

50/100 330 21/11  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 157/2004

R.A/C.P No.....

E.P/M.A No. 55/2005.....

1. Orders Sheet O.A-157/2004 ..... Pg. 1 ..... to 13 ..... Date 08/07/08  
MP-55/05 Order Pg-1 to 2 - Disposed

2. Judgment/Order dtd. 23/03/2009 Pg. No. 1 Separated Order Disposed

3. Judgment & Order dtd. .... Received from H.C/Supreme Court

4. O.A. .... 157/2004 ..... Pg. 1 ..... to 57 .....

5. E.P/M.P. 55/2005 ..... Pg. 1 ..... to 5 .....

6. R.A/C.P. ..... Pg. .... to .....

7. W.S. Respondents ..... Pg. 1 ..... to 17 .....

8. Rejoinder ..... Pg. .... to .....

9. Reply ..... Pg. .... to .....

10. Any other Papers ..... Pg. .... to .....

11. Memo of Appearance ..... Pg. .... to .....

12. Additional Affidavit ..... Pg. .... to .....

13. Written Arguments ..... Pg. .... to .....

14. Amendment Reply by Respondents ..... Pg. .... to .....

15. Amendment Reply filed by the Applicant ..... Pg. .... to .....

16. Counter Reply ..... Pg. .... to .....

SECTION OFFICER (Judl.)

FORM NO. 4  
(SEE RULE 42 )  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH.

ORDER SHEET

Org.Anp/ Misc.Ptn, C.G.S.Ptn/ Rev/ Appl. 157/2004

In O.A.

Name of the Applicant (S)

R. P. Pathak

Name of the Respondent (S)

M. O. I. & Ors.

Advocate for the Applicant

Mr. J. Sharma

Counsel for the Railway/ C.G.S.C. K.V. S. Counsel.

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

The application is filed C.P. 157/2004  
deposited vide IP No 131501  
Date 20/6/2004  
Dated 22/7/2004  
Dated 22/7/2004  
11/7/2004  
Smt. S. Sora  
Date 23/7/2004

26.7.2004 Heard Mr.J.Sharma, learned counsel for the applicant.  
The O.A. is admitted, call for the ext records, returnable by four weeks.

List on 27.8.2004 for orders.

  
Member (A)

bb

Notice & order  
dt. 26/7/04 sent  
to D/Section for  
issuing to resp.  
Nos. 2 to 4, by  
regd. with A/D post.

6/8/04  
10/8/04.

27.8.2004 Present: Hon'ble Shri D.C. Verma  
Vice-Chairman  
Hon'ble Shri K.V. Prahladan,  
Administrative Member.  
Learned counsel Mr S. Sora  
for the applicant. Mr M.K. Mazumdar  
and Mr K. Upadhyaya for respondent  
Nos.2 and 3. None for respondent  
Nos.1 and 4.

On perusal of the application  
it is noticed that against Respondent  
1 only sentence written is "Union of  
India". Nothing more is written nor  
through whom Union of India will be  
represented and where the notice is

27.8.2004

to be sent. Learned counsel for the applicant seeks and is granted one week time to amend and give the details of respondent 1, so that notice may be issued to respondent 1.

Notices issued to respondent Nos.2 and 3 have not been received back.

Four weeks time allowed to the respondents to file reply. List the matter on 27.9.04 for orders.

1) NO reply has been filed. (Applicant)  
 Received  
 Rajendra Patel  
 30/8/2004  
 2) NO A/D cards received back from the respondents till to-day.

✓  
24/9/04

Member

Vice-Chairman

nkm

27.9.2004 Present: The Hon'ble Mr. Justice R.K. Batta, Vice-Chairman.

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

The applicant was present in person. Order dated 27.8.2004, has not been complied with. Applicant may comply with the same. Notices to respondent nos.2 & 3 have not been received back. Applicant may, if so desires, again take steps for service on respondent nos.2 & 3. Matter is adjourned to 22.11.2004.

postal A/D card received from resp. Nos. 2, 3.

✓  
29/9/04  
 copy received  
 Rajendra Patel  
 30/09/04

K.V.Prahladan  
Member (A)R.  
Vice-Chairman

bb

22.11.2004 List on 30.11.2004 for orders.

1) NO W/S has been filed.  
 2) Notice duly served on R. No. 2 & 3.  
 3) S/R is awaited for R. No. 1 & 4.

✓  
29/11/04

mb

K.V.Prahladan  
Member (A)

X10-A/13 to be scanned

✓

O.A. 157 of 2004

Notes of the Registry	Date	Order of the Tribunal
	30.11.04.	<p>Service is awaited for Respondents No. 1 &amp; 4. None is present for the applicant. Mr. M.K. Mazumdar learned counsel is present for Respondent No. 2 &amp; 3. Applicant to take steps for service of on <del>some</del> Respondents. Stand over to 27th January, 2005.</p> <p><i>K. D. Dinkar</i> Member</p>
<i>25-105 No. 115 has been given. Dr</i>	27.1.2005	<p>On the plea of counsel for the applicant one weeks time is given to take fresh steps. List on 10.2.2005 for orders.</p> <p><i>K. D. Dinkar</i> Member (A)</p>
<i>No reply has been given. N/ 24/3/05</i>	10.2.05.	<p>Reply has not been filed despite repeated adjournments. was granted. Mr. M.K. Mazumdar learned counsel for Respondent No. 2 &amp; 3 seeks further time to file reply. <i>In the interest</i> of justice, last opportunity is granted to file reply within four weeks. List on 28.3.05.</p> <p><i>K. D. Dinkar</i> Member (A)</p>
<i>28.4.05 No. 115 has been given. Dr</i>	28.03.2005	<p>At the request made on behalf of Mr. M.K. Mazumdar, learned counsel for the K.V.S. the case is adjourned to 5.4.2005.</p> <p><i>R. Kapoor</i> Vice-Chairman</p>
		<p>bb</p>

05.04.2005 Post on 11.4.2005.

Vice-Chairman

mb

11.04.2005

Learned counsel for the applicant and learned counsel for the respondents are not present. Written statement is not seen in the file. Post on 11.5.05. Written statement if any in the mean time.

10-5-05  
No arts to be on 20.5.05

do

K. P. Balakrishnan  
Member

Vice-Chairman

bb

11.5.05.

Heard Ms. H. Das learned counsel appearing on behalf of Mr. M. K. Mazumdar, counsel for the Respondents. Mr. J. Sharma learned counsel for the applicant is present. Post the matter on 20.5.05.

K. P. Balakrishnan  
Member

Vice-Chairman

lm

19.5.05

Written statement has been filed.

WTS filed by the  
Respondents

do

K. P. Balakrishnan  
Member

mb

23.6.2005

Post on 08.07.2005.

WTS filed by the  
Respondant

22.6.05

Vice-Chairman

7-7-05

mb

08.07.2005

Post on 10.8.2005 for hearing.

Additional affidavit, if any, before  
10.8.2005.

① WTS filed  
② Rejoinder filed as  
prayed for

lm

K. P. Balakrishnan  
Member

Vice-Chairman

mb

04157/05  
page=5.

Resp. No. 1 is deleted  
vide order dt. 8/7/05  
passed in MP 55/05.

(See  
25/7/05.)

10.8.05.

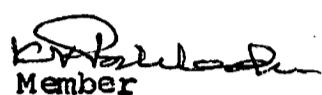
At the request of learned counsel  
for the applicant case is adjourned  
to 12.8.05. No further adjournment will  
be granted.

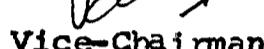
  
Member

  
Vice-Chairman

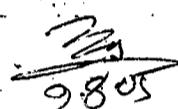
lm.

12.8.2005 Post on 17.8.2005.

  
Member

  
Vice-Chairman

- ① W/S has been filed.
- ② No rejoinder has  
been filed.

  
9.8.05

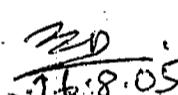
bb  
17.8.05

Due to paucity of time the case  
is adjourned to next available Division  
Bench.

  
Member

  
Vice-Chairman

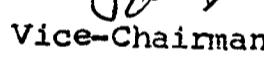
No Rejoinder has  
been filed.

  
20  
16.8.05

3-10-05

lm  
4.10.2005 Counsel for the applicant is absent.  
Post on 21.11.2005.

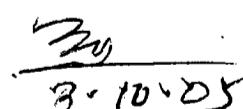
  
Member

  
Vice-Chairman

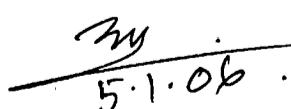
- ① W/S has been filed.

21.11.2005 Post before the next Division  
Bench.

- ② No Rejoinder has  
been filed.

  
3-10-05

No Rejoinder has  
been filed.

  
5-1-06

bb  
6.1.2006 Mr. G. Soren, learned counsel on  
behalf of Mr. J. Sarma, learned counsel  
for the applicant seeks for adjournment.  
Post on 17.1.2006.

  
Member

  
Vice-Chairman

mb

17.1.05.

This is a Division Bench matter.

Post the matter before the next available  
Division Bench.

Vice-Chairman

lm

23-3-06

- ① Wts km been filed.
- ② No Rejoinder km been filed.

My

mb

23.3.2006

The matter pertains to Division Bench.  
Since there is no Division Bench ~~xxx~~  
available, post before the next Division  
Bench.

Vice-Chairman (J) Vice-Chairman (A)

22-3-06

No Rejoinder km been filed.

My

bb

1-8-06

No Rejoinder km been filed.

My

2.8.2006

Heard Mr. B. Sarma, learned coun-  
sel for the applicant and Ms. U. Das,  
Addl. C.G.S.C. for the respondents.  
Hearing concludes. Reserved for  
orders.(B)

Member (A)

Vice-Chairman

bb

2.8.2006

Post the matter on 4.8.2006.

✓  
Member (A)

Vice-Chairman

bb

4.8.2006

Applicant's counsel is consecutively  
absent. Even today also. However, final  
opportunity is given to the applicant to  
contest the case if he has got interest.

Post on 5.9.2006.

✓  
Member (A)

Vice-Chairman

bb

7  
O.A. 157/2005

05.09.2006 Present: Hon'ble Sri K.V. Sachidananda  
Vice-Chairman.

The learned Counsel appearing for the Respondents made an application for adjournment of the case on personal ground.

Post on 24.10.2006.

Vice-Chairman

/mb/

24.10.2006 post before the next Division Bench.

Vice-Chairman

bb

28.02.2007 Learned counsel for the parties are not present. Let the case be posted after

ce two weeks.  
Member

Vice-Chairman

lm

Member(A)

Vice-Chairman

/bb/

28.02.2007

Learned counsel for the parties are not present. Let the case be posted after two weeks.

ce  
Member(A)

Vice-Chairman

/bb/

12.3.07.

post the matter on 13.3.07.

D

Member

Vice-Chairman

lm

OA 157/2004

13.3.2007

Mr. M. K. Mazumdar, learned Standing counsel for the Respondents is absent even today also. Let the case be posted on 15.03.2007. Counsel for the applicant will inform the counsel for the Respondents.

It is made clear that if the Respondents' counsel is not present on that day, the matter will be heard and order will be passed accordingly.

D

Member (A)

Z

Vice-Chairman

/bb/

15.03.2007 Present: Hon'ble Shri K.V. Sachidanandan, Vice-Chairman

Hon'ble Shri Tarsem Lal, Administrative Member.

Let this case be listed on 20.03.07.

D

Member

Vice-Chairman

nkm

1.10.07

A letter dated

17.9.07 received 20.03.2007

from the Commissioner  
K.V.S, New Delhi regarding  
OA 157/07. The same  
has been kept in  
OA 157/07  
(A) file.

The respondents have produced the records. The records will be kept by the Registry in a cover. Post after 10 days.

D

Member

Z

Vice-Chairman

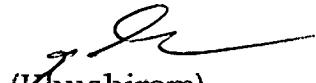
nkm

W/S filed

Z  
9.4.08

10.04.08

Call this matter on 27.05.2008 for hearing.

  
(Khushiram)  
Member(A)

  
(M.R. Mohanty)  
Vice-Chairman

pg

Replies not filed.

  
26.5.08

27.5.08

Pl. send copies of this order to the Applicant

  
26/5/08

Order dt. 27/5/08 send to Dissection for issuing to applicant and also counsel for both the parties.

(as) D/Wo- 2692 to 2694  
4/6/08. Dt = 5/6/08.

27.05.08 None appears for the Applicant nor the Applicant is present. However, Mr M.K. Mazumdar, learned counsel for Kendriya Vidyalaya Sangathan is present. He undertakes to intimate M/s J.Sarma and G. Soren, Advocates for the Applicant to come ready for hearing of the case on the next date.

Call this matter on 26.06.2008 for hearing.

Send copies of this order to the Applicant in the address given in the O.A. Free copies of the order be also handed over to the counsel appearing for both the parties.

  
(Khushiram)  
Member(A)

  
(M.R. Mohanty)  
Vice-Chairman

pg

Replies not filed

  
26.6.08

26.06.08

None appears for either of the parties.

Call this matter on 09.07.2008 before the Division Bench for hearing.

  
(M.R. Mohanty)  
Vice-Chairman

pg

09.07.08

Dt. 9.7.08

Pl. send copies of this order to the Applicant by Regd. Post.

Free copies of this order be supplied to the Respondents.

Notified

Copies of order dt. 9/7/08 send to D/Section for issuing to applicant by regd. post and to the respondent and counsel appearing for both the parties.

D/No. 3103 to 3108

Dt. 11/7/08

CAB  
10/7/08.

pg

Reminder not filed 03.09.2008

2.9.08Dt. 3.9.08

Pl. issue Notice to the respondents to cause production of the deptl. proceedings record leading to the termination of the Applicant.

2.9

Copies of order dated 3/9/08 send to D/Section for issuing to resp. by post.

D/No. 4030-32

CAB 10/9/08. Dt. 16/9/08. nkm

None appears for the Applicant nor the Applicant is present. None also appears for the Respondents. In order to give one more opportunity to the Applicant we adjourn this case.

Call this matter on 03.09.2008 for hearing.

Send copies of this order to the Applicant, by Registered Post, in the address given in the O.A; so that he can take steps on the date fixed for prosecuting his case.

Free copies of this order be also supplied to the Respondents in the address given in the Original Application and to the counsel appearing for both the parties.

Agreed

(R.C.Panda)  
Member(A)

Y  
(M.R. Mohanty)  
Vice-Chairman

pg

Mr. J. Sarma, learned Counsel appearing for the Applicant, is present. However, the learned Counsel for KVS is absent. He has filed a petition seeking accommodation till 08.09.2008.

In the aforesaid premises, call this matter on 23.09.2008 for hearing.

Issue notice to the Respondents to cause production of the departmental proceedings records leading to the termination of the Applicant.

K  
(Khushiram)  
Member(A)

Y  
(M.R. Mohanty)  
Vice-Chairman

23.09.2008 None appears for the Applicant nor the Applicant is present. Mr. A. Bhattacharjee, Advocate, has informed about the sickness of the Advocate appearing for the Applicant and he seeks an adjournment. Mr. M.K. Mazumdar, learned counsel appearing for the KVS is present.

Call this matter on 18.11.2008 for hearing.

W/S B/leel.

23  
12.10.08

lm

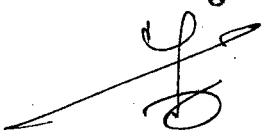
  
(S.N. Shukla)  
Member(A)

  
(M.R. Mohanty)  
Vice-Chairman

18.11.2008 On the prayer of learned counsel appearing for both the parties, call this matter on 21<sup>st</sup> Nov.2008 for hearing.

lm

  
(S.N. Shukla)  
Member(A)

  
(M.R. Mohanty)  
Vice-Chairman

21.11.2008 Mr.J.Sharma, learned counsel appearing for the Applicant is present. It is reported that Mr.M.K.Mazumdar, learned Counsel for the Kendriya Vidyalaya Sangathan, is sick, and therefore, he is absent in Court to-day.

W/S B/leel.

23  
16.12.08

lm

  
(S.N. Sukla)  
Member(A)

  
(M.R. Mohanty)  
Vice-Chairman

Call this matter on 17.12.2008 for hearing.

T. 12/1

O.A. 157 of 04

17.12.2008

None appears for the Applicant nor the Applicant is present. However, Mr. M. K. Mazumdar, learned counsel for the Kendriya Vidyalaya Sangathan is present. This is a termination matter. In order to give one more chance hearing of this matter stands adjourned to be taken up on 30.01.09.

St. 17.12.08  
Pl. send copies of this order to the Applicant in the address given in the OA

Sh. 18/12/08

Copies of order St. 17/12/08 send to D/Sec. for issuing to applicant by post.

