

50/100

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 132/2003

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SECTION OFFICER (Judl.)

Sakhs  
16.11.17

FROM No. 4  
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

ORDER SHEET

Original Application No: 132 103

Misc Petition No: \_\_\_\_\_

Contempt Petition No: \_\_\_\_\_

Review Application No: \_\_\_\_\_

Applicants: - NVS, Shillong Region, Employees ad-hoc committee

Respondants: - Union of India & Ors.

Advocate for the Applicants: - Mr. H. S. Paonam, Mr. G. Singh, Mr. S. Khumukcham, D. Bose,

Advocate for the Respondants: - NVS, S.C. K.N. Chandling, Mrs. R.S. Chandling

Notes of the Registry	Date	Order of the Tribunal
<p><u>Review case.</u></p> <p>This application is in form but not in time. Can be filed / not filed. For Rs. 500/- vide No. 84-490239 Dated 28-4-03.</p> <p><u>Dr. Registrar</u> 17/6/03</p> <p>1) <u>Steps taken with Govt.</u></p> <p>2) <u>No signature in application pages</u></p> <p>Pl. comply order dated 12-6-03.</p> <p><u>NS</u> 17/6/03</p>	<p>17.6.2003</p>	<p>Heard Mr. H.S. Paonam, learned counsel for the applicant, assisted by Mr. G. Singh, learned Advocate.</p> <p>Issue notice to show cause as to why the application shall not be admitted. Returnable by six weeks.</p> <p>List again on 4.8.2003 for admission. Pendency of this application shall not preclude the respondents to dispose of the representation filed by the applicant, if any.</p> <p><u>Vice-Chairman</u></p> <p>4.8.2003</p> <p>single bench did not sit today. The case is adjourned to 11/8/03.</p> <p><u>MS Am</u></p>

N  
Respondent addresses  
are incomplete.

29/6.

Notice prepared &  
Sent to Dls for filing  
the Respondent No.  
1 to 3 by Regd. A/B.

29/6 DCA No. 1355 W 1357  
DCA 26/6/03

Notice duly served in  
to Respondent No. 2

5/8.

No. Wks has been  
filed.

24/11.9.03.

24.9.03  
W/s filed by the  
Respondent Nos. 2 & 3.

No. rejoinder has  
been filed.

24/30.10.03.

11.8.2003

(2)  
Hear Miss S. Das, learned  
counsel for the respondents who has  
prayed for time for filing written  
statement. Prayer is allowed.

List on 12.9.2003 for  
admission.

  
Vice-Chairman

mb

12.9.2003 Present : The Hon'ble Mr. K.V. Praha-  
ladan, Member (A).

Put up again on 26.9.2003 for  
admission.

  
Member

mb

19.9.03


On the prayer of learned  
counsel for the applicant case is  
adjourned to 26.9.03 for Admission.

  
Member

lm

26.9.2003

Written statement has been filed.  
The case may now be listed for hearing  
on 31.10.2003. The applicant may file  
rejoinder, if any, within two weeks  
from today.

  
Vice-Chairman

mb

31.10.2003

List the case again on 10.12.2003  
for hearing.

  
Vice-Chairman

bb

3

O.A.132/2003

6.1.2004 On the plea of the learned counsel for the applicant, the case is adjourned and listed on 6.2.2004 for hearing.

*ICR P. R. R. R.*  
Member

bb

24.3.2004 On the plea of the learned counsel for the applicant, the O.A. is adjourned and listed for hearing on

*ICR P. R. R. R.*  
Member (A)

No rejoinder was  
ent been heard. Heard learned counsel for the  
parties. Judgment delivered in open  
Court, kept in separate sheets.  
The application is dismissed in  
terms of the order. No costs.

Vice-Chairman

6.5.2004 On the plea of counsel for the applicant, the case is adjourned. List on 3.7.2004 for hearing.

*ICR P. R. R. R.*  
Member (A)

mb

02.08.2004 On the plea of counsel for the applicant; list on 1.9.2004 for hearing.

*ICR P. R. R. R.*  
Member (A)

mb

22.11.2004 None appeared for the applicant. Mr.G.Rahul, learned counsel was present on behalf of respondents No.2 & 3.

List before the Division Bench on 8.12.2004 at Shillong.

