed by the Respondent
through Keshab Chandra
Advocate
27-06-05

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH.

Original Application No.120/2004

E.M Reddy

_____ Applicant

-VERSUS-

The Union of India & ors.

_____ Respondents

IN THE MATTER OF:

An additional affidavit on behalf of
M.M Joshi the then Assistant Commis-
sioner, Silchar Region.

ADDITIONAL AFFIDAVIT

I, Shri M.M. Joshi, son of Shri B.D Joshi, aged about 37 years, presently posted as Assistant Commissioner, Mumbai Region do hereby solemnly affirm and say as follows:

1). That this Hon'ble Tribunal has directed to file an additional affidavit to clarify his position with regard to review of the Annual Confidential Report.

2). That the applicant was informed regarding the adverse remarks vide memorandum No.F.ACR/2003/KVS(SR)/11304-07 dated 04-09-2003. By the said memorandum he was informed to file his representation along with justification. There was an inadvertent mistake of the answering deponent, but by the time when the applicant filed his

Cond...../-

representation on 14-10-2003 he was reverted to PGT. Moreover, the applicant has addressed the representation to the Assistant Commissioner, KVS, Silchar Region to expunge the adverse remark entered by the Reviewing Officer. It may be pertinent to mention here that in respect of PGT, the Reviewing Officer is the Education Officer and the present deponent is the Appellate Authority as the Assistant Commissioner, as such the answering deponent on good faith and bonafide belief held that since the applicant is holding the post of PGT, the answering deponent is entitled to expunge the ACR. This is the mistake of answering deponent for choosing the forum of expunging the ACR by the applicant as PGT addressing the Assistant Commissioner.

4. That the answering deponent submits that for this technical error whatever loss has been suffered by the applicant is reparable at this stage at the direction of the Hon'ble Tribunal.
5. That the statements made in paragraph 1 to 4 are true to my knowledge based on records and the rest are my humble submissions before this Hon'ble Tribunal.

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V E R I F I C A T I O N

I, M.M. Joshi, Assistant Commissioner, Mumbai Region, do hereby verify that the statements made hereinabove are true to my knowledge derived from records maintained in our office.

And I sign this verification on this the 27th day of June, 2005 at Guwahati.

PLACE : GUWAHATI

DATE : 27-06-2005

Md. M. Joshi