Class 9/12/08. D/No-19

lm

D/ 02.01.2009

Send copies of this order to the Applicant in the address given in the O.A., so that the Applicant can come ready to participate the hearing of this matter on 30.01.2008.

Sh. S.N. Shukla  
Member(A)

Y  
(M.R. Mohanty)  
Vice-Chairman

30.01.2009 ✓ None appears for the Applicant, nor the Applicant is present. However, Mr M.K. Mazumdar, learned Standing Counsel for the KVS, is present and ready for hearing.

Call this matter before the Division Bench on 19.03.2009 for hearing.

St. 30.1.09  
Pl. send copy of this order to the Applicant in the address given in the O.A.

Sh. 2/1/09

nmk

Send copy of this order to the Applicant in the address given in the O.A.

Y  
(M.R. Mohanty)  
Vice-Chairman

Free copy of order d/s. 19.03.2009  
30.1.09 Send to D/section  
for issuing to the applicants  
by post.  
Case No. 515  
13.2.09 D/ 10.2.2009

W/S filed by the  
Respondents. /bb/

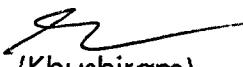
Y  
18.3.09

None for the parties. List this case on 23.03.2009 for hearing.

Y  
(A.K. Gaur)  
Member (J)

Mr. H. Das

QATB

Notes of the Registry	Date	Orders of this Tribunal
<p>26.3.09</p> <p>copy of the order dt 23.3.09 send to the D/See. for issue the notice to the Applica as well as to the Respon No 1 to 3 and a copy of the notice to the D/Adv. for the KVS</p> <p>KK</p>	23.03.2009	<p>List has been revised. None appears for the Applicant even in the revised list. Mr.M.K.Mazumdar, learned Standing counsel is present for Respondents.</p> <p>It is seen from the record that on 27.05.2008, 26.06.2008, 09.07.2008, 23.09.2008, 17.12.2008, 30.01.2009 none appeared for the Applicant. It is also seen from the record that no rejoinder/affidavit has been filed till date. It appears that the Applicant has lost interest in prosecuting the matter.</p> <p>The O.A. is accordingly dismissed for want of prosecution and default.</p> <p> (Khushiram) Member (A)</p> <p> (A.K.Gaur) Member (J)</p> <p>/bb/</p>

23 JUL 2004

গুৱাহাটী বিধুৰ বিধুৰ  
Guwahati Bench

15

DISTRICT : NAGAON

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 157 of 2004

Resp. No. 1 is deleted  
Vide order dt. 8/7/05  
passed in MP 55/05.

25/7/05.

Rajendra Prasad Pathak

-Versus-

- \* 1. Union of India
2. The Kendriya Vidyalaya Sangathan through the Chairman, 18, Kutub Institutional Area, Shaheed Jeet Singh Marg, New Delhi-110016
3. The Commissioner, Kendriya Vidyalaya Sangathan, 18, Kutub Institutional Area, Shaheed Jeet Singh Marg, New Delhi-110016
4. Sri Rai Bhushan Rai, Ex-Principal, Kendriya Vidyalaya, Misa Cantonment, Nagaon, through the Kendriya Vidyalaya Sangathan, 18, Kutub Institutional Area, Shaheed Jeet Singh Marg, New Delhi-110016

I N D E X

	Page
Application with verification	1-20
Annexure 1 :Representation dated 29.12.98 -	21-30
Annexure 2 :Letter dated 9.12.98 along with -- Summary of Inquiry Report	31-33
Annexure 3 :Representation filed by petitioner	34-38
Annexure 4 :Order dtd 31.12.99 passed by Respondent No.2	39
Annexure 5 :Appeal filed before appellate Authority	40-41
Annexure 6 :Reminder filed before appellate Authority	42
Annexure 7 :Copy of the Order dated 4.12.02	43-49
Annexure 8 :Copy of the Order dated 20.1.04	50-55
Annexure 9 :Copy of the Order dated 14.5.04	56-57

Filed by

Advocate for the applicant

DISTRICT : NAGAON

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Filed by  
Sri Rajendra Prasad Pathak  
through  
Attorney General

Original Application No of 2004

Rajendra Prasad Pathak

-Versus-

The Kendriya Vidyalaya Sangathan & Ors

DETAILS OF APPLICATION

1. Particulars of the Applicant: Sri Rajendra Prasad Pathak.

S/O Late Harihar Pathak,

Resident of Village Abhuram

P.O. Turkwalia (Pepeeganj) in

the district of Gorakhpur,

Uttar Pradesh earlier

served as Primary School

Teacher in Kendriya

Vidyalaya, Misa Cantt,

Nagaon, Assam.

2. Particulars of the respondents: 1. Union of India

2. The Kendriya Vidyalaya

Sangathan, through the

Chairman, 18, Kutub

Institutional Area, Shaheed

Jeet Singh Marg, New Delhi-

110016

3. The Commissioner, Kendriya

Vidyalaya Sangathan, 18,

Kutub Institutional Area,

Shaheed Jeet Singh Marg,

New Delhi-110016

Rajendra Prasad Pathak

4. Sri Rai Bhushan Rai, Ex-Principal, Kendriya Vidyalaya, Misa Cantonment, Nagaon, through the Kendriya Vidyalaya Sangathan, 18, Kutub Institutional Area, Shaheed Jeet Singh Marg, New Delhi-110016

3. Particulars of the Order : Order No.K-8-73-90-KVS(Vig) against which application is made dated 20.01.04 passed by the Commissioner, Kendriya Vidyalaya Sangathan

4. Jurisdiction of the Tribunal: Subject matter of the Order which is under challenge is within the jurisdiction of the Tribunal

5. Limitation : The applicant declares that the application is within the limitation prescribed in Section 21 of the Administrative Tribunals Act, 1985.

6. Facts of the Case :

6.1 That the applicant is a citizen of India and permanent resident of village Abhoram, P.O. Turkwalia in the District of Gorakhpur, Uttar Pradesh. The applicant is a physically handicapped person. The applicant comes from very poor family and had to suffer a lot. In spite of financial hardships, the applicant completed his studies and in the process duly completed his Post Graduate degree with First Class in mathematics in 1982 after graduating

Rajendra Singh Rathore

B.A. in Mathematics in 1972 from the Gorakhpur University. The applicant is also completed B.Ed. in 1976 from the Gorakhpur University.

6.2 Considering brilliant career and professional qualification, the applicant was selected and regularly appointed as Primary Teacher (in short PRT) in Mathematics on 26.1.79 in the Kendriya Vidyalaya Sangathan.

6.3 The physical disability of the applicant and his attitude of being strict and fair teacher and the fact that he was also gifted as a teacher of Mathematics has always been a source of jealousy and even animosity among some of his co-teachers as well as guardians of some students who wanted illegal favours from the applicant while awarding marks etc. His strong moral and ethical principles as a good teacher was however not welcomed by all particularly by the Principal and the guardians of some students who wanted illegal favour from the applicant while awarding marks etc.

6.4 Some of the authorities were always biased and wanted to avail the chances against the applicant because of strict attitude and fair teacher. Because of that, the applicant was once terminated from service and later on reinstated. Out of those two cases, in one, one Shri PC Bhatt, Education Officer was the Inquiry Officer. Because of applicant's refusal to accede to the demands for illegal gratification, also contributed to his vindictive and biased attitude towards the applicant.

6.5 The applicant joined the Kendriya Vidyalaya, Misa Cantt. sometime on or about 23.12.1987 on being transferred from Kendriya Vidyalaya, Binaguri. On being transferred, the applicant found the behaviors of the Principal, Kendriya Vidyalaya, Misa Cantt. unusual and intentionally failed to release traveling allowances

*Rejendra Bhandarkar*

payable to the applicant on his transfer to Kendriya Vidyalaya, Misa Cantt. As the applicant was in urgent need of money on account of his father's sudden death and he was compelled to approach the Chairman, Managing Committee, Kendriya vidyalaya, Misa Cantt. and on his intervention only, the money was thereafter paid and this invited his wrath and became a reason for targeting the applicant for victimization.

6.6 One Mr.OP Singh, Primary Teacher assaulted and beaten up the applicant at 8 AM on 27.9.88 in the Morning Assembly in front of the children and a written complaint was lodged with the Principal but no action whatsoever was taken by the Principal, respondent No.3.

6.7 After joining the said Kendriya Vidyalaya, Misa Cantt., the applicant found that some of the teachers of Kendriya Vidyalaya, Misa Cantt. provide higher marks to some weaker students who took tuition from those teachers and whose guardians/parents were able to satisfy those teachers by illegal gratification and/or supply of liquor. The applicant submitted written complaint dated 4.10.1988 before Shri Rai Bhushan Rai, the then Principal for giving higher marks to one Miss Punam of Class VII in First Term Examination of Unit Test by Miss Suman Awasthi, Trained Graduate Teacher(English) and Mr.OP Singh, Primary Teacher(in-charge Examination) in the particular subjects and the same was acknowledged by the Principal putting his signature on the carbon copy of the complaint. It may be stated here that copy of the said complaint was also sent to the Chairman, Managing Committee, Kendriya Vidyalaya, Misa Cantt. but no action whatsoever was taken. The applicant craves leave of this Hon'ble Tribunal to rely said copy of the complaint at the time of hearing of this application.

Rajendra Singh Patel

6.8 The applicant was not paid arrears of salary payable after Fourth Pay Commission and he was also not given new pay scales in the years of 1988, 1989 and 1990 causing severe financial hardships to the applicant. The then Principal also did not pass necessary Order for payment of salary for leave period even though the applicant was entitled for the same.

6.9 The applicant states that to maintain the discipline and the dresses of the children, the applicant being the senior most PRT teacher, as usual checked the dresses of students on 21.2.90 and 22.2.90 and the applicant put note in the diary regarding non-maintaining of the dresses who found not in proper dresses. Out of those students, some were of daughters of APBN's personnel and guards/armed persons (of APBN's personnel) entered the class room and threatened the applicant. It may be stated here that those guards/armed persons were influenced by the Principal, Shri R.B.Rai. The applicant filed complaint before the Chairman, Kendriya Vidyalaya, about the said situation and environment of the school but no action was taken in that regard. It may also be stated here that the complaint was acknowledged by the Chairman by putting signature on the carbon copy of the complaint.

6.10 The applicant states that as the examination question papers were going outside during the tenure of Mr. OP Singh, Primary Teacher (In Charge Examination) and as such the applicant filed written complaint on 30.11.88 about the same before the Principal. As the Principal was not present the same was acknowledged by Miss Suman Awasthi, Trained Graduate Teacher, but no action whatsoever was taken on that.

6.11 The Principal was in the habit of allowing outside children to study in the school without any

Rajendra Prasad Awasthi

admission, in violation of the Kendriya Vidyalaya Sangathan Rules, and when protested against such study, the applicant was rebuked and told to mind his business only.

6.12 When the applicant was allotted Class II after summer vacation in new session sometime in August, 1990, the applicant found that one girl aged about 6/7 years was attending the classes regularly without being admitted. The applicant who was allotted Class II, on discovering this fact, asked the said student to call her parents and reported the matter to the Principal. When the said girl started attending Class II regularly, the applicant a sticker for discipline, asked the said girl to leave the class and refused to sign her exercise books. The Principal also did not react to the complaint lodged by the applicant in this regard. Even then the said student was attending Class II under the influence of the Principal and the applicant was compelled to oust her in his period.

6.13 On 19.8.90, at around 4 PM, when the applicant was returning from local Salona Market, the scooter on which he was riding was stopped near the main gate of the Cantonment by one Naik Surjit Singh. A turban cloth was wrapped around the applicant's neck and he was brought down by the said Naik Surjit Singh and along with one Sepoy Shri Chamkor, armed with an iron rod, started brutally beating the applicant. The On-duty Non-commissioned Officer and the man at the gate tried to stop the said Surjit Singh and the Sepoy Shri Chamkor but could not do anything and it was only on the arrival of the Second-in-Command, 117 Engineer Regiment, one Lt.Coi Watel, those miscreants ran away. The applicant was thereafter hospitalized with the help of his colleagues at Section Hospital with severe injuries and thereafter transferred to Nagaon Civil Hospital. It may be stated here that one

*Raymond Bhandarkar*

of the miscreants, who attacked and assaulted the applicant was actually the relative of the girl student who was allowed to attend Class II without any admission by the Principal and objected to by the applicant. Although the incidence was reported to the Principal as well as the Chairman, Kendriya Vidyalaya, Misa Cantt., but without any result.

6.14 Because of the illegal instances and bad environment as stated in aforestated paragraphs 6.5 to 6.13, the applicant became eye sore of the Principal, who was doing so many illegal things in collaboration with Miss Suman Awasthi, Trained Graduate Teacher(English) and Mr.OP Singh, Primary Teacher(In-charge Examination) and the guardians of students, namely Miss Kulvinder Kaur who was not allowed to attend the class as being not admitted & others and they fetched conspiracy against the applicant.

6.15 As the applicant was on leave being injured, the applicant was served with one Order dated 31.8.90 passed by the Chairman, Kendriya Vidyalaya, Misa Cantt, exercising the powers under Rule 10(1) of Central Civil Services (Classification, Control and Appeal) rules, 1965, (herein after called the CCS(CCA) Rules, 1965) suspending the petitioner from service in contemplation of disciplinary proceeding. It may be stated here that the said Chairman has no power whatsoever to suspend the petitioner from service.

6.16 Thereafter, Dr.PC Bhatt, Education Officer stating himself as Inquiry Officer served one letter containing only two sentences, namely "It is alleged that you have abused sexually to Kulvinder kaur of Class II. Please give your comment regarding the incident." On receipt of the said letter, the applicant submitted his explanation stating that the said girl was not admitted in

the school and the allegation is false, fictitious and fabricated. It may also be stated here that except the two sentence contained letter, no other materials whatsoever was supplied to the applicant and as such the applicant was not in position to reply the same properly. It may also be stated here that the applicant also submitted the detailed explanation to the Inquiry Officer on 8.9.90 in the office at Pub Sarania, Guwahati-3.

6.17 The applicant also filed representation dated 29.4.91 against the Order dated 15.3.91 passed by the Assistant commissioner, Kendriya Vidyalaya Sangathan allowing subsistence allowances and for revoking suspension Order but without any result. It may also be stated here that the applicant filed detailed representation dated 29.4.01 before the Commissioner, KVS, Delhi, respondent No.2 but without any result.

Copy of the representation dated 29.4.91 is annexed here with and marked as ANNEXURE-1.

6.18 Ultimately without supplying any materials whatsoever and without holding any inquiry, the applicant was terminated from service vide Order dated 9.4.93 passed by the Commissioner, respondent No.2 and the same was communicated to the applicant by letter dated 7.6.03 of the Assistant Commissioner, Guwahati. It may be stated here that although the applicant was suspended in august, 1990 and no inquiry whatsoever was held but his services was terminated and communicated to the applicant in the month of June, 1993 only for the reasons best known to the respondents. It may also be stated here that during this period the applicant filed so many representations before the authorities but without any result.

6.19 Being aggrieved with the action of the authorities in terminating the services, the applicant

By order of  
Pragya Pathak

filed writ petition before the Hon'ble Gauhati High Court and the same was registered and numbered as Civil Rule No.1713 of 1993. The Hon'ble High Court after hearing the parties, was pleased to dispose of the said writ petition with direction to the respondents to ensure that a copy of the report of the summary inquiry along with the evidence collected against the applicant be sent to the applicant and thereafter the applicant to submit representation before the Commissioner and the Commissioner to dispose of the said representation of the applicant within the prescribed time. It may be stated here that the said judgment has been reported in 1998(2) Gauhati Law Journal 56 and the applicant craves leave of this Hon'ble Tribunal to rely the said writ petition filed in Civil Rule No.1718 of 1993 and the judgment at the time of hearing of this application.

6.20 The applicant states that the applicant was served with letter under No F.8-73/90-KVS(Vig) dated 9.12.98 along with copy of the Summary Inquiry Report, copy of complaint and statements of witnesses recorded during preliminary enquiry. The applicant craves leave of this Hon'ble Tribunal to rely the said statements of witnesses recorded during preliminary enquiry as well as English translated version at the time of hearing of this application.

Copy of the letter dated 9.12.98 along with copy of the Summary Inquiry Report is annexed herewith and marked as ANNEXURE-2.

6.21 On receipt of the said reports and copy of complaint and statements of witnesses recorded during preliminary enquiry at Annexure-2, the applicant send his representation to the Commissioner, Kendriya Vidyalaya Sangathan, 18, Kutub Institutional Area, Shaheed Jeet Singh Marg, New Delhi, respondent No.2 with a request to

Original version  
of the document

exonerate from the charges and be reinstated in service. In the said representation the applicant categorically stated that how he became scape goat due to jealousy of the colleagues and arbitrary action on the part of the Principal as well as the Inquiry Officer.