*ICR P. R. R. R.*  
Member

bb

30.7.04  
W/S- ha-sea 87a

7.12.04  
W/S L. L. L.

08.12.2004 Present: The Hon'ble Mr Justice R.K Batta, Vice-Chairman.

Mr.G.Rahul, learned counsel appearing for respondent nos.2 & 3 states that learned counsel for the applicant was there in the Tribunal today but since he felt uneasy he had to leave.

Hence adjourned to 13.12.2004.

  
Vice-Chairman

bb

13.12.2004 Heard learned counsel for the parties. Judgement delivered in open Court, kept in separate sheets.

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

  
Vice-Chairman

bb

23.12.04

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

W

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A./XXX.No. 132 of 2003.

DATE OF DECISION 13.12.2004.

NVS SHILLONG REGION EMPLOYEES ADHOC COMMITTEE...APPLICANT(S)

Mr.G.Singh.

ADVOCATE FOR THE  
APPLICANT(S).

-VERSUS -

U.O.I. & Ors.

RESPONDENT(S)

Mr.G.Rahul.

ADVOCATE FOR THE  
RESPONDENT(S).

THE HON'BLE MR. SHRI JUSTICE R.K.BATTA, VICE CHAIRMAN.

THE HON'BLE MR.

1. Whether Reporters of local papers may be allowed to see the judgment ?
  2. To be referred to the Reporter or not ?
  3. Whether their Lordships wish to see the fair copy of the Judgment ?
  4. Whether the judgment is to be circulated to the other benches ?
- Judgment delivered by Hon'ble Vice-Chairman.

X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 132 of 2003.

Date of Order : This, the 13th Day of December, 2004.

THE HON'BLE SHRI JUSTICE R. K. BATTA, VICE CHAIRMAN.

NVS SHILLONG REGION  
EMPLOYEES ADHOC COMMITTEE  
Through its Convenor  
Shri Hem Kanti Sinha, Principal  
JNV, Sonitpur  
Assam.

. . . . . Applicant.

By Advocates M/s. H.S.Paonam, M.G.Singh, S.Khumukcham,  
D.Boje & G.B.Das.

- Versus -

1. Union of India  
Through the Scretary  
Department of Secondary and Higher Education  
Ministry of Human Resource Development  
New Dehi.

2. Chairman  
Executive Committee, NVS  
(Ministry of Human Resource Development  
New Delhi.

3. Navodaya Vidyalaya Samiti  
Through its Joint Director  
(Administration), New Delhi.

. . . . . Respondents.

By Sr.Advocate Mr.K.N.Choudhury & Mrs.R.S.Choudhury &  
Mr.G.Rahul.

O R D E R (ORAL)

BATTA, J.(V.C.):

Heard Mr.G.Singh, learned counsel for the applicants  
as well and Mr.G.Rahul, learned counsel appearing on behalf  
of the respondents.


2. The issue involved in this application has already  
been decided by Principal Bench of this Tribunal vide  
judgment dated 21.9.2001 in O.A. No.1325 of 2000. In the  
application before me the applicants, who are employees of  
Navodaya Vidyalaya Samiti, Shillong Region seek extension  
of pensionary benefits to them. The same reliefs were sought  
by the Principals, Vice-Principals, PGTs, TGTs in the

R -

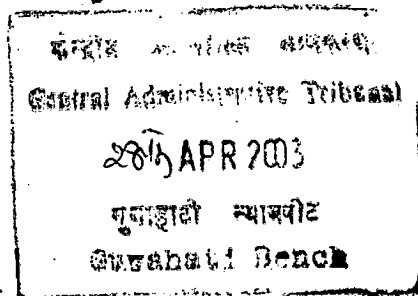
schools run by Navodaya Vidyalaya Samiti and the same were denied by the Principal Bench of this Tribunal in O.A. 1325/2000.

3. The application therefore, stands dismissed in the light of the findings in Paragraphs 13 and 14 of the judgment dated 21.9.2001 passed in O.A. No.1325 of 2000.

4. There shall be no order as to costs.

  
( R.K.BATTA )  
VICE CHAIRMAN

bb



9  
Filed by:-  
M. Gurender Singh  
Advocate  
28.4.2003

THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH  
AT GUWAHATI

( AN APPLICATION UNDER SECTION 19 OF CENTRAL  
ADMINISTRATIVE TRIBUNAL ACT, 1985 )

ORIGINAL APPLICATION NO. 132 /2003

BETWEEN

NVS SHILLONG REGION,  
EMPLOYEES ADHOC COMMITTEE,  
through its convener  
Shri Hem Kanti Sinha, Principal, JNV,  
Sonitpur, Assam.