Copy of the representation filed by the applicant is annexed herewith and marked as ANNEXURE-3.

6.22 The applicant states that the applicant was in the hope that he will be reinstated in service but he was astonished on receipt of the order under No.F.8-73/90-KVS(Vig) dated 31.12.99 passed by the Commissioner, Kendriya Vidyalaya Sangathan, 18. Kutub Institutional Area, Shaheed Jeet Singh Marg, New Delhi, respondent No.2 dismissing the representation of the applicant and upholding the termination order passed earlier. It may be stated here that although the applicant raised so many grounds in the representation but the respondent No.2 failed to take into consideration those points and dismissed the representation which shows not application of mind as well as the malafide action of the respondent No.2.

Copy of order dated 31.12.99 passed by respondent No.2 is annexed herewith and marked as ANNEXURE-4.

*Non-Seeker*

6.23 On receipt of the Order dated 31.12.1999, the applicant send appeal before the Minister of Human resource Development by registered post on 5.2.2000, who is the appellate authority but without any result. The applicant send reminder dated 29.12.2000 before the Minister of Human Resource Development by registered post also but that too also without any result.

Copy of the appeal dated 5.2.2000 and reminder dated 29.12.2000 filed before the appellate authority are annexed herewith and marked as ANNEXURE-5 and 6.

*31.12.99  
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Kendriya  
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6.24 Being aggrieved with the action of the authorities in dismissing the representation and affirming the termination order, not disposing of the appeal and not taking action on the reminder, the applicant filed Writ petition before the Hon'ble Gauhati High Court on 19.11.2001 and the same was registered and numbered as Writ Petition(Civil) No.7921 of 2001. During the course of Motion on 23.11.2001, it was stated by the Standing Counsel for the Kendriya Vidyalaya Sangathan that the jurisdiction in the matter has been given to the Hon'ble Tribunal and as such the same was dismissed on withdrawn with liberty to file the application before this Hon'ble Tribunal and as such the present application is going to be filed before the Hon'ble Tribunal.

*Filed 6/A  
15/3/01*

6.25 That the applicant states that since this Hon'ble Tribunal is the appropriate Forum of law Your applicant approach this Hon'ble Tribunal by filing an Original Application which was registered as O.a.No.453 of 2001. In the said application it was contended that the respondent authority have failed to consider the entire matter in proper perspective and thereby arrived at an erroneous finding. The respondents authority have failed to apply their mind while considering the representation dated 01.1.99 submitted before the respondents authority. In the said representation the applicant assailed the findings of the summary enquiry report and credibility of eye witness. The Commissioner, respondent No.3 by its order dated 31.12.99 rejected the representation of the applicant and upheld their earlier Order of termination. Against the said rejection Order the applicant approached this Hon'ble Tribunal. This Hon'ble Tribunal while considering the petition and perusal of record disposed of the said application by its Order dated 4.12.02 with a direction to the respondent No. 3 to pass a reasoned

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disposed of A*

*Order of the  
High Court of  
Assam*

Order as per law. This Hon'ble Tribunal while considering the entire matter have observed that

*Written  
order of CAT*

"The Commissioner did not independently assess the merit of the representation submitted by the applicant in details in terms of the High Court's Order. The Commissioner did not address his mind to any of the contention raised by the applicant and dismissed the application on the ground mentioned in para 3. The appellate authority on the other hand did not respond to its appeal. In the circumstances we are constrained to set aside and quash the Order No.F-8-73/90-KVS(Vig) dated 31.12.99 and direct the Commissioner to pass a reasoned Order as per law with utmost expedition, preferably within a period of two months."

A copy of the said Order dated 04.12.02 is annexed hereto and is marked as ANNEXURE-7.

6.26 That the applicant obtained a certified copy of the said Order dated 04.12.02 and served a copy of the same upon the respondents. The direction of the Hon'ble Tribunal was clear and specific. In spite of that the Commissioner, the respondent no.3 failed to comply with the direction of the Hon'ble Tribunal within the stipulated time and took long 14 months to pass his so called reasoned Order. In the said Order of the Commissioner again he failed to apply his mind to arrive at an right and appropriate findings. He has not intentionally considered the arguments forwarded from the end of this applicant in his representation dated 01-01-99. In para 9 of his Order it has been stated that the applicant participated in the summery enquiry and he was afforded opportunity to present his case. The enquiry team after giving him opportunity of hearing recorded his statement.

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A copy of the said Order dated 20.01.02 is annexed hereto and is marked as ANNEXURE-8.

The applicant failed to understand how the Commissioner recorded a false statement in his Order dated 20.01.02. The said statement is totally false and baseless. No opportunity was given to the applicant to participate in the enquiry. He was also not received any show cause against which he would have submit his reply in detail. Even after completion of so called summary enquiry no copy of the enquiry report was served upon the applicant to make a representation against the said enquiry report. The Hon'ble High Court also in its Judgement and Order dated 30.11.98 had admitted that the applicant was not given reasonable opportunity except a letter from Enquiry Officer dated 5.9.90 wherein applicant was asked to comment on the allegation of sexual abuse of the girl child. As such the Order dated 20.01.04 can not be a reasoned Order in true perspective and same is liable to set aside and quashed.

6.27 That the applicant further states that the Commissioner while passing the said Order dated 20.01.04 also failed to give valid and lawful consideration. He has stated in the said Order that in order to protect the interest of a girl student the termination order of the applicant is justified.

The applicant in this respect begs to bring this Hon'ble Tribunal's notice to the statement made by the then Principal of Kendriya Vidyalaya Missa Cantonment before the enquiry Officer Mr.P.C.Bhatt. The Principal has admitted in his statement that the girl child was not a student of the school. This implies that if the applicant has committed the crime of sexual abuse with the said child in the school premises how she was reading in the

Rajendra Prasad Rathore

school without being admitted in the school. Why the school authority did not lodge any ejahar with the nearest police station? The entire story seems to be a concocted one which was fabricated to put the application trouble. The Commissioner has failed to consider that aspect of the matter and thereby arrived at an erroneous conclusion to uphold the earlier decision of termination of the applicant.

6.28 That Your applicant states that the ulterior motive of the respondent authority revealed from the action of the respondents since only after direction passed by the Hon'ble Court a copy of the report of summary enquiry along with the evidences collected against the applicant was supplied to the applicant and that too after one year. From the said action, to the respondents the reasonable doubt arose in the mind of the applicant that the so called evidences collected in his absence might have been recasted in order to put him in trouble. When the evidence had been taken long back by the enquiry Officer, the authority has no reasonable explanation in their hand why they took more than 365 days to furnish the copy of the same to the applicant. The action seems to be part of the conspiracy of some of the colleagues of the applicant including the then Principal which was protected by the Commissioner by colourable exercise of his power vested upon him.

6.29 That the applicant states that the Commissioner, KVS failed to consider another important point of defence at the time of passing the reasoned Order. The allegation was that on 16.8.1990 the applicant sexually abused Kulyinder Kaur in the class room in presence of other students. The Commissioner being head of the Sangathan failed to understand the conspiracy that since 16.8.1990 was a holiday for the school how the incident took place

*Rejinder Singh and Parkash*

on that day. Moreover Miss Suman Awasthi, the then Principal in Charge in her statement before the Enquiry Officer Mr. Bhatt said that neither anything had happened on 16.8.90 nor she had received any complaint from any corner as officiating Principal. So there is no doubt that the story of allegation was fabricated to put the applicant in trouble. This was corroborated by the statement of mother of the girl child Kulwinder Kaur. The mother of Kumari Kulwinder Kaur in her statement before the Enquiry Officer that she had lodged the complaint under the influence of HAV/SKT Nirmal Singh i.e. the person who assaulted the applicant badly.

6.30 That the applicant begs to state that the Commissioner, Kendriya Vidyalaya Sangathan has totally failed to apply his judicious mind in considering the fate of the applicant as because;

- (a) The applicant's summary inquiry was held ex-parte
- (b) The alleged incident took place on 16.8.90 which was a holiday and the victim girl student was not a student of the said school, as she was not an admitted student.
- (c) Though the evidence was collected from other co-students and guardians against the applicant, the applicant was denied the chance to defend himself to avoid embarrassment to the complainant students. This plea has certainly wracked the chance of the applicant since he could have cross-examined at least the co-students to prove his innocence.
- (d) Moreover, the Principal in-Charge have not received any sort of complaint from any corner for the said

Rajendra Singh and Partner

alleged allegation and this was clearly stated from her own statements.

6.31 That this Hon'ble Tribunal while passing the Order dated 04.12.02 in O.A. no.453/2001 totally rejected the defence taken by the respondents and had observed that the Commissioner did not independently assess the representation submitted by the applicant in details in terms of the High Court's Order. He failed to address his mind to any of the contention raised by the applicant. He failed to give valid and lawful consideration to the representation of the applicant. In the circumstances this Hon'ble Tribunal set aside the Order dated 31.12.99 passed by the Commissioner disposing the representation of the applicant in compliance with the Order dated 21.08.98 passed by the Hon'ble High Court setting aside the Order dated 31.12.99 whereby the Commissioner disposed of the representation of the applicant, indirectly implies that the Order of termination is not maintainable in law. In that view of the matter Commissioner first ought to have cancelled the Order of termination dated 09.04.93 thereafter again consider the entire matter in the light of the Direction of this Hon'ble Tribunal. But the Commissioner failed to give valid consideration.

6.32 That Your applicant states that the Commissioner also failed to consider one aspect of the matter that there was no student in Class-II in the said school namely Smti Kulvinder Kaur which was duly recorded in the Enquiry Officer's report. The then Principal Rai Bhusan Rai also in his statement before the Enquiry Officer stated that he has no knowledge about the said girl is studying in his school. So when there is no evidence on record that there was a student in Class II in the said school at the relevant time how the enquiry Officer gave finding of alleged abusing of girl namely Kulvinder Kaur which was

*Rajendra Prasad Pathak*

done on a official holiday in presence of students of the Class. Moreover Sri Bachan Prasad who was also the class teacher in Class II in the relevant period in his statement before the Enquiry Officer has stated that it was not known to him that when and how Kulwinder Kaur was attending Class II.

6.33 That Your applicant states that being aggrieved by the so called reasoned order dated 20.01.04 passed by the Commissioner, Kendriya Vidyalaya Sangathan, Your applicant filed a contempt case before this Hon'ble tribunal. The contempt application was registered as C.P.No.17/04. the Hon'ble Tribunal after hearing the parties on 14.5.04 closed the contempt petition holding that no contempt have been committed. In the said Order the Hon'ble Tribunal however granted liberty to the applicant to approach this Hon'ble Tribunal again.

A copy of the said Order dated 14.5.04 is annexed hereto and is marked as ANNEXURE-9.

*Rajinder Bongard Pathak*

#### 7. Relief sought for :

7.1 Quashing of the Order dated 20.01.2004 where by the Commissioner, Kendriya Vidyalaya Sangathan upheld the termination Order dated 09.04.93 passed by the Commissioner, Kendriya Vidyalaya Sangathan terminating his services as a Primary Teacher and to reinstatement of the applicant with full back wage and costs because of the reasons mentioned above.

7.2 From the evidence collected during the preliminary enquiry at Annexure-2, it is clear that although the preliminary enquiry was started on the complaint dated 29.8.1990 of the alleged incident dated

16.8.1990, but during enquiry so many evidences were collected of the past activities which were not connected with the alleged incident and this will show that the Inquiry Officer and the Principal were biased and determined to prepare such report so that the applicant can be terminated from the services by the authorities to hide out the misdeeds of the Principal and other colleagues of the applicant and as such placing of reliance on the said preliminary inquiry report and materials collected during enquiry and as such whole process vitiated by arbitrariness and malafide and termination order is bad.

7.3 As per the categorical statement of the applicant in the representation at Annexure-3 (in paragraph 10) that "whereas, since 12.8.90 to 14.8.90 all the girls and some of the students were busy to practice the dance for 15<sup>th</sup> of August and it was holiday on 16.8.90 in respect of Independence Day, then how this funny matters caused to me for a discussion of Mr. Shital Kumar Das and HAV/SKT Nirmal Singh in the last period" so the question of calling and sexually abusing of the alleged victim girl on 16.8.90 by the applicant is totally false and it can be testified from the records of the school also whether school was remained open or close on 16.8.90.

7.4 As per the categorical statement of the applicant in the representation at Annexure 3 (in paragraph 6) that on the earlier occasion also, Dr. PC Bhatt was the Inquiry Officer against the applicant and when the same Officer, namely Dr. PC Bhatt was appointed as Inquiry Officer in the present case also and considering the past behavior of biasness, the petitioner submitted his representation for changing of the Inquiry Officer and no Inquiry Officer was changed and as such preliminary

*Request for final hearing*

inquiry report of the Inquiry Officer should not be taken into consideration.

7.5 The applicant is very poor and he could not collect the required necessary expenditure to come to Guwahati for filing the instant application and as such there was some delay in filing the instant application and that is because of poverty and not due to laches on the part of the petitioner.

7.6 The facts stated in the Order dated 31.12.99 about the rejection of appeal by the vice Chairman, KVS on 12.1.94 and reviewing of the same by the then Hon'ble Minister for HRD in 1994 are totally false as the same was not intimated to the application at any point of time.

7.7 Articles 14, 16, 21 and 311 of the Constitution of India, Article 81(b) and 83 o the Education Code for Kendriya Vidyalaya and Central Civil Services (Classification, Control and Appeal) Rules, 1965.

8. Interim Order, if prayed for : Interim order not prayed for.

9. Details remedy exhausted : Filing of appeal before the Minister of Human Resource Development by registered post on 5.2.2000, who is the appellate authority and sending of reminder dated 29.12.2000 before the Minister of Human Resource Development registered post but without any result.

10. Matter not pending with any other Court etc : the applicant further declares that the matter regarding which this application has been made is not pending before any Court of law or any other authority or any other bench of the Tribunal.

*Rajendra Prasad Pathak*

11. Particulars of Bank Draft/Postal Order: Postal Order No 206112242 dated 22/7/04 issued from H.P.O, Guwahati

12. Details of Index : Enclosed at the first page of this application

13. List of enclosures : Annexures 1 to 9 as stated in paragraph 6 and Vakalatnama.

#### VERIFICATION

I, Rajendra Prasad Pathak, son of late Harihar Pathak, aged about . years, Ex-PRT Teacher of Kendriya Vidyalaya, Misa Cantt, Nagaon, Assam and residents of Village Abhoram, P.O. Turkwalia (Pepeganj), in the district of Gorakhpur, Uttar Pradesh, do hereby verify that the contents of paragraphs 1 to 13 are true to my personal knowledge and belief and that I have not suppressed any material facts

Place : Guwahati

Date :

*Rajendra Pathak*  
 (Signature of the applicant)  
*Rajendra Prasad Pathak*

To Commissioner  
Kris JNII Confirms  
Hans Belfi 6-2

REPRESENTATION OF PHYSICALLY HANDICAPPED  
TEACHER REGARDING IN JUSTICE DONE TO HIM  
BY THE CHAIRMAN, KENDRIYA VIDYALAYA, MISSA  
CANTT. (I.E. THE C.O. OF 117 ENGINEER REGT.  
C/F. 99 A.P.O. COL V.K. HONDA) MAJOR J.S.  
DEGWAN ENQUIRY OFFICE OF 117 ENGINEER REGT.  
PRINCIPAL K.V. MISSA CANTT SHRI R.B. ROY &  
DR. P.C. BHATT EDUCATION OFFICER - K.V.S.  
GUWAHATI REGION AND MIS-BEHAVIOUR DONE BY  
N/K SURJIT, SER. CHOMKOR OF 117 ENGINEER REGT.  
C/O. 99 A.P.O. UNDER COL V.K. HONDA (COL V.K.  
HONDA IS THE CHAIRMAN OF K.V. MISSA CANTT WHO  
MISUSED THE POWER TO SUSPEND HIM.

References:- My representations represented to:

Respected Sir(s),

With due regards and humble submission, may I kindly give you the pain to go through this representation, amidst your busy schedule with sympathy and understanding for which you are famous for. I am optimistic that sir, you will arrive at a logical conclusion to exonerate/exunge the fictitious remarks without any preconceived notions, that sir,

## BACK GROUNDS

"A child around 6/7 years N/K Surjit's relative Kulwindor Poor was permitted by the Principal Sri R.B.Roy to study in Class II without the admission since Class I. Sir, when I was allotted the period of Class II subject, I told the child to call her parents but every next day, she failed to do so and was coming regularly to attend the Class.

(Contd...P/2)

Certified to be true copy  
S. D. Advocate

Altestad  
Johnsen  
Achrook

-21-

without the said response, I reported the matter to the Principal Gr.II Shri R.B. Roy and put her out of the Class regularly to maintain the KVs discipline and to avoid my signature on her copies, Sir, on 19.8.90 at about 4-00 P.M. I was coming from Salona Market, N/K Surjit, came to me and stopped my Scooter asking from where I was coming. I replied I am coming from Salona Market. Suddenly he wrapped my neck with terbon cloth and drag me down and called s/o. Chomkor who was holding an iron rod, stating in Hindi 'CHALO KAM SURU KARO', then they started to beat me terribly. The duty N.C.O. and the man on duty at the gate tried to stop them. By the time 2nd in command 117 Engineers Regt. Lt. Col. Watel appeared on the gate, then both the miscreant attackers ran away. After a few minutes my colleagues rushed to the spot then I was taken to section Hospital of Misra Cantt. where I reported the matter to col. V.K. Honda and Officiating Principal Miss Suman Avasthi TGT (Emg.) when they came there to enquire, then I was transferred to Civil Hospital Nagaon accompanied by six of my colleagues and my treatment was made in Nagaon Civil Hospital in emergency ward. Sir, I am still unable to reconcile under what rule co. V.K. Honda as a Chairman of Vidyalaya VMC disputed a parent an enquiry Officer major J.S. Bodwan as his child is studing in Class V and a trusted his report to suspend me as neither he called any eye witness nor the said child before me or any medical report to ask any question from me. Sir, whisperly he misguided and reported to col. V.K. Honda, (C.O. and Chairman) who took the due advantage of the situation of K.V. Misra Cantt. as the relation of mine with the principal Shri R.B. Roy was not good due to the following matters of discussion which was also reported to him:-

1. I was transferred to K.V. Misra Cantt. on public interest for which Sri Roy was not paying my E.T.A., mean while my father expired and I was in need of money for which reportedly I requested him.
2. He wanted to allow so many child to continue the study without the admission beyond the rule which are also appreciating the said influential Teachers.

(Contd., p/3)

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3. He permitted Miss Rupa Bhagarati L.D.C. KV Missa 40 Kms. away from Missa to Nagaon college to complete B.Ed. without any study leave and she received full salary in the Year 1988/89-90, and I was facing money problems as my arrears of IVth pay commission was not prepared to receive even the New pay-scale.

✓4. He was dis-interested to pass the order to prepare my salary for leave periods.

5. He influenced Mr. O.P. Singh, PRT KV missa, who assaulted me before all the children in the morning assemble at 0800 hrs. on 27.9.88 which I reported to Sri Roy in writing but he has not forwarded that till the date.

6. Shri Roy has formed a group <sup>among</sup> between the teachers such as Miss Suman Dwarkhi, Mr. O.P. Singh, Mr. Bachchan Prasad and Mr. S.K. Das to prove his own attitudes as they are arranging the RUMBBOTTLES for Shri Roy from the parents by providing extra marks to their weak Children and forming the conspiracy against me as my attitude is only to give satisfactory marks to the good children only. And they are also doing the tuitions freely, and insisting to give more marks for the said children, failing which impossible dispute discussion from either of sides have always been arisen beyond the imagination.

7. Several times Shri Roy tried to blame me on <sup>attitude</sup> moral ~~aptitude~~ since the joining date of mine at K.V. Missa, 1987. But he failed to get success, surprise!

8. He has sent only my bills for pre-audit to make the delay payment intentionally, as most of the teachers' bills have been passed by Shri Roy only.

Sir, as the result and under whisper guidance of V.K. Honda Chairman, suspended me (as per his letter No. C/A-21/KVM/90-91/0 320 dtd. 01.9.90 with effect from 31.8.90 without any rule as Chairman is not empowered); and deputed the regimental jawan not to leave the camp area. Later

(Contd....P/A)

=:4:=

Shri Roy (Principal) happily went to Assistant Commissioner (GR) office and came next (5/9/90) day with Dr. P.C. Bhatt, education officer KVS (GR) to enquire the facts. Sir, Dr. Bhatt also neither called the said child before me face, to face nor any eye witnesses or any medical but latter he verbally told me that you have been trapped under the situation of Misra Cantt. to enquire the facts, and he called me at his residence ICC Noonmati (Gawahati) to talk where his aversion was "I will convince A.C. not to confirm your suspension made by the chairman. He also said to me to return Misra." But Sir, my suspension have been confirmed by Assistant Commissioner (GR) vide his letter No. F. 19-121/90-KVS (GR)/2299 dtd. 07.9.90 with effect from 31.8.90 and under this stage I have been attached to too far of place from Misra Cantt. at Kendriya Vidyalaya Baragolai Near Tinsukia (Ledo/Margherita) where I have been paid my subsistence allowances after three months- as per A.C. (GR)'s letter No. F.9-121/90KVS (GR) 4258 dtd. 22/11/90, even now under this my hindrance I could receive the said subsistence allowances after a period of four months (i.e.) since December'90) when I represented the case to Commissioner KVS (ND) on 4/1/91 & 23/2/91, then the A.C. (GR) sent a letter No. F.19-R/90-91/KVS(GR)/3085 dtd. 15.3.91 to the Principal K.V. Baragolai to make the payment but not to the principal K.V. Misra Cantt, Sri Roy. Where as the explanation, for the said payment has been asked from Shri R.B. Roy (Principa) K.V. Misra, by the Chief Vigilence Officer, New Delhi, as I was working there and chairman of the said place has suspended me, Sir, these problems, which, knowingly have been raised only due to their pending orders, Sir."

Being first Class M.A. (Mathematics) and Physically handicapped, I have been selected seven times PGT (Maths) post with effect from 1982 such as CL-10070, CL-10226, DR/, 10020, DR/10069, 03/11624, 30065 etc. but Sir, unfortunately I could not received it due to education officer (GR) Dr. P.C. P.C. Bhatt since 1987 as he never be in a mood to finish fairly any inquiry proceedings since he joined seniorly A.C. (GR)'s office.

(Contd.....P/5)

-5-

Sir, the militiant enquiry procedure which had been raised and scheduled by the enquiry officer, Sarder, major (Shikh) J.S. Bedwan by not calling the said or any child before me, face to face, is openly favourision of a sarder to another Shikh terrorist of sarder for which Col. V.K. Honda is base-fully responsible as from very begining he feel depathful fear to take any suitable action against the said terrorist/attackers as they are sarder (Shikh) and he is also waiting N/K Surjit's day to go out of the service from 117 Engs.. Egt. Sir, under these circumstances how a chairman K.V. Misra deputed a parent like major J.S. Bedwan as an enquiry officer to trust his whisper statement/report whose intention himself is impure yardstick for a teacher. Sir, at this stage, it is also worth and necessary to request that in army, commanding officer (higher rank officer) like Col. V.K. Honda's verbal order has provided him successfull depling even to convert a false and baseless incident into the true incident for which Sir, is it not necessary to apply the KVS Rule to ask from Col. V.K. Honda that under what rule he has suspended and have asked the said confirmation from Assistant Commissioner (GR) whether to use his Colonel or chairman-ship power, as the child was not admitted in the Vidyalaya to consider under the jurisdiction of either of them, and sir, it is also necessary to appraise the quoted lines in the education code of Annoxuro - II of article 66(ii), here that, "No action shall normally be taken on any anonymous and/or pseudonymous complaints made to the chairman etc. in respect of the affairs of Vidyalaya."

Therefore, it is requested that:-

a) Sir, your honour may appreciate that a PRT teacher who is physically handicapped and have been baselessly beaten and have not any source to survive his life, kept under suspension without any subsistence allowance and have been suddenly attached to too far of a new place, how can he pass his time at any verbal sympathy.

It is further submitted that Sir, if such is the ~~careless~~ intention, my suspension may kindly be revoked at an early date as Sir, it is baselessly have been confirmed only due to Dr. P.C. Bhatt's wrong as well as immature references, as he is always in a habit to demon-olize my career by

(Contd...P/6)

-16:-

referring to every new authorities that there was every where dispute discussions wherever Shri R.P. Pathak had been but he himself has forgotten to note his past in-competable sweet contending memories for the memorable incidents that it is his attitudes/activities to create the contentions to face depthful strife as well as conflict controversy where ever he had been, Sir, the incidents which are controversial and related to (for or against) any certain socially significant can never be ignored. However, to express own activities upon the other should not be the free and fair merit atleast any educated (people) Officer but Sir, it may be surprisingly to mind superly unbalanced crusad for a high spirits. If such type of Officers are in a intention to appriaciate and insisting to appriaciate for the principal like Shri R.B.Roy, is not the lackness of education but lackness of self-assessments or self-reliance to have only self-instrumental machine to ruin the ruitnes of a normal man to become abnormal, Sir.

1) I joined the KVS in the year 1979, till date, and to my best of capability and knowledge, I meticulously tried to maintain a highest professional standard. The devotion and the missionary zeal with which I mustered my efforts in my career can even be ascertained from my earlier AC(S) and chairmen. It remained always an ambition to strive for moulding myself into the name and fame of a "GIFTED TEACHER".

2) It is also worth to request here, my physical incapabilities in-par with a nor-mal man. If not a genuine sympathy is forth coming, I have not atleast expected any adverse rumors which certainly bring an apocalyptic fear that I have been wrongly assessed or rightly un-assessed in this regards. To you as an Officer of wide and remarkable experience, I would like to point out, Sir.

3) At this stage I am in a compelling position to unburasingly disclose my imbruglio, which landed me in plethora of troubles, floating and disregarding the

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Sangatham's general rules, that the intention of Dr. Dhatt can also be seen on the other way, that he only has visited to so many vidyalayas (GR) for the enquires Schedule for total 31 days of August '90 and survived to pass his time nicely on the principals shoulder and have charged the teachers(GR) unfairly, and intention only have not finished any enquiry proceedings fairly, for what sir, he only knows better to express cornerly, if he needs to prove himself as an honest or dishonest challenge. Sir, I never imagine that the education Officer at (GR) will become so happy and will make happy to the Principal like Sri Roy, for what revenge to spoil the careers of teachers to treat them, like football to be kicked one way and back to next movement.

b) On the otherhand, your honour may like to know that Chairman has every right, only to re-report the matters who are studying in Kendriya Vidyalaya but not the children who are staying elsewhere and have been sitting Kendriya Vidyalaya without the admission only to support the Principals attitudes, As the relation of mine with the Principal Shri R.B. Roy was not good and the child who made the allegation against me was not admitted in Kendriya Vidyalaya, Misra as I explained earlier. Sir, if the allegation was true why the enquiry officer has not called the said child or ~~any~~ any child before me face to face while enquiring the facts. Only to take any report whisperly is not free and fair justice of any enquiry Officers, atleast those who are educated sir.

c) Col. V.L. Honda is the Chairman of KV Misra cantt. the children who are studing there but he as not the Chairman of those people who are not related to K.V. Misra Cantt. and sir as per rule Chairman has to exercise a general supervision over the proper running and functioning of the Vidyalaya including maintenance of discipline among the students as well as monitoring of the staff and their to the procedure rules and regulations prescribed by the sangathan and he can also, visit the Vidyalaya quarterly in the year for the welfare of the school, but not to suspend the employee who has been bodily beaten by those people whose children are not admitted

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there. It means the Chairman and enquiry Officers both has taken the due advantage of my bad situation of K.V. (Miss Cantt., to conclude their bias action). Sir, the Child was also misguided to speak the said sexual abused allegation under the said circumstances of K.V. Missa Cantt ! ? !

(d) Sir, I have depthful regards to the chairman since my twelve (12) years of service but shocked to face and answer, complained by the seven years (approx) of a small child who is not admitted in the Vidyalaya for which to answer, the said sexual allegation which is absolutely fictitious and imaginary.

e) Sir, the child who made the allegation regarding the sexually abused against me is neither the child of N/K Surjit and Sop. Chamkor nor was nominated or admitted at I.V. Missa Cantt. Governor Sir, if the Sexual allegation is complained by a small Child ! Young lady or even old lady is always only considered as true ; fact, how ! as sex is our and only one common element and natural facts even in creature and this is only the allegation on which every one can be trapped upon the treated enemy to get the revenge under the situation of K.V. Missa ! ! ! ?.

f) Sir, if the allegation was true and was true even in predicated, sir, why this allegation have not been brought to my notice with any supporting documents before, I was badly beaten by N/K Surjit and Sop. Chamkor on 19/8/90. They made the complain against me when I put out of the class regularly, after reporting the matter to the Principal, to N/K Surjit's relative Kulwinder Kaur studying without the admission in Class II since Class I onwards, Sir, is it not the responsibility of the said Principal Sirs R.D. Roy and staff (as explained) earlier and Sop. Chamkor N/K Surjit to continue the study of the said child without the admission and to give their self skin from the incident of 19/8/90 which I represented to A.C. (G.R.) with supporting medical proof and personally explained and have shown my injuries to him.

(Contd....P/8)

- 82 -

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9) Sir, may I requested your honour to inform you that prior to impose the confirmation of my suspension against the said several allegation whether it was medically proved or not, whether said child of 7 (Seven) years was called before me, face to face or not, whether eye-witnesses were examined or not by the said Officers who reported after the enquiry even over lapsing the supreme power of omnipresent G.O. Sir to read simply the relation of Principal and Teacher and staying at Principals quarter with full facilities and to visit vidyalaya to re-port whisperly is not free and fair justice atleast for those who are educated and experienced Sir.

10) h) Sir, Dr. P.C. Bhatt Edn. Officer (GR) is the only Officer who is giving the free base to support to Shri R.B. Roy as well as those rash principals who are in free touch to him and neglecting the position of the teachers. This also may kindly be enquired from the Vidyalayas, situated in KVS (GR) deputing any one vigilantly other than Dr. P.C. Bhatt as he never tie in position and mood to finish the enquiry fairly as he has in-involved me in T.E. case to refer every where. Sir, under such circumstances, how a physically handicapped teacher can survive and maintain his position to teach the children according to the KVS Rules, if such type of Officer are not supporting fairly to feel even, that loyalty to the Institution is of supreme importance rather to a personally.

i) Sir, under the above circumstances your honour may like to enquire that:-

1) How they have treated the said fictitious and imaginary case under the jurisdiction of the department or the Chairman of K.V. Misra Connt. when the said child was not admitted in the Vidyalaya.

2) Sir, on the other hand chairman or inquiry Officer and authorities must have equal yardstick to enquire fairly and equally, as to how the said child was continuing the Vidyalaya without the admission.

(Contd....P/10)

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3) Who is the (lady or gent) teacher in a habit to guide the children to speak the said sexual abuse while doing their tuitions at home to spoil their careers as well as KVS and Vidyalayas' environments sir.

4) What is the legal or illegal relations behind it in the situation of Missa Cantt ! where Miss Suman Awasthi, Miss Rupa Bhagwati are appetitely working under the In-Charge Principal grade II Shri R.B. Roy who has flutterly influenced Mr. U.P. Singh, Mr. Bachchan Prasad and Mr. S.K. Das to enjoy according to his own way.

5) Sir, how the said child was promoted from Class I to Class II, when it was in the knowledge of every one.

6) Who is responsible for it, - Chairman Col. V.K. Honda or Principal Shri R.B. Roy !

7) What are the intent to ignore the KVS rules for not providing my subsistence allowances regularly as well as to hit up my career like cricket ball to swift up at such a far of new place when PRT's posts were vacant every-where near the Gauhati at that movements; who has misguided for it even to imagin his own huminity sir.

To sum-up, I must pay my spiritual regards to the Principal I.V. Baranolai who took depthful pain as a human in my painful incidents of life to solve the problems as soon as he received the justifiable as well as suitable orders from the concern authorities.

A N D

I again appeal your honour to kindly pass the order to revoke my suspension and permit me to join my status as a dedicated teacher. It is further requested that necessary action against the attackers also may kindly be taken to meet the end of justice keeping in view of my hindrance.

With regards,

Dated: Baranolai,  
the 29/4/91 April, 1991.

Yours faithfully,

R.P. Pathak 29/4/91

( R.P. PATHAK, PRT )  
Under suspension, KV Missa Contt.  
Attached at K.V. Baranolai, Tinukia,  
ASSAM.

BY SPEED POST/CONFIDENTIAL

31

Annexure 2

Reference No: 31-73047 KVIIIO (H)

DTT: (1993)

1993-1994 KENDRIYA

KENDRIYA VIDYALAYA SANGATHAN

18, KENDRIYA VIDYALAYA SANGATHAN

गोपीनाथ पाटी, नई दिल्ली-110016

18, Institutional Area

Shahbad Deot Singh Main

New Delhi-110016

12-11-98  
Dated - 12-11-98.