.. APPLICANT

-VERSUS-

1. Union of India,  
through the Secretary,  
Department of Secondary and Higher  
Education, Ministry of Human  
Resource Development. New Delhi
2. ~~Minister from Human Resource~~  
Development, Chairman,  
Executive Committee, NVS.  
(Ministry of Human Resource Development)  
New Delhi

Contd..F/-

H. K. Sinha

3. Navodaya Vidyalaya Samiti  
through its Joint Director  
(Administration). New Delhi

..RESPONDENTS

DETAILS OF APPLICATION

1. PARTICULARS FOR WHICH THE  
APPLICATION IS MADE:

This application is made praying for a direction to the respondent concerned for providing pension scheme to the members of the petitioners committee who are employee of the Navodaya Vidyalaya Samity, Shillong Region in the same manner and method as have extended to the Kendriya Vidyalaya Samiti a similar pilot project for providing education to children in the Urban area and the children of the employee of the Central Government.

2. JURISDICTION OF THE TRIBUNAL:

The applicant declares that the subject matter of the case which the applicant desires to redress within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION:

The applicant further declares that the application is filed within the limitation period pre-

Contd..P/-

AKG/la

scribed under Section 21 of the Administrative Tribunal Act, 1985 as the relief being sought for is continuing process.

4. FACTS OF THE CASE:

The facts leading to the filing of the instant petition may be briefly summarised as under-

4.1 That the applicant is an adhoc committee framed by the Employee of the NVS, Shillong Region for taking up such measure relating to the welfare and service of the employees working in JNVs of the Shillong Region. The applicants are employees and teachers in the JNVs under NVS, Shillong Region. By the instant application, applicants seeks for a direction to respondent concerned for extending pension scheme to the JNVs established in the manner and method as have extended to the KVS.

4.2 That, pension scheme has not been extended to the NVS while the same has been extended to other sister organisations like NCERT, CSEA and KVS denying the pensionary benefit under service Rules to the employees of the JNVs under NVS.

4.3 That Navodaya Vidyalaya Samiti (NVS) is a registered society, Registered under the Societies Registration Act, XXI of 1860 in February, 1986 and was established as an autonomous organisation to provide

Contd..P/-

11/2/86

quality education to children from rural areas. Jawahar Navodaya are the schools functioning under Navodaya Samiti.

4.4 That, the overall control of the NVC vests in the Central Govt. The programme and activities of NVC is fully financed out of the grants provided by Department of Secondary Education and Higher Education, Ministry of Human Resource Development, Govt. of India.

4.5 That according to the Annual Report 2002-2003 of Navodaya Vidyalaya established is 480 (four hundred and eighty) out of which there are total 64 (sixty four) No. of JNVs established in Shillong Region.

4.6 That an agenda was put before the Finance Committee on 1.9.1999 and the finance Committee recommended that Samiti may submit the case of introduction of pension scheme to the Hon'ble HRM and Chairman, NVC for taking up the same with the MOF vide item No.6 of the minutes of meeting. Thereafter, the minutes of the meeting of Finance Committee were approved by the Executive Committee in its 19th meeting held on 15.1.1999. On 21.6.2000, Executive Committee decided to prepare separate justification notes for the extension of pensionary benefits. Meeting under the Chairmanship of Secretary (SE & HE) held on 15.11.2000 supported the pensionary benefits scheme.

Contd..P/-

*Handwritten signature*

That the petitioner craves the leave of the Hon'ble Tribunal to produce the same at the time of hearing.

4.7 That CPF has been introduced for NVS employees w.e.f. 1.4.1988 but pension benefit is still not extended to the NVS employees. An act was made through parliament not to extend pension scheme to any department w.e.f. 1986. the stand of the Ministry of Finance has been that NVS cannot be granted pension scheme as per with Govt. pension scheme as a matter of policy, the pension benefit are not extended to autonomous organisation and public sector undertakings.

4.8 That organisations like I I PA, OPEN SCHOOLS, LIC, GENERAL INSURANCE etc. have been granted pension benefits recently which started after, 1986.

4.9 That, similar benefits have been given to the employees of the sister organisations like KVS, Sainik schools, NCERT etc. while denying the same to the NVS.

KVS and NVS supplement each other and are part of the same design. Both are fully funded by the Central Govt. and are controlled by the same Ministry. Whereas KVS is fulfilling the need for Urban areas, NVS are fulfilling the needs of rural children, who are

Contd..P/-

AGM/ha

otherwise deprived of good quality education. Whereas, NVS is provided with Boardings to the employees and students, KVS is not provided with the same. As such, the role of NVS is more important than that of the KVS. The employees of the KVS are provided with the pensionary benefits while the employees of NVS is still deprived of the same.

4.10 That the non consideration of the recommendation made by the Committee to extent pensionary benefits to the employees of NVS have an adverse effect to the welfare of the student community and in its organisational set up Tendency of the teachers/employees of the Navodaya Samiti shifting to other organisations such as KVS and others are on rise as these organisations provide pensionary benefits to the employees. As such reconsideration for the extension of pensionary benefit to the employees of NVS is highly essential for fulfilling the object of establishment of JNV by the Central Govt.

4.11 That the employees/teachers in the JNV have got more responsibilities than the employees of KVS as the teachers/employees being inside the campus have got other duties such as duty master round the clock and other activities as such denying the pensionary benefits to the employees of the JNV is highly discriminatory and is against the natural justice.

Contd..P/-

Handwritten signature/initials

4.12 That the petitioner begs leave of the Hon'ble Court to furnish the list of the beneficiaries at the time of hearing on whose behalf the petition is being filed.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS

5.1 For that the impugned action of the respondents authority deprives the equal benefits enjoyed by the other sister organisation and as such the action of the respondent authority are arbitrary and discriminatory manner.

5.2 For that the impugned action of the respondents in not considering the cases of the petitioner's Samity is arbitrary, mala fide and also violative of principle of natural justice.

5.3 For that the impugned action of the respondents is unconstitutional, and also against the fundamental principles of the latest development in the service jurisprudence.

5.4 For that the action of the impugned action of the authority is against the policy of the Government of India.

Contd..P/-

*Atchinda*

5.5 For that the impugned action of the respondent authority is whimsical, discriminatory capricious and is to be declared illegal, irrational and unconstitutional.

5.6 For that the impugned action of the respondent authority is against the welfare of the student community and against the object sought to be achieved by Central Govt. in establishing the JNV in different regions throughout the country.

6. DETAILS OF REMEDIES EXHAUSTED:

The applicants had submitted representation to the competent authority but the same have been denied.

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

The applicant further declares that they have not previously filed any application or writ petition or suit regarding the matter in respect of which this application has been made before any court or any other authority or any other bench of the Tribunal nor any such applications, writ petition or suit is pending before any of them.

Contd..P/-

AK Chandra

8. RELIEF SOUGHT FOR:

In view of the facts above mentioned the applicants prays for the following relief:-

8.1 To admit this application,

8.2 Call for the relevant records of the matter and ask the respondent authorities to show cause as to why the applicants should not be granted the pensionary benefits and enjoyed by the other sister organisations.

8.3 To declare the impugned action of the respondent authority as illegal, irrational and unconstitutional.

9. INTERIM ORDER PRAYED FOR:

Pendency of this application shall not ~~be~~ bar the respondent authorities to consider the case of the applicants.

10. PARTICULARS OF THE I.P.O.:

- i) I.P.O. No. : 86-490239
- ii) Date of issue : 28-4-03
- iii) Issued from : G.P.O.
- iv) Payable at : Guwahati

11. LIST OF ENCLOSURES:

*Handwritten signature*

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

I, Sri Hem Kantii Sinha son of Late G.H. Sinha aged about 60 years resident of Mashughat, New Silchar 788008, Cachar, Assam do hereby solemnly affirm and verify that the statements in the paragraphs 1, 2, 3, 4, 5, 6 and 7....are true to my personal knowledge and those made in paragraphs 8 and 9 are my humble submissions before this Hon ble Tribunal and I have not suppressed any material fact of the case.

And I sign this verification on this 28<sup>th</sup> day of April 2003.