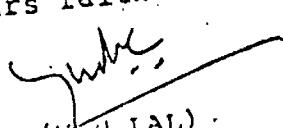
8-73/90-KVS(Vig.)

Shri. Rajendra Prasad Pathak,  
Village Abahoram, P.O. Turkwalia,  
Distt. GORAKHPUR,  
Uttar Pradesh.

Reference :- The Guwahati High Court direction in Civil  
Rule No.1718 of 1993.

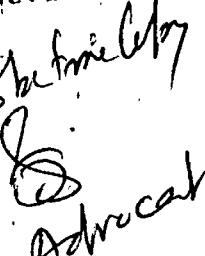
SIR,  
With reference to the High Courts letter in Civil Rule  
No.1718 of 1993 by Shri R.P.Pathak vs. Kendriya Vidyalaya Sangathan  
dated 12-11-98 alongwith instructions to implement the judgement  
passed on 30-04-98; I am directed to enclose herewith a copy of  
Summary-Inquiry Report and copies of witnesses/evidences collected  
to enable you to submit your representation before the Commissioner  
K.V.S., New Delhi. The representation may be submitted to the  
Commissioner, i.e. immediately after the receipt of this letter  
to enable the Commissioner, K.V.S. i.e. the Disciplinary Authority  
to pass necessary orders in accordance with law in time.

Yours faithfully,

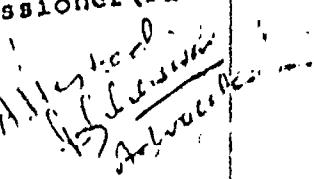
  
(M.A. Lal)  
Asstt. Commissioner (Finance).

Enclosed :- (1) Copy of Summary Inquiry Report; (2) Copy of complaint  
(3) Statement of Smt. Sailendra Kaur mother of Km. Kulvinder Kaur (accus-  
(4) Statement of Km. Kulvinder Kaur; (5) Statement of Rajender Singh;  
(6) Statement of Han./Skt. Nirmal Singh; (7) Statement of Sh.B.K.Das.  
(8) Statement of Sh. Bachchri Prasad, Class Teacher; (9) Statement of Km. Hinoli Bura;  
Principal, K.V.S. Misu Cantt. (10) Statement of Km. Hinoli Bura; (11) K.  
B. Awasthi, TGT (Offg. Principal)

Copy to :-  
1) The Section Officer (L.W.C), K.V.S. (HQD), New Delhi-16 for  
information and necessary action.  
2) The Asstt. Commissioner, K.V.S. Regional Office, Guwahati with  
request to advise the Hon'ble Court accordingly.  
3) The Asstt. Registrar (U), The Guwahati High Court, Guwahati W.R.C.  
Civil Rules Revision No.1718/1993 Memo. No.17750-52 R.M. dated  
12-10-98.

  
Asstt. Commissioner (Finance).

BKT

  
M.A. Lal  
Asstt. Commissioner (Finance)

KENDRIYA VIDYALAYA SANGATHAN  
Regional Office  
Gauhati.

Sankardev Path, Pub-Sarania, Gauhati-3.

REPORT REGARDING ALLEGED SEXUAL ABUSE OF KUM.  
KULVINDER KAUR BY SHRI R. P. PATHAK, PRT, KENDRIYA VIDYALAYA  
MISA CANTT. INQUIRY OFFICER:—B. C. BHATT, EDUCATION OFFICE  
KENDRIYA VIDYALAYA SANGATHAN, GAUHATI.

The undersigned visited Kendriya Vidyalaya Misa Cantt. on 4th September, 1990 as per instructions of the Asstt. Commissioner, Kendriya Vidyalaya Sangathan, Gauhati Region to conduct inquiry against Shri R. P. Pathak, PRT for the sexual abuse of Kum. Kulvinder Kaur, by him.

Before start of formal inquiry it has come to the notice of the undersigned that Kum. Kulvinder Kaur was not a student of Kendriya Vidyalaya, Misa Cantt. and was attending classes for more than a year, without admission. From the statement of her mother, she was allowed unofficially by the Principal and Offg. Principal during 1989-90 in class I and during 1990-91 in class II. The Principal in his statement totally denied the statement of Pramati Sailender Kaur, mother of the child and said that he did not know how Kum. Kulvinder Kaur was attending the classes.

As per complaint of the parent, Shri R. P. Pathak, PRT, put his hand's inside the Skirt of the girl on 16th August, 1990 and started some undesirable activity. As per statement of the girl (enclosed at 1. ....) Shri R. P. Pathak used to ask the girl to sit with him and put hands inside her skirt for undesirable acts. The fact was supported by Master Rambodh Singh (statement enclosed at 2. ....) of the same class that he has seen Shri Pathak to do same thing with Kum. Kulvinder and also with Kum. Daljeet who has since transferred from the school. He reported the matter to his father Hav/ Skt. Nirmlal Singh. Hav/Skt. Nirmlal Singh confirmed the same (statement enclosed at 3. ....) and said that he informed the writer to the Offg. Principal, Shri S. K. Das, PRT and Shri B. Prasad, PRT (class teacher). According to Hav/Skt. Nirmlal Singh the matter was reported to him by his two children studying the same class in the first week of August and again in the first week of August. Shri S. K. Das PRT and Shri B. Prasad supported the same (statements enclosed at 4. .... and 5. ....).

(contd.)

- 2 :-

The statement of Kun. Gurjeet Kaur (TGT (English)) who was officiating at the time of the incident, Her statement is enclosed at Sl. .... Principal Shri R. B. Roy in his statement (Sl. .... 10....) gave some more instances where Shri Pathak, PRT was found to indulge in such undesirable acts. Statement of Kun. Minoti Kaur of class V (enclosed at Sl. .... 11....) proves same that he used to do undesirable acts with her and her friends Tara, Gayatri, Upasana and Arpita in class IV, most of whom are now transferred from the K.V. The case of Punam Kaur of class VII was reported by the Principal on the complaint of her mother, but before formal inquiry could start the parent was transferred from the station.

In his statement Shri Pathak has alleged that as Principal was not happy within respects him due to various reasons, the complaint was framed against him by the Principal allowing Kulvinder Kaur to study in class II, without admission. He has also informed that he was very badly assaulted by two persons on 19.3.90 in front of main gate of the Engineering regiment. This fact is proved by the letter No. F.//VN/90 dt. 20/3/90 submitted by the Off. Principal (copy enclosed at Sl. 13.14.) and medical report of medical Officer, Civil Hospital, Hagon.

#### Findings :-

1. It is clear from the inquiry that Shri R. P. Pathak, Primary teacher, K.V. Misacant is in a habit of taking liberties with the girl students.
2. The girl Kun. Kulvinder Kaur studied in Vidyalya without admission, which is highly irregular.
3. Shri R. P. Pathak was badly assaulted by two persons on 19.3.90.

#### Recommendation:-

1. Shri R. P. Pathak, PRT may be immediately removed from K.V. Misacant, and appropriate action may be taken so that he may not repeat the same in other Vidyalyas.
2. Principal may be asked as how he could allow Kun. Kulvinder Kaur to attend class I during 1989-90 and Class II during 1990-91, without proper admission.
3. Chairman, VMC may be requested to look into the matter of physical assault to a teacher by army personnel on 19.3.90.

(Dr. P. C. P.  
Education)

Annexure 3

The Commissioner  
Kendriya Vidyalaya Sangathan,  
18, Institutional Area (Kutub), Shaheed Jeet Singh Marg,  
New Delhi - 110016.

Sub: Appeal of handicapped teacher to Commissioner, KVS regarding  
Injunction and to pass the order to join K. Vidyalaya

Respected Sir,

With reference to the letter No.F.8-73/90-KVS(Vig) dated 9.12.98  
received on 17.12.98, I have the honour to request following few lines for your  
kind consideration and favourable action.

1. Whereas neither life is sex-process chain nor only the yardstick  
statements of implicitly schedule.
2. I requested to Principal, KV Misa Cantt, Chairman of the Vidyalaya and  
Assistant Commissioner (GR) explaining the Vidyalaya's environment happening  
at KV Missa Cantt on 4.10.88, 31.11.88, 22.2.90 and 8.9.90 respectively.
3. The colleagues were depositing some more fee for the some of the  
children so as to sought the admission during the month of July under the  
concurrence of Principal who was sending the names for approval. Hav/Skt  
Nirmal Singh was proof for one of them during the preceding academic years.
  - (a) Whereas Mr. Bachchan Prasad and Mr. Shital Kumar Das were taking  
tuition of the children for admission test since three years and Kulwinder Kaur  
was also one of them since she was studying without the admission in Class I.
  - (b) Whereas I advised the child Kulwinder Kaur who was studying  
without the admission to call her parents which she failed to do so and was  
coming regularly without the said response.
4. Parents of Kulwinder Kaur were assured by some of colleagues to  
admit her name on the name of other Kulwinder Kaur which they failed to do so  
according to the statement of Shri Bachchan Prasad.
  - (a) Whereas false and fictitious major allegation was made by the child  
Kulwinder Kaur studying in minor Class II who was neither major nor minor  
student of Kendriya Vidyalaya, Miss Cantt as stated by the then Commissioner.
  - (b) Whereas parents of Kulwinder Kaur were insisting under the influence  
of colleagues and were unable to reconcile the matter for admission according to  
the statement of Bachchan Prasad and Miss Suman Awasthi.
  - (c) Whereas non-admitted child proceeding proceeded departmentally  
without the rule and was sent to Commissioner by then Education Officer (GR)

Confidential to be from Copy  
S. Bachchan  
S. Bachchan

Printed and  
S. Bachchan  
S. Bachchan

Dr. PC Bhatt as Inquiry Officer and also of officiating Assistant Commissioner (GR) during that period.

(d) Whereas N/K Surjit Sep Chamkor assaulted me on 19.8.90 and made their complaint through the child on 29.8.90 to save their skin from the incident of 19.8.90.

(e) Whereas Chairman Kendriya Vidyalaya, Misa Cantt unauthorisedly and beyond his power suspended my services since August, 1990.

5. Dr. PC Bhatt visited Principal's house, Misa Cantt on 4.9.90 and then on 5th September, 1990 to inquire non-admission facts and fictitious matters of KV Misa Cantt as per his statements.

(a) Whereas I requestd to Dr. PC Bhatt on 5th September, 1990 to fix up another schedule of inquiry to inquire the matters, so as I can defend myself properly as I was badly assaulted by N/K Surjit and Sep Chamkor on 19.8.90.

(b) Whereas Dr. PC Bhatt refused to consider my request to give reasonable opportunity due to his pre-conceived notions.

(c) Whereas sufficient reasonable opportunity of natural justice was not given to me by the EO (GR) which is admissible as per Govt of India's order (6) in Appendix II of CCS (CCA) Rules, 1965.

(d) Whereas EO (GR) has prepared the background of case that Principal of KV Misa Cantt Shri RB Roy was unhappy for various reasons.

(e) Whereas the various reasons were informed by me to Kendriya Sangathan and to the then Principal on 4.10.88 and 30.11.88 (copy enclosed) describing that colleagues are doing tuitions and giving false marks and sending the concern papers to outside which may put me in trouble as I am disinterested to do so.

6. I sent my appeal on 8.9.90 to Assistant Commissioner (GR) to change the Enquiry Officer to inquire the facts immediately explaining, I do not feel to get any proper justice from EO (GR) Dr. PC Bhatt as Inquiry Officer.

(a) Whereas Assistant Commissioner (GR) has not changed the Inquiry Officer to inquire the facts which is permissible as per rules.

(b) Whereas Miss Suman Awasthi has given her statement neither anything had heppened on 16.8.90 nor she had received any complaint against me as acting as Officiating Principal.

(c) Whereas she also has stated that mother of Kulwinder Kaur of Class 1 requested her whether she should send her child to Vidyalaya or not as she was not present during the test. Miss Suman Awasthi advised her to wait for Principal.

7. HAV/SKT Nirmal Singh has given his false pre-rooted controversial logical statements that Shri Pathak was taking the privilege from those children whose parents were out of station to create more doubt to observe his privilege theory and also to observe his date of statements and the date of statement submitted by Miss Suman Awasthi and the date described by colleague Mr. Shital Kumar Das.

(a) Whereas HAV/SKT Nirmal Singh imposing his guess to note, whether the parents of Kulwinder Kaur was present on the station or not.

(b) Whereas HAV/SKT Nirmal Kumar Singh has also stated that he inquired the matter in the class to inform Mr. Shital Kumar Das but not to Principal, confirms the statement of Miss Suman Awasthi that she did not receive any complaint and if HAV/SKT Nirmal Singh has inquired any matter against me he would have directly informed me as I was present in the Vidyalaya, creates more doubt regarding my relation to him or Mr. Shital Kumar Das.

8. Mr. Shital Kumar Das stated and described before me that a child namely Kulwinder Kaur is studying in Class II without the admission whose class teacher is Mr. Bachchan Prasad which is already accepted by Mr. Bachchan Prasad in his statement.

(a) Whereas Mr. Bachchan Prasad has stated that it was not known to him that when and how Kulwinder Kaur was attending her Class II.

(b) Whereas Shri B. Prasad also has given his statements that he called the said child from his class as a Class Teacher, create his contrary remarks about his own interested statements.

9. As nothing such matter has been brought to my notice before the incident happened with me on 19.8.90 with any official procedure to consider the truth the pre-dated facts. The delayed complaint of mother of Kulwinder Kaur on 29.8.90 for pre-dated 16.08.90 may kindly be noted.

(a) Whereas mother of Kulwinder Kaur has stated that she made the complaint under the influence of HAV/SKT Nirmal Singh. The date of statements controversial among themselves may kindly be observed that, whether HAV/SKT Nirmal Singh was always present in the Vidyalaya to observe my work whose daughter was anyhow admitted in the Vidyalaya during the preceding years.

(b) Whereas none of the students or any documents were recorded before me by the Inquiry Officer Dr. PC Bhatt.

(c) Whereas eye witness, medical report or witness/evidence of some other favourable colleagues to me such as schedule of Vidyalayn time table from 07.15 to 14.30 has not been brought into consideration which seems that I was

-25-

taking only Class II during the whole day as per statement of Mr. S. Das.

10. Whereas statements in Hindi has been prepared by Mr. Bachchan on a numbers of times by changing his own handwritings.

(a) Whereas he acted the similar role here for which expert opinion is urgently required for ascertaining the truth.

(b) Whereas, since 12.8.90 to 14.8.90 all the girls and some of the students were busy to practice the dance for 15th of August and it was Holiday on 16.8.90 in respect of Independence Day, then how this funny matters caused to me for a discussion of Mr. Shital Kumar Das and HAV/SKT Nirmal Singh in the last period.

(c) Whereas Principal Shri RB Roy has already accepted and has given his statement that he created the same situation on a number of times. My appeal appealed on 4.10.88 may kindly be noted to observe the remarks of Lt Col Paropkar Singh, Officiating Chairman.

(d) Whereas some of the children who was duly admitted in the Vidyalaya were not coming in their proper dress, which was informed to their parents to co-operate the Vidyalaya's Rules and Regulations.

11. As per KVS Rules, health and hygienic cause were guided and the dress of students were checked in the prayer itself which also have been referred by Inquiry Officer on the other ways. The statements of some other non-concern children and my report reported on 22.2.90 is also attached for the perusal.

12 (a). Whereas Chairman of KV Misra Cantt suspended my services and was confirmed by Assistant Commissioner (GR) based on expert decision/ report of Dr. PC Bhatt EO (GR) IO referred in the column 4 (c) and (e), 5 (b) and (c) and 6 (a) respectively.

(b) Whereas my subsistence allowances was stopped by Assistant Commissioner (GR) as Dr. PC Bhatt was the Officiating Assistant Commissioner (GR) at that period.

(c) Whereas I made my petition to Honorable Deputy Commissioner (HQ) on 23.11.90 who send the order to pay the subsistence allowances at an early dates which is permissible.

(d) Whereas I received my allowances in the month of December 1990, @ 75% WEF August, 1990 as per CCA (CCS) Rules 60% for three months.

13. I again sent my request to the Commissioner (HQ) on 23.11.90, 4.2.91, 12.7.91, 11.5.91 and 2.8.91 to revoke my suspension stating the cause of the case.

(ii) Whereas I sent my appeal on 21.4.91 to Ministry of Human Resource

Development who are administrative Ministry of KVS.

(b) Whereas I again requested my appeal on 17.9.91 and 23.2.92 to then Commissioner explaining my difficulties to revoke my suspension.

14. My services were terminated by the Commissioner KVS under biased action wef 30.4.93.

(a) Whereas I again represented my representation to the Chairman and also to Commissioner KVS to review the decision on merit of the case and my physical deformity.