  
Hem Kanti Sinha

SIGNATURE OF THE APPLICANT

**CONVENER**

Regional Ad - hoc Committee  
NVS Employees, Shillong Region

(11)

24 SEP 2003  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH AT GUWAHATI

filed by

The Respondent's

through

MRS R.S. CHOWDHURY

ADVOCATE.

24/09/03

**IN THE MATTER OF:**

O.A. No. 132/2003

NVS Shillong Region

Ad hoc Committee

**... PETITIONERS.**

-Versus -

Union of India & Ors.

**... RESPONDENTS.**

-AND-

**IN THE MATTER OF :**

Written statement filed on behalf of the

Respondent Nos. 2 and 3.

I, Sri Debananda Hazarika, S/o late Dambarudhar Hazarika aged about 52 years, presently serving as Deputy Director, N.V.S. Regional Office Shillong, do hereby solemnly affirm and state as follows: -

1. That I am currently serving as Deputy Director, NVS, Shillong Region and as such I am competent to swear this affidavit on behalf of the Respondent Nos. 2 and 3. A copy of the Application has been duly served upon me and I have gone through the same and understood the contents thereof.
2. That all the averments and submissions made in the Original Application are denied by the answering respondents, save and except those which have been specifically admitted herein and those which appears from the records of the case.
3. That with regard to the statements made in paragraph 1 of the Application, the answering respondents state that the same shall be contended in the paragraph herein below.

4. That with regard to the statements made in paragraph 2 and 3 of the Original Application the answering respondents has no comments to offer.

5. That prior to contending the statements made in paragraph 4 of the Original Application, the answering respondents place the following facts before this Hon'ble Tribunal: -

- (i) Navodaya Vidyalaya Samiti was established in 1986 as an Autonomous Organization full funded by the Ministry of Human Resource Development, Department of Education. Initially the Samiti has introduced Contributory Provident Fund Scheme for its employees w.e.f. 01.04.1988 primarily on the ground that all of its employees, except the lowest feeder grades in some cadre, were taken on deputation basis.
- (ii) However, with the expansion of the scheme, a need was felt to appoint regular and committed personnel, who would pursue the policies and programmes of the Samiti and accordingly regular appointments to various cadres was started in 1989. With the increase in the number of regular employees, a proposal was moved in July 1989 for introduction of Pension/Contributory Provident Fund Scheme in the Samiti at par with KVS and Central Government Employees, in the light of the decisions taken by the Govt. of India on the recommendations of the Fourth Pay Commission.
- (iii) Ministry of Finance, Department of Expenditure informed that the question of introduction of a pension Scheme in Public Sector Undertakings is under consideration of the government and hence, the Department is not in a position to give concurrence to introduction of Pension Scheme in the Samiti. The matter was again referred to the Department of Expenditure in February 1990, when the Department of Expenditure informed that keeping in view the likely repercussions of the decisions to bring the employees of NVS under the Pension Scheme, the proposal may not be agreed on balance of convenience.
- (iv) The proposal was again submitted to Department of Expenditure in 1992 when the Department did not support the proposal on the ground that in the context of the resource crunch and the efforts of the

Government to maintain the budgetary deficit within the desired limits, status quo should be maintained.

6. That it is further pertinent to state herein that 73 Employees of the Navodaya Vidyalaya Samiti had agitated this issue before the Central Administrative Tribunal, Principal Bench, New Delhi. The said Original Application has been dismissed vide Judgment and Order dated 21.09.2001 with the following observations:

*"13. Having regard to the facts and circumstances brought out in the preceding paragraphs, we also conclude without hesitation that the policy decision taken by the Government denying the benefit of Pension to the Applicant is based on sound and justifiable considerations entirely in the public interest. The ground of discrimination pleaded on behalf of the applicants cannot also be sustainable inasmuch as having regard to the public interest involved, the government can always exclude Bodies and Organization such as the N.V.S. From the extension of benefits under the Pension Scheme. The policy decision in question cannot be said to be perverse no malafide nor does it suffer from the vice of arbitrariness. Article 14 and 16 are therefore not hit."*

A copy of the said Judgment and Order dated 21.09.2001 passed in O.A. No. 1325/2000 is annexed herewith and marked as ANNEXURE -A.