15. The then Commissioner rejected my appeal appealed even to Chairman KVS.

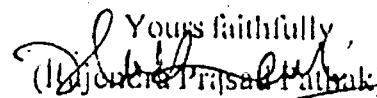
16. I made my petition to the Honorable High Court Gauhati who gave the direction to Kendriya Vidyalaya Sangathan in Civil Rule No.1718 of 1993 dated 12.10.98 as per KVS letters.

17. Honorable Commissioner has directed me to submit the representation vide his order No.F.8-73/90-KVS (Vig) dated 9.12.98 in accordance with the prescribed procedure to meet the natural justice law in time.

It is also explained here that I have been selected for PGT Post according to the serial No.CL-10070, CL-9226, 08/10828, GR/10069, 03/11624 and 30065 since 1983 respectively and I have been promoted to TGT Post as per seniority No.4418 which are not given to me.

In the above circumstances, therefore I request Your Honour to kindly consider my statements sympathetically to exonerate from the remarks and kindly pass the order prayed for injunction and to join the Kendriya Vidyalaya, and thus I shall remain grateful to you.

Dated 1st January, 1999

Yours faithfully,  


Ex PRT, KV Borgblai

Margherita, Assam

Formerly at KV, Missa Canu (Nagaon).

Present address

Rajendra Prasad Pathak

Vill Abhuram, PO Turkwaliya (Peepeganj)  
 Dist Gorakhpur (UP).

39  
BY REGD. POST  
CONFIDENTIAL

8-73/90-KVS(Vig.)

ORDER.

ANNEXURE 4

9 AM / FAX: 6514170  
9 AM (EST)  
Tglogam, KEVISANG  
90505416, 6050567, 6050570, 6050571

केन्द्रीय विद्यालय संगठन  
KENDRIYA VIDYALAYA SANGATHAN  
18 रामगांगा नो. २, शहीद जीत सिंह मार्ग  
१५ दिल्ली ११० ०१६  
18 Institutional Area, Shaheed Jeet Singh Marg  
New Delhi-110 016

मुद्रित/दिनांक 31-12-99.

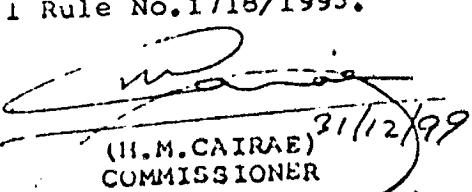
1) According to the order passed by the Hon'ble High Court of Guwahati a copy of report of the Summary Enquiry alongwith the evidences collected against the Petitioner were sent to Shri Pathak on 19-12-98.

2) In the representation Shri R.P.Pathak, Ex-P.R.T., Kendriya Vidyalaya, Misa Cantt. has requested to exonerate and reinstate him in K.V.S. again on the grounds that he had done nothing and became a pray of the Principal, his colleagues and Shri P.C.Bhatt, the Inquiry Officer. He has not said any thing about the misconduct.

3) In order to place the matter in proper perspective it may be mentioned Shri R.P.Pathak misbehaved with a girl Km.Kulwinder Kaur in the Class-room in the presence of other students which is confirmed by them. It is also alleged that victim of Shri R.P.Pathak which has prima-facie been established in the report. The services of Sh.R.P. Pathak were terminated by the Commissioner, K.V.S. on 09-04-93 and his appeal was also rejected by the Vice-Chairman, K.V.S. on 12-01-94 which was reviewed by the then Hon'ble Minister for H.R.D. in 1994 and rejected.

4) Considering the facts expressed in para-3 above the respondent is not in a position to accede to the request of Shri R.P.Pathak, Ex-P.R.T., Kendriya Vidyalaya, Misa Cantt. for reinstatement of his service in Kendriya Vidyalayas.

5) This disposes off the representation submitted by Shri R.P. Pathak, Ex-P.R.T., in compliance with the order dated 21-08-98 passed by the Hon'ble High Court of Guwahati in Civil Rule No.1718/1993.

  
(H.M. CAIRAE)  
COMMISSIONER

Shri R.P.Pathak,  
Ex-P.R.T., (Kendriya Vidyalaya),  
Village- Abhoram, P.O.- Turkwali,  
UTTAR PRADESH.

14  
12/

19.2.98

Attested,  
Filer  
Architect

Certified by  
true copy  
D. Achrekar

The Ministry of Human Resources Development  
 Administrative Ministry of KVS, Deptt of Education  
 Shastri Bhawan, New Delhi

Annexure 5

Subject : Appeal against the order F.8-73/90-KVS (Vig) dated 31.12.99

(Copy enclosed as Encloser as per Kendriya Vidyalaya Sangathan's letters

Reference : 1. The favourable judgment of Gauhati High Court, Direction in Civil Rule No.1718 of 1993 dated 12.10.98 and 21.8.98 as per KVS Letter No.F.8-73/90-KVS(Vig) dated 31.12.99

2. My appeal submitted to the Commissioner according to Gauhati High Court's order and Commissioner's direction in accordance with the prescribed procedure to meet the natural justice etc (Copy enclosed as Encloser No....)

Respected Sir,

I have the honour to request the following few lines for your kind considerations and favourable action

1. (a) Whereas Hon'ble Commissioner of Kendriya Vidyalaya Sangathan has proscribed and has forbidden as well abolished the judgment of the Hon'ble Gauhati High Court and again has passed the same bottomless order, not to reinstate my services without referring to any Rules, biased either of the procedure of Education Code or CCA (CCS) Rules to meet even the natural justice etc, Sir.

(b) Therefore under such circumstances, I feel to explain and to submit my request as below referring the paras of indelicious order ordered by Commissioner (Copy enclosed as Encloser No....)

2. Sir, the baseless abstraction orders of para 2 has been rightly assessed and wrongly unassessed to assertion the truth even to conclude the abrupt back ground of case referred and requested in my representation apprise in column (2) to (4) and 10 (c). (Copy enclosed as Encloser No....)

3. Sir, In response to column No. (3) of astonish order it is explained that, child namely Kumari Kulwinder Kaur was not admitted in Kendriya Vidyalaya, Misa Cantt or any Kendriya Vidyalaya, which has already been proved by witnesses accorded and reported by the previous Inquiry Officer Dr. PC Bhatt in the findings of summary reports dated 7.9.90 are depthly deliberated by Court but destituted by Sangathan to resume such orders again. (Copy enclosed as Encloser No....)

(a) According to the Rules so far, *prima facie* has been only established and victim has been considered, if children are in the yardstick of admission rules of Sangathan or admitted in the Kendriya Vidyalaya.

(b) Ultimately it is further requested that neither Sangathan has sent the facts to explain the environment of Kendriya Vidyalaya Misa Cantt to the then Chairman KVS

*Certified to be true copy*  
*S. D. Advocate*

*A. H. S. & Co.  
 P. J. Bhatt, "w/nc  
 Advocate etc.*

- 41 -

22

nor to the Hon'ble Minister of HRD. So appeal was rejected by them as aрестly stated and stressed in the orders, are deeply and absolutely fictitious.

(c) Whereas Sangathan are only aligning and repeating to regulate their falsely presumed rocted notions which are delineated and obstructed by the Court, with the direction to follow the proper procedure according to the Rules, as referred in the representation requested and apprised before you, Sir. (Copy enclosed as Encloser No.... of Column.....)

(d) Sir, Hon'ble Court Gauhati has imposed the direction to KVS but they have neither made any inquiry nor have collected any evidence, witness before me to follow the procedure such as show cause, notice, charge sheet etc to repeat or to consider or to dispose of the same order apparently showing abolition of Court judgment, Sir.

4. That a letter No.F.8-73490.KVS(Vig) dated 31.12.99 from KVS, New Delhi signed by Sri MM Lal, Assistant Commissioner (Finance) KVS were sent to me after eight months of judgment of Hon'ble High Court Gauhati, with a direction to submit the representation to Commissioner KVS in accordance with the prescribed procedure to consider and to meet the natural justice law in time, so as to dispose of the case, Sir. (Encloser : 4)

(a) As regards, the facts expressed in para 4 of (3) by KVS regarding reinstatement of mine to accede in the order on my representation submitted on 5.1.99 by regd post has already been written in para 5 by Sangathan, as they disposes of my representation. Moreover, it may be worth mentioning here, regarding their sluggishness disposition and disinterest, as they lost my representation for about ten months which I send just after the Commissioner's direction and judgment of Hon'ble Court to dispose of the case.

(b) That Sir, on 2.11.99, I met to the Section Officer of Chief Vigilence Office of KVS and delighted the matters, and then he searched out the representation and informed me to submit it immediately, as office expressing their inability as it is lost by them and as a result it was submitted on 3.11.99 by hand.

... In the above abrogation circumstances, I therefore request Your Honour to kindly consider my adherence statements sympathetically to exonerate from the remarks and kindly pass the order prayed for injunction and to join the Kendriya Vidyalaya.

Yours faithfully  
  
(Rajendra Prasad Pathak)

Ex PRT Kendriya Vidyalaya Borgolai

Formerly at Kendriya Vidyalaya, Misra Cantt (Assam)

Present address (Correspondential)

R.P. Pathak

Vill Abhuran, PO Turkwaliya (Peepaganj)

Dist Gorakhpur (UP) Pin 273 163

The Ministry of Human Resources Development  
Administrative Ministry of KVS, Deptt of Education  
Shastry Bhawan, New Delhi

Annexure 6

Subject : Request to expedite in the decision.

Reference : (a) My representation represented to HRD on 25/30.1.2000,  
5.2.2000 by registered post 1550.

(b) Commissioner's order (a) F.8/73/90 KVS (Vig) dated 31.12.99  
etc,

(c) Judgment of Gauhati High Court direction No.1718/1993 dated  
12.10.98 abolished and expelled by Sangathan

Respected Sir,

With reference to above subject referred in my representation, it is represented  
that kindly look into the matter at the earliest so as narrated deepest faith towards  
strengthen of services should stand on.

Submitted regardfully.

Yours faithfully

(RP Pathak) 29.12.2000

Ex PRT KV, Borgolai

Formerly at Kendriya Vidyalaya, Misu Cantt (Assam)

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

Attested  
R. Bhattacharjee  
Advocate

## CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 493 of 2001.

Date of Order : This the 4<sup>th</sup> Day of December, 2002.

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

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

Shri Rajendra Prasad Pathak,  
 son of late Harihar Pathak,  
 resident of village Alphoram,  
 P.O. Turkwalia (Pepceyang),  
 Dist. Gorakhpur, Uttar Pradesh.

By Advocate Sri A.K.Maheswari.

...Applicant

- Versus -

1. Kendriya Vidyalaya Sangathan,  
 represented through the Chairman,  
 18, Kutub Institutional Area,  
 Shaheed Jeet Singh Marg,  
 New Delhi-110016.
2. The Commissioner,  
 Kendriya Vidyalaya Sangathan,  
 18, Kutub Institutional Area,  
 Shaheed Jeet Singh Marg,  
 New Delhi-110016.
3. Shri Rai Bhushan Rai,  
 Ex Principal, Kendriya Vidyalaya  
 Misa Cantt., Nagaon,  
 through the Kendriya Vidyalaya Sangathan,  
 18, Kutub Institutional Area,  
 Shaheed Jeet Singh Marg,  
 New Delhi-110016.

...Respondents

By Advocate Sri U.K.Mazumdar.

ORDERCHOWDHURY J. (V.C)

This application under section 19 of the  
 Administrative Tribunals Act, 1985 is withdrawn and is  
 directed against the order dated 13.12.99 passed by the  
 Commissioner of Kendriya Vidyalaya Sangathan, respondent  
 No.2 rejecting the representation submitted by the

certified to be true copy  
 Advocate

applicant pursuant to the judgment and order passed by the Hon'ble Gauhati High Court dated 30.4.98 in Civil Rule No. 1718 of 1993 and also against the order dated 31.12.99 for non consideration of the appeal submitted by the applicant in the following circumstances.

2. The applicant prior to his termination from the Kendriya Vidyalaya was serving as a Primary Teacher in Kendriya Vidyalaya at Misa Cantonment, Nagaon. While he was serving as such he was placed under suspension in contemplation of a departmental proceeding. Subsequently by order dated 9.4.93 the Commissioner, Kendriya Vidyalaya Sangathan terminated the service of the applicant in aid of Article 81 (b) of the Education Code of Kendriya Vidyalaya. The applicant submitted a Writ Petition before the Gauhati High Court assailing among others the order of termination in Civil Rule No. 1718 of 1993. The High Court disposed the Writ Application by judgment and order dated 30.4.1998 and upheld the action of the authority in taking recourse of Article 81(b) of the Education Code of Kendriya Vidyalaya dispensing the authority from holding regular enquiry. High Court held "it was not necessary to charge the charges of misconduct on the petitioner." The High Court however held that after holding of the enquiry the enquiry officer submitted a report of the summary enquiry and the copy of the enquiry report was not furnished to the applicant to enable him to make a representation against the said enquiry. The High Court in its judgment thus held

3

After the inquiry officer submitted the report on the summary enquiry, a copy of the enquiry report was however, not furnished to the petitioner to enable him to make a representation against the said inquiry report and the Commissioner, Kendriya Vidyalaya Sangathan, New Delhi, passed the impugned order of termination on the basis of the said ex parte evidence and inquiry report. Considering the fact that the allegations against the petitioner were moral turpitude involving sexual offence and exhibition of immoral sexual behaviour towards the complainant students, which were of very serious nature, principles of natural justice required that an opportunity was given to the petitioner to submit his representation against the evidence that have been collected in the summary inquiry and the report of the said summary inquiry establishing his *prima facie* guilt on the said allegations."

The High Court accordingly remitted the matter with a direction to the Kendriya Vidyalaya Sangathan, New Delhi, to ensure that the copy of the report of the summary enquiry was sent to the applicant within the time specified and the similar direction was issued on the applicant to submit a representation before the said Commissioner within the period prescribed. The Commissioner was also directed to consider the said representation of the applicant and pass order in accordance with law within the time prescribed and pass appropriate order thereafter depending upon the final outcome of the order. By communication dated 9.12.98 the Assistant Commissioner (Finance) informed the

applicant that in terms of High Court's order a copy of the summary enquiry report alongwith the copy of the witnesses and evidence collected was sent to him to enable him to submit a report before the Commissioner. The applicant was also advised to submit his report after receipt of the communication accordingly. The applicant submitted representation before the Commissioner vide a representation dated 1.1.99 ventilating his grievance. In the representation the applicant assailed the finding of the summary enquiry report and also assailed the credibility and correctness of the testimony of the witnesses. The Commissioner by the impugned order dated 31.12.99 rejected the representation of the applicant. The full text of the order is reproduced below :

"According to the order passed by the Hon'ble High Court of Guwahati a copy of report of the summary enquiry alongwith the evidences collected against the petitioner were sent to Sri Pathak on 19.12.98.

In the representation Shri R.P.Pathak, Ex-P.R.T, Kendriya Vidyalaya, Misa Cantt. has requested to exonerate and reinstate him in K.V.S again on the grounds that he had done nothing and became a pray of the Principal, his colleagues and Shri P.C.Bhatt, the Inquiry Officer. He has not said anything about the misconduct.

In order to place the matter in proper perspective it may be mentioned Shri R.P.Pathak misbehaved with a girl Km.Kulwinder Kaur in the class room in the presence of other students which is confirmed by them. It is also alleged that victim of Shri R.P.Pathak which has prima facie been established in the report. The services of Sh.R.P.Pathak were terminated by the Commissioner, K.V.S on 9.4.93 and his appeal was also rejected by the Vice-Chairman, K.V.S on 22.1.94 which was reviewed by the then Minister for H.P.D. in 1994 and rejected.

Considering the facts expressed in para-3 above the respondent is not in a position to accede to the request of Shri R.P.Pathak, Ex-P.R.T., Kendriya Vidyalaya, Moga Cantt. for reinstatement of his service in Kendriya Vidyalayas.

This disposes off the representation submitted by Shri R.P.Pathak, Ex-P.R.T., in compliance with the order dated 21.8.98 passed by the Hon'ble High Court of Guwahati in Civil Rule No. 1718/1993."

The applicant thereafter preferred an appeal before the Minister, H.R.D assailing the order of termination dated 31.12.99 passed by the Commissioner. The applicant thereafter submitted reminder to the authority for disposal of the appeal. Failing to get appropriate remedy the applicant moved this Tribunal by this application.

3. None appeared for the applicant when the matter was taken up for hearing. We have heard the learned counsel for the respondents Mr M.K.Mazumdar at length. Mr Mazumdar, learned counsel for the respondents submitted that the order was passed as far back as 31.12.99 and against the said order the applicant preferred appeal on the own showing of the applicant on 5.2.2000. This application was filed only on 26.11.2001. The learned counsel contended that the application is therefore thus time barred and liable to be dismissed on that ground. There is no doubt that the impugned order was passed on 31.12.99 and that the applicant preferred an appeal before the authority on 5.2.2000 but then the applicant is a person who was removed from service by way of termination and that he was pursuing the matter before the

authority. In our view it would not be appropriate to dismiss the application on the ground of limitation. In our view the applicant cannot be sent out of Court on the ground of limitation and the application is considered on merit. We have already referred to the order passed by the Commissioner. The High Court in its judgment and order dated 30.4.98 found that the applicant was denied with natural justice since he could not get any opportunity to submit an effective representation in the absence of the enquiry report as well as the evidence collected during the summary enquiry. By its order the High Court limited the matter directing the respondents to act accordingly by furnishing the materials on record to enable the applicant to submit an effective representation, so that the Commissioner can consider the representation and directed the Commissioner to consider the said representation of the applicant and pass order in accordance with law. The A consideration means a valid and lawful consideration. The applicant in his application assailed the credibility of the witnesses and the probative force of the testimonials. When such representation was made the Commissioner was duty bound to fairly consider the same and pass an appropriate order in his own judgment. In para 3 of the order contains the reasons for rejecting the representation of the applicant. In para 3 the Commissioner held that the victim prima facie established its case. "The service of the

applicant was terminated by the Commissioner by order dated 9.4.93 and his appeal was rejected by the Vice Chairman, K.V.S on 12-1-1994 which was reviewed by Minister for H.R.D and rejected. The Commissioner did not independently assess the merit of the representation submitted by the applicant in details in terms of the High Court's order. The Commissioner did not address his mind to any of the contention raised by the applicant and dismissed the application on the ground mentioned in para 3. The appellate authority on the other hand did not respond to its

appeal. In the circumstances we are constrained to set aside and quash the order No.F.8-73/90-KVC(Vig) dated 31.12.99 and direct the Commissioner to pass a reasoned order as per law with utmost expedition, preferably within a period of two months from the date of receipt of this order.

The application is allowed to the extent indicated. There shall, however, be no order as to costs.

Sd/ VICE CHAIRMAN  
Sd/ MEMBER (ADM)

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17/11/01

- 50 -

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RE: Special order unauthorised

**KENDRIYA VIDYALAYA SANGATHAN**  
 36. Institutional Area.  
*Shahid Jeet Singh Majhi*  
*For Dated-11/01/04.*

73/90-KVS(Vig.)

Dated - 29-01-2004

**ORDER**

WHEREAS, the services of Shri R. P. Pathak, Ex- Primary teacher, Kendriya Vidyalaya, Misra Cantt, was terminated by the Commissioner, KVS in exercise of the powers conferred on him under the provision of Article 81 (b) of the Education Code for Kendriya Vidyalaya, as for having exhibited immoral sexual behavior towards the girl students of the Vidyalaya vide order dated 9-1-1993.

WHEREAS, the said Shri R.P.Pathak preferred an appeal to the Chairman, KVS against the impugned order of Commissioner, KVS dated 9-1-1993 which was considered and rejected by the Chairman, KVS and the Joint Commissioner(Admin.) dated 21-3-1994.

WHEREAS, the said Shri R.P.Pathak filed Civil Rule No 1712/93 in the Hon'ble High Court, Guwahati being aggrieved by the impugned order. The Hon'ble High Court, Guwahati vide its order dated 21-3-98 directed as under:

"In the circumstances, I remit this matter with a direction to the Commissioner, KVS, New Delhi, to ensure that a copy of the report of the summary inquiry alongwith evidence collected against the petitioner is sent to the petitioner in a confidential manner within one month from the receipt of a certified copy of this order and within one month from the date of receipt of such inquiry report and the evidence collected in the summary inquiry, the petitioner will submit his representation of the petitioner and pass his orders in accordance with law within one month thereafter and depending upon the final outcome of the orders that are passed by the Commissioner, the petitioner will be paid his salary and allowances in accordance with the Rules."

Whereas herewith is sex-proces. enclose herewith the yardstick statement of impropriety schedule.

He requested the Principal, Kendriya Vidyalaya, Misra Cantt., Chairman (VMC) of the Vidyalaya and the Assistant Commissioner, Guwahati Region explaining the Vidyalaya environment.

The colleague were depositing some more fee for some of the children so as to sought the admission during the month of July under the concurrence of Principal who was sending the names for approval. Hay SKT Nirmal Singh was proof for one of them during the preceding academic years.

Shri Bishnu Prasad and Shri Bhupinder Singh were taking the tuition of the children for Admission Test since three years and Kulwinder Singh was also one of them.

*Certified to be true (Copy)*  
*D. Admirek*

He advised Kulwinder Kaur who was sending without the admission to call her parents which she failed to do and was coming regularly to the class.

Parents of Kulwinder Kaur were assured by some of the colleagues to admit her name on the name of other Kulwinder Kaur which they failed to do so.

Whereas false and fictitious allegations was made by the child Kulwinder Kaur studying in Class-II who was neither Major nor Minor students of Kendriya Vidyalaya, Misa Cantt.

Whereas parents of Kulwinder Kaur were missing under the influence of colleagues and were unable to reconcile the matter for admission.

Whereas non-admitted child proceeding proceeded departmentally without the rule and was sent to the Commissioner, KVS by the then Education Officer, Guwahati Shri P.C. Bhatt as Inquiry Officer as well as officiating Assistant Commissioner, during that period.

Whereas Shri N.K. Surjit Sep Chauhan assaulted him on 19.8.90 and made their complaint through the said child on 29.8.90 to save their skin from the incident of 19.8.90.

Whereas the Chairman, VMC, Kendriya Vidyalaya, Misa Cantt, suspended his services since August, 1990.

Dr. P.C. Bhatt visited Principals house Misa Cantt on 1.9.90 and 3.9.90 to inquire non-admission facts and fictitious matters of Kendriya Vidyalaya, Misa Cantt.

Whereas he requested Dr. P.C. Bhatt on 3.9.90 to fix up another schedule of inquiry to inquire the matters so as he can defend himself properly as he was assaulted by Shri N.K. Surjit and Sep. Chauhan on 19.8.90.

Whereas Dr. P.C. Bhatt refused to consider his request to give reasonable opportunity due to his pre-conceived actions.

Whereas sufficient reasonable opportunity of natural justice was not given to him by the Education Officer.

Shri P.C. Bhatt prepared a back-ground of the case that Principal, Kendriya Vidyalaya, Misa Cantt, Shri R.B. Roy was unhappy for various reasons.

Whereas the various reason were informed by him to KVS and the then Principal on 04.10.88 and 30.11.88.

He sent his appeal on 8.9.1990 to the Assistant Commissioner concerned for change of Inquiry Officer.

Whereas Assistant Commissioner has not changed the Inquiry Officer to inquire the facts which is permissible as per rules.

Smt. Banu, Awasthi had stated in her statement (16.8.90) that she has not received any complaint against Shri Pratap.

Whereas she has also advised the father of K.m. Kulwinder Kaur to wait for Principal.

HAVSKT Nirmal Singh has given false pre-rooted controversial logical statement.

Whereas HAVSKT Nirmal Singh imposing his guess to note, whether the parents of Kulwinder Kaur was present on the occasion or not.

The statement of Shri B.Prasad and Shri Kumar Das are also contradictory and controversial.

Shri Shital Kumar Das stated before him that Kulwinder Kaur is studying in Class II without the admission which is already accepted by the class teacher Shri Bachchan Prasad in his statement.

Whereas Shri Bachchan Prasad has stated that it was not known to him that when and how Kulwinder Kaur was attending his Class-II.

Whereas Shri Bachchan Prasad also has given his statements that he called the said child from his class as a class teacher, create his contrary remarks about his own interested statements.

As nothing such matter has been brought to his notice before the incident happened with him on 12.8.90 with any official procedure to consider the truth behind the predicated facts. The delayed complaint of mother of Kulwinder Kaur dated 29.8.90 for pre-dated incident dated 16.8.90.

Whereas mother of Kulwinder Kaur has stated that she made the complaint under the influence of HAV SKT Nirmal Singh

That none of the statement of students were taken recorded before him by Inquiry Officer.

Whereas, eyewitness, medical report or evidence has not been brought into consideration.

Whereas, statements in Hindi has been prepared by Shri Bachchan on a number of times by changing his own hand-writings.

Whereas he acted the similar role here for which expert opinion is urgently required for ascertaining the truth.

Since 12.8.90 to 14.8.90 all the girls and other students were busy in practice for dance for 15.8.90 and 16.8.90 was holiday in respect of Independence Day. Then how this family matters caused to him.

Principal Shri R.B. Roy has already accepted and has given his statement that he created the same situation on a number of times.

Some of the children who were duly admitted in the Vidyalaya were not coming in their proper dress, which was informed to their parents to co-operate the Vidyalaya's rules and regulations.

As per KVS rules, health and hygienic cause were guided and the dress of students were checked in the prayer itself which also have been referred by Inquiry Officer on the other ways.

1) The Chairman, VMC suspended his services and was confirmed by the Assistant Commissioner, KVS, RO, Guwahati based on ex-party decision, report of Shri P.C. Bhattacharya.

His subsistence allowances was stopped by Assistant Commissioner (GR) as Dr. P.C. Bhattacharya was the officiating Assistant Commissioner at that period.

He made his petition on 23.11.90 to the Commissioner, KVS who sent the order to pay the subsistence allowances which is permissible.

He received his allowances in the month of December, 1990 at 75% with effect from August, 1990.

He again sent his request to the Commissioner, KVS on 33.11.90, 04.02.91, 12.07.91, 11.5.91 and 02.08.91 to revoke his suspension.

He sent his appeal on 21.04.91 to Ministry of HRD who are administrative ministry of KVS.

He again requested his appeal on 17.09.91 and 23.02.92 to then Commissioner, KVS to revoke his suspension.

- 53 -

4

Then his services were terminated by the Commissioner, KVS on 30.4.93. Whereas he made an appeal which was also rejected by the Commissioner, KVS and the Chairman, KVS.

The then Commissioner rejected his appeal.

He made his petition to the Hon'ble High Court, Guwahati who gave the direction to KVS in Civil Rule No.1718 of 1993 dated 12.10.98.

Hon'ble Commissioner has directed him to submit the representation vide his order dated 09.12.98 in accordance with the prescribed procedure to meet the natural justice law in time.

He has been selected for PGT post since 1983 and he has been promoted for TGT post as per seniority list No.4418 which are not given to him.

After consideration of the facts and circumstances of the case and submission as made by Shri Pathak Commissioner, KVS rejected the above representation of the said Shri Pathak and passed order dated 31.12.99 in compliance with order dated 21.8.98 of the Hon'ble High Court, Guwahati.

Whereas the said Shri R.P. Pathak thereafter preferred an appeal dated 5.2.2000 before the Minister, HRD assailing the order of termination dated 31.12.99 passed by the Commissioner, KVS and the same was not received by the KVS for disposal. The said Shri Pathak filed an OA No.453/2001 in the Hon'ble CAT, Guwahati challenging the above order of Commissioner, KVS and seeking re-instatement in the services of KVS. The Hon'ble CAT, Guwahati while disposing the OA No. 453/2001 passed an order dated 4.12.2002 with the following directions:-

"In the circumstances we are constrained to set aside and quash the order No. F.8-200-KVS( Vig.) dated 31.12.99 and direct the Commissioner to pass a reasoned order under law with utmost expedition, preferably within a period of two months from the date of receipt of this order."

Dr. P C. Bhattacharya conducted the summary inquiry on 4.9.90 and during the enquiry, interacted with the teachers and students of Kendriya Vidyalaya, Misra Contt. and ordered their statements to unravel the truth and considered all the records including the complaint made by Smt. Sailender Kaur, mother of Km. Kulwinder Kaur. Shri R.P. Pathak participated in the summary enquiry and he was afforded opportunity to present his case. The enquiry team after giving him opportunity of hearing recorded his statements.

That after conducting the summary enquiry, the enquiry committee submitted its report to the Assistant Commissioner, Guwahati vide its report dated 7.9.90 and the Assistant Commissioner, Guwahati in turn made over the report to the undersigned and in the said report, the enquiry committee has given a finding that Shri R.P. Pathak was ipso facto found guilty of moral turpitude.

Contd.3.

Committee?

That the undersigned has perused the report of the enquiry committee and has also considered all the materials on record. The undersigned has also considered the complaints of girl students as also their statements recorded during the summary enquiry and other statements of individuals recorded in the summary enquiry. The undersigned has also perused the statements of Shri R.P. Pathak made before the Enquiry Committee.

That I find that the summary enquiry report has charged Shri R.P. Pathak guilty of moral turpitude and the undersigned being the Competent Authority after going through the materials placed on record relating to the summary enquiry is satisfied that Shri R.P. Pathak is prima facie found guilty of moral turpitude as he has been found indulging undesirable behavior towards Kmj. Kulvinder Kaur, a girl student of Class II of Kendriya Vidyalaya, Missa Cantt. in the class room in the presence of other students with a view to derive sexual satisfaction.

That the undersigned is also of the view that it is not expedient to hold a regular enquiry under the CCS [CCA] Rules, 1965 as it would cause serious embarrassment to the girl students or their guardians. The undersigned is also of the view that holding of regular enquiry is not expedient because of the tender age of the girl students as their safety and security have to be protected by preventing their exposure to the tardy process cross examination in the enquiry in relation to the conduct of a teacher resulting in sexual harassment of the girl students etc. involving moral turpitude and in this view of the matter, the undersigned dispenses with holding of regular enquiry in accordance with CCS [CCA] Rules, 1965 and proceeds to exercise the power conferred upon him under Article 81 (b) of the Education Code for Kendriya Vidyalayas to hold that the conditions mentioned therein are satisfied in the present facts and circumstances of the case and that Shri R.P. Pathak, Ex-PRT, Kendriya Vidyalaya, Missa Cantt. is found prima facie guilty of moral turpitude.

That the Hon'ble Supreme Court has laid down the law in the case of Director, Kendriya Vidyalaya Samiti & Ors. Vs. Babbu Prasad Yadav vide its judgement dated 5.2.2003 that the following preconditions are required to be satisfied before the charged officer is terminated by the competent authority in exercise of such powers under the relevant rules:-

1. Holding of summary inquiry.
2. A finding in such summary inquiry that the charged employee was guilty of moral turpitude.
3. The satisfaction of the Commissioner on the basis of such summary inquiry that the charged officer was prima facie guilty.
4. Satisfaction of the Commissioner that it was not expedient to hold an enquiry on account of serious embarrassment to be caused to the student or his guardians or such other practical difficulties and finally
5. The recording of the reasons in writing in support of the aforesaid.

That the undersigned before exercising the power conferred upon him under the aforesaid strictly adhered to the requirements of Article 81(b) of the Education Code for Kendriya Vidyalayas and has followed the law laid down by the Hon'ble Supreme Court in the above mentioned case.

-6-

NOW, THEREFORE, the undersigned, in compliance with the order dated 2002 of the Hon'ble CAT, Guwahati in O.A.No.453/2001 has considered the case of Shri Pathak, Ex-Primary teacher in the light of the preceding paras and has come to the conclusion that his termination was ordered in exercise of the powers conferred on the undersigned, as per the provisions of Article 81 (b) of the Education Code for Kendriya Vidyalayas. The undersigned, being the Head of the institution is bound to safeguard the rights of innocent girl students and the institution from such teachers and orders accordingly.

*Rajendra Prasad Pathak*  
16/01/2006

(J.L.M.CAIRAE)  
COMMISSIONER

Shri P.P.Pathak, Ex-PRT, K.V. Misa Cantt, Village-Abahoram,  
P.O.Turkvala (Pepeeeng), Dist. Gorakhpur, UTTER PRADESH  
The Principal, Kendriya Vidyalaya, Misa Cantt, Baragola  
The Assistant Commissioner, KVS, Regional Office, Guwahati,  
Education Officer (L&C), KVS (Hqrs), New Delhi.

Guard File.

*Rajendra Prasad Pathak*

ORDER SHEET

Case Petn/Cont.Petn/Rev.1401.....17/04.....

In O.A... 453/2001.....

the Applicant(s) Rayen Das. Passad Pathak.....

the Respondent(s) Chairman, K.V.S. & T.S. ....

for the Applicant : L.M. Deym.....

or the Railway/CGSC... Compt. K.V.S.....

TE DATE ORDER OF THE TRIBUNAL

14.5.04 Heard applicant in person. Vide order dated 4.12.2002 passed in O.A.453/2001 this Tribunal quashed the penalty order passed by the Disciplinary authority as well as upheld by appellate authority and directed the Kendriya Vidyalaya Sangathan to pass a reasoned order as per law. Pursuant to the above, Comissioner, Kendriya Vidyalaya Sangathan passed an order, dated 20.1.2004. In view of the above we do not find any justification in the contention of the applicant that the said direction issued by the Tribunal dated 4.12.2002 have been violated. In view of the above it is difficult to hold that any contempt of this Tribunal have been committed. In case the applicant have any grievance against the order dated 20.1.04 in exercise of power conferred under Article 81(B) of the Education Code of KVS the applicant would be at liberty



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14.5.04 to seek appropriate remedy under the appropriate law.

Accordingly C.P. is not maintainable and accordingly closed.

sd/ MEMBER(J)

sd/ MEMBER(A)



Certified to be true Copy

सत्याग्रह संसद

Section Officer (J)  
C.A.T. GUWAHATI BANCH  
Guwahati 781005

14/5/04

केन्द्रीय विधायिका न्यायालय  
Central Administrative Tribunal

• 11 9 MAY 2001

गुवाहाटी न्यायालय  
Guwahati Bench

- 1 -

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH - GUWAHATI

File No. 23  
The Respondent  
Rep'd by  
Advocate  
Advocate  
23

19-05-05

O.A No.157 of 2004

Sri Rajendra Prasad Pathak

Applicant

-V E R S U S-

The Chairman, Kendriya Vidyalaya

Sangathan & others

Respondents

-AND-

IN THE MATTER OF:

Written Statement filed by the Respondents.

-AND-

IN THE MATTER OF:

The Assistant Commissioner,  
Kendriya Vidyalaya Sangathan,  
Guwahati Region, Maligaon,  
Guwahati - 781012.

..... Deponent

Contd..../-

The Written Statement on behalf of  
the Respondents are as follows:

I, Sri U.N Khawarey, the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Guwahati, being the controlling authority of the Respondent No.3, the then Principal of the Kendriya Vidyalaya and on being authorized to file this written statement do hereby solemnly affirm and file the written statement on behalf of Respondents No.2, 3 and 4 as under:-

- 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 he being the Assistant Commissioner of Guwahati region being authorized by the Respondents is competent to file this written statement on their behalf on being supplied the para wise comments from the Head Quarters.
- 3). 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.

4). 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 objectives 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.
- (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.

Para-wise Comments

5). That with regard to the statements made in paragraphs 1, 2, 3, 4, & 5, the deponent begs to state that those are matter of records and hence does not offer any comment.

6). That with regard to the statement made in paragraphs 6.1 and 6.2, the deponent states that those are matter of facts and hence does not offer any comment.

7). That with regard to the statement made in paragraph 6.3, the deponent states that these are applicant's own and subjective observations and hence does not merit any comment.

8). That with regard to the statement made in paragraph 6.4, the deponent states that it is wrong to say that due to jealous attitude of some Section, the service of the Applicant was illegally terminated. Mr Pathak i.e. the present Applicant was found guilty of immoral behaviour due to which his service was terminated. In another case in the year 1985 he was removed from service and thereafter reinstated. Thus the wild allegation of the applicant that some factions were biased and jealous against him does not hold any water.

9). That with regard to the statement made in paragraph 6.5, the deponent states that it is wrong to say that the respondent No.4 delayed his payment of T.A intentionally. That the respondent No.4 being the Principal of Kendriya Vidyalaya School is entrusted with several duties and has to bear the responsibilities of looking after the total functions of the school. As such the

respondent No.4 had certain limitations of time for verification and scrutiny after which only the payment of the applicant could be released. There was no personal grudge against the applicant and, as such, his allegation are totally baseless and far away from truth.

10). That with regard to the statement made in paragraph 6.6, the respondent denies the correctness of the same, save the alleged incident, and submits that soon as the incident was brought to the notice of the respondent No.8, he asked both the parties to submit their statements and the said statements were forwarded to higher authorities for needful action. As such the Respondent No.3 acted as per rules within his administrative power and not with any malicious intentions as alleged.

?which rule

11). That with regard to the statements made in paragraphs 6.7 to 6.12, the deponent begs to submit that the averment of the applicant is an after-thought and the whole incident alleged herein bears no resemblance, whatsoever, to his guilt of moral turpitude involving sexual act for which he was terminated from his service. Hence the deponent submits that the Hon'ble Tribunal may kindly take no cognizance of the incident as alleged by the present applicant as these are borne out of the applicant's fictitious mind as to derive sympathy and

compassion out of incidents as alleged which have no bearing with respect to this instant case.

12). That with regard to the statement made in paragraph 6.13, the deponent denies the correctness of the same and submits that the applicant's contention in this paragraph is misleading. The deponent further submits that at the time of fighting which took place between the petitioner and others on 19-08-1990, the respondent No.4 was out of station and was on leave. It would be pertinent to mention that the respondent No.4 came back from leave and joined duty only on 28-08-1990. Thus the respondent No.4 came to know of the incident 10 ~~days~~ days after the alleged incident, as such the Principal i.e. the Respondent No.4 in the instant case is not at all related with the unpleasant happening of 19-08-1990.

13). That with regard to the statement made in paragraph 6.14, the deponent states that the averments made by the applicant are wild, fictitious and has no relevance and does not in any way relate to his termination from his service.

14). That with regard to the statement made in paragraph 6.15, the deponent begs to submit that as the present applicant had made perceptions in his sick and fictitious mind that all the authorities were working

against him, he started to behave with the respondent No.4 and other staff member of the school in a very unpleasant and undisciplined manner. The misbehaviour of the present applicant as found later, was not limited to general misconduct. The applicant's attitude towards the students especially towards girl students was far more immoral. So much so that the Chairman of the Vidyalaya had to place the applicant under suspension vide Order dated 31-08-1990 for his immoral act of molestation of Class-II girl student.

The deponent admits that the Chairman, VMC, has no such authority as to put one under suspension, this was subsequently regularised by issuing proper suspension order by the Assistant Commissioner, Regional Office, Guwahati who is the competent authority in this regard vide his Order dated 07-09-1990.

15). That with regard to the statements made in paragraphs 6.16 and 6.17, the deponent submits that in view of the nature of offence involved, the Commissioner was of the opinion that it would not be expedient to hold regular enquiry on account of embarrassment to student or her guardians or such other practical difficulties, as such the regular inquiry as per C.C.S(DCA) Rules, 1965, was dispensed with. As such Dr P.C Bhatt, E.O Regional Office, KVS, Guwahati was deputed to conduct a summary inquiry into the alleged act of molestation. Thus the

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- 8 -

case of the applicant was dealt strictly within the rules prescribed by Article 81(b) of Education Code for KVS. The action of the authority is thus as per Rules.

The deponent further states that the suspension of the applicant was not revoked because of the fact that his presence in the Vidyalaya would have vitiated the atmosphere of the Vidyalaya, further it was also essential for the applicant's own safety.

16). That with regard to the statement made in paragraph 6.18, the deponent submits that the Commissioner, KVS, has terminated the service of the applicant, based on the summary inquiry report, evidence on record namely, statement of the victim girl student, her parent and other witnesses of Kendriya Vidyalaya Misra Cantt, under the provision of Article 81(b) of Education Code for Kendriya Vidyalaya, by dispensing with the prescribed procedure for holding regular inquiry in accordance with CCS (CCA) Rules, 1965 as the same would have caused serious embarrassment to the girl student and their parents.

17). That with regard to the statement made in paragraph 6.19 and 6.20, the deponent agrees with the fact that the present applicant filed a writ petition before the Hon'ble Gauhati High Court with a prayer that the report of the summary inquiry along with the evidence collected against the applicant be made available to the

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applicant. The Hon'ble High Court consequently passed an order directing the respondents to supply with the inquiry report to the present applicant and thereafter the applicant to submit representation before the Commissioner to dispose of the said representation within the prescribed time.

The deponent further submits that the direction of the Hon'ble High Court was complied with and accordingly, the applicant was supplied with a copy of the report of the summary inquiry along with the evidences collected against the applicant so as to enable the present applicant to submit his representation before the Commissioner, KVS, New Delhi.

18). That with regard to the statement made in paragraph 6.21 and 6.22, the deponent denies the averments made by the applicant. The representation of the applicant was considered by the incumbent Commissioner, KVS, i.e. the Respondent No.2, with reference to the facts and circumstances of the case and having applied his mind thereon, and having found no merit in his representation against the nature of allegation resting against him, passed a speaking order under No.F.s-73/90-KVS(Vig) dated 31-12-1999, confirming the order of termination of service of the applicant.

*Post-decided*

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19). That with regard to the averment made in paragraph 6.23, the deponent completely denies the same. The present applicant preferred an appeal to the Chairman, KVS which was considered and rejected by the Vice Chairman, KVS on 12-01-1994. The file was also reviewed by the then Hon'ble Minister for H.R.D., Sri Arjun Singh in 1994 who also agree with the action taken by the KVS and rejected the appeal.

20). That with regard to the statement made in paragraph 6.24, the deponent does not deny the statement made by the present applicant as it is a matter of fact.

21). That with regard to the statement made in paragraph 6.25, the deponent submits that the direction of the Hon'ble Tribunal was fully complied with. Accordingly, after pursuing the inquiry report of the inquiry committee, considering the materials on record, the complaint of the girl child, the statement of the individuals, the statement of the applicant recorded in summary enquiry and in the light of the Hon'ble Supreme Court judgment in the case of Director, Navodaya Vidyalaya Samiti & ors -Vs- Babban Prasad Yadav vide its judgment dated 02-05-2003, the Commissioner, KVS came to the conclusion that the termination of the present applicant was ordered in exercise of the power conferred on him, as per the provisions of Article 81(b) of the Educa-

tion Code for Kendriya Vidyalaya. Thus the applicants was served with the order dated 20-01-2004. Hence the applicant's averment that the respondent authority failed to consider the entire matter in proper perspective and thereby arrived at an erroneous finding is in itself erroneous and baseless.

22). That with regard to the statement made in paragraph 6.26, the deponent admits that there was some delay in passing the reasoned order in compliance to the Hon'ble Tribunal order dated 04-12-2002, the delay was due to some unavoidable administrative reasons.

Further, the averment of the applicant that the respondent No.3 did not intentionally consider the argument forwarded from the end of this applicant in his representation is false and baseless.

The deponent further begs to state that the statement and averment made in this paragraph that it is an admitted fact that a letter from the enquiry officer was sent to him on 05-09-1990 wherein he was asked to comment on the allegations. It is also on record that the enquiry officer conducted inquiry for two dates i.e. 04-09-1990 and 05-09-1990. The enquiry officer called for the comments of the applicant to afford him due opportunity to represent his case. During the summary inquiry conducted by Dr P.C Bhatt, Education Officer, KVS, Regional

Office, Guwahati, [redacted] statement was recorded and as such, he was aware of alleging / charge made against him. He was provided with a copy of the inquiry report and evidence collected in the summary enquiry vide letter dated 09-12-1998 in compliance to the direction of the Hon'ble High Court, Guwahati. Thus the averment, the applicant as not aware about the complaint against him is not correct. Hence the order dated 20-01-2004 issued by the Commissioner, KVS is a reasoned order in true perspective and may not be set aside and quashed.

23). That with regard to the statement made in paragraph 6.27, the deponent submits that the fact that the child was illegally studying in the class has nothing to do with the applicant's immoral conduct towards her. And with regard to the then Principal of KV, Missa Cant. who allowed such [redacted] of allowing a child to attend classes without admission, appropriate disciplinary action was taken against him.

24). That with regard to the statement made in paragraph 6.25, the deponent denies the averments made by the applicant. The applicant by leveling wild allegations is trying to mislead the Hon'ble Tribunal. he was provided with a copy of the inquiry report and evidence collected in the summary enquiry vide letter dated 09-12-1998 in compliance to the direction of the Hon'ble Gauhati High Court.

25). That with regard to the statement made in paragraph 6.29, the deponent submits that it is not necessary to have a holiday after the Independence day. Further from the deposition of Suman Avasthi it is very much clear that the incident occurred on that 16-08-1990 and the present applicant have placed twisted fact to mislead the court. Infact it was full working day of school.

26). That with regard to the statement made in paragraph 6.30, the deponent submits that the respondents did apply their minds judiciously while considering the case of the applicant. Moreover, the applicant is misleading the Hon'ble CAT by repeating the same averments. IT is not reasonably practicable to hold a detailed inquiry as per Rule 14 of CCS(CCA) Rules 1965 since it would be embarrassing for the victim girl student and their parents. The nature of offence of the applicant who committed offence of moral turpitude involving sexual act attracted Article 81(b) of Education Code for KVS, have already favoured summary in the light of the Hon'ble Supreme Court Judgment in the case of Director, Navodaya Vidyalaya Samiti & ors -Vs- Babban Yadav vide its judgment dated 02-05-2003, the Commissioner, KVS, has come to the conclusion that the termination of the applicant was ordered in exercise of the power conferred on him, as per the provisions of Article 81(b) of the Education Code for Kendriya Vidyalaya, thus accordingly order dated 20-01-

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2004 was passed against the applicant.

27). That with regard to the statements made in paragraph 6.31, the deponent begs to state that the Commissioner KVS, respondent No.3 in compliance with the order dated 04-12-2002 of the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati considered the case of the applicant and came to the conclusion that his termination was ordered in exercise of the power conferred on him as per the provisions of Article 81(b) of the Education Code for Kendriya Vidyalayas. The respondent No.3 being the Head of the Institution is bound to safeguard the interest of innocent girl students and the institution from such teachers. Thus the Commissioner gave valid consideration to the representation made by the applicant vis-a-vis the Education Code in disposing of the entire matter in the light of the direction of this Hon'ble Tribunal.

28). That with regard to the averment made in paragraph 6.32, the deponent dismisses it as being baseless. It is a fact that Km. Kulvinder Kaur was not a regular student of Class-II but it does not mean that he was not involved with the immoral conduct towards her. At the same time it is pertinent to mention that the applicant is trying to mislead the Hon'ble Tribunal by raising the same question over and again. It has already been stated that appropriate disciplinary action has been taken

against the Principal for allowing such impasse. The fact that the girl was illegally studying in the class does not absolve the applicant of the guilt.

29). That with regard to the statement made in paragraph 6.33, the deponent states that these are matter of record and hence does not offer any comment.

30). That with regard to the reliefs sought for by the applicant in paragraph 7, the deponent begs to submit that the order dated 20-01-2004 whereby the Commissioner, Kendriya Vidyalaya Sangathan upheld the termination order dated 09-04-1993 passed by the Commissioner, KVS terminating the applicant's service as a primary teacher may kindly not be quashed and relief as such may not be granted to the present applicant by this Hon'ble Tribunal as he does not deserve to be reinstated since he is involved in heinous crime of molestation of a young student.

The act of misconduct involving sexual offence on the part of the applicant had nothing to do with the petty incidents happening in the Vidyalaya. Dr Bhatt was deputed to conduct a fact finding summary inquiry only against the act of sexual conduct by the applicant for which a report was submitted by him to the appropriate authority.

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The act of molestation has been confirmed by the Enquiry Officer and supported by witnesses accounts of the other students and teachers. It is not necessary to have a holiday after the independence day.

Dr P.C Bhatt was then the Education Officer of Guwahati Region. As per directions and practice in KVS, senior Officer of the Regional Office is entrusted with enquiry in such matters. Hence there was nothing vindictive in his choice as an Enquiry Officer.

The appeal dated 27-08-1993 preferred by the applicant was considered by the Hon'ble Chairman and rejected. The order of the Hon'ble Chairman, KVS was conveyed to him vide order dated 22-03-1994 by the Joint Commissioner (Admn.).

The Order of Competent Authority is under the provisions of Article 81(b) of Education Code for KVS and as per CCS (CCA) Rules, 1965.

31). That with regard to the statements made in paragraph 8, of the Original Application filed by the applicant, the deponent begs to state that in view of safeguarding the interest of girl student from being sexually harassed by their own teachers, the Order passed by the Commissioner is under the provision of Article 81(b) of the Education Code for KVS.

32). That in view of the facts and circumstances stated above, the Original Application filed by the applicant is devoid of any merit and hence liable to be dismissed.

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 7, 9, 13, 14 (pt), 16, 17, are 20, 21, 22 (pt), 23, 24, 26, 27, 28, 29 and 30 true to my knowledge and those made in paragraphs 8, 10, 12, 14 (past), 15, 18, 19, 22 past & 23 are based on records.

And I sign this verification on this the 5<sup>th</sup> day of April, 2005 at Guwahati.

Uday Narayan Khawarey

Place: Guwahati

DEPONENT

Date: 5-04-'05