7. That with regard to the statements made in paragraph 4.1, the answering respondents state that there is no recognized Employees Association or Committee in the Shillong Region or for that matter any where in the Navodaya Samiti and as such the Applicants have no locus-standi to take up any such measure on behalf of the Employees of the Samiti. In that view of the matter itself, the Application is liable to be rejected.
8. That with regard to the statements made in paragraph 4.2, the answering respondents reiterate the statements made in paragraph 5(i) and 5(ii) herein above and further states that unless the Government of India grants the necessary approval, the Respondents/Samiti would not be able to extend the relief as prayed for.

9. That with regard to the statements made in paragraph 4.3, 4.4 and 4.5 of the Original Application the answering respondents has no comments to offer.
10. That the statements made in paragraph 4.6 of the Original Application being within the knowledge of the Applicant, and hence the answering respondents refrains from making any comments thereon. The answering respondents, however, craves leave of this Hon'ble Tribunal to contend the minutes of the said meeting if so required, as and when the same are produced before the Hon'ble Tribunal.
11. That with regard to the statements made in paragraph 4.7 of the Original Application, the answering respondents state that the same have already been agreed to/accepted by the answering respondents herein in the foregoing paragraphs, since the same are matters of record.
12. That with regard to the statements made in paragraph 4.8 and 4.9 of the Original Application, the answering respondents has no comments to offer.
13. That while the denying the statements made in paragraph 4.10 of the Original Application, the answering respondents once again reiterates that time and again proposals have been sent to the Ministry of Finance to take up the matters of appropriate levels but the same is yet to be approved. In view of the above facts, the Samiti cannot make any commitment on its own with regard to the payment of Pension to its Employees. It is pertinent to state herein that recently, with the approval of the Government of India, the Samiti has approved payment of Gratuity to its Employees under the provisions of Payment of Gratuity Act. Under these provisions all Employees of NVS would be entitled to Payment of Gratuity.
14. That the answering respondents denies the statements made in paragraph 4.11 and further state that in view of the statements made hereinabove, no discrimination has been meted out to the Employees of NVS and non of the Principles of Natural Justice have been violated. Further the deponent humbly and respectfully states that in view of the fact that the entire matter has already been adjudicated upon by the Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No. 1325/2000 wherein it has already been held that Articles 14 and 16 of the Constitution of India have not been violated, therefore, there is no merit in the claim of the Applicants for grant of Pension and there has been no malafide/arbitrary action on the part of the answering

respondents and the hands of the Samiti are tied due to the fact that Government of India is yet to approve the Scheme of Pension for the NVS Employees. Hence, the Application is liable to be rejected.

15. That none of the grounds averred in the Original Application are valid grounds and no fundamental rights of the Applicants have been infringed in anyway. Under the facts and circumstances as have been narrated above, it is submitted that the instant Application is devoid of any merit and the same is liable to be dismissed.

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

I, Sri Debananda Hazarika, S/o late Dambarudhar Hazarika aged about 52 years, presently serving as Deputy Director, N.V.S. Regional Office Shillong, do hereby verify that the statements in paragraph 1 to 5 (partly) 6 to 15..... are true to my knowledge, belief and records derived therefrom and I have not suppressed any material facts.

*Debananda Hazarika*

Date : Guwahati

Place: 24/09/03

Deputy Director  
NAVODAYA VIDYALAYA SAMITI  
(Min. of HRD. Govt. of India)  
Nongrim Hill, Shillong-3.

FARID KOT HOUSE,  
COPERNICUS MARG,  
NEW DELHI-110001.

Dt. -26.9.2001

From

The Registrar,  
Central Administrative Tribunal,  
Principal Bench, New Delhi.

To

1. Maninder Acharya, Counsel for the applicant,  
439, Lawyers Chambers, Delhi High Court, New Delhi.
2. Sh. S. Rajappa, Counsel for the respondents No.-1,  
37, Lawyers Chamber, Supreme Court of India, New Delhi.
3. Union of India through Secretary, ~~XXXX~~ Department of  
Secondary Education and Higher Education, Ministry of H.R.D.,  
Shastri Bhawan, New Delhi.
4. Union of India through Secretary (Expenditure), D/O Expenditure,  
Ministry of Finance, North Block, New Delhi.
5. Union of India through the Secretary, Department of Pension and  
Pensioners' Welfare, Ministry of Personnel, Public Grievances &  
Pensions, New Delhi.

Regd. No. O.A. 1325/2000

.....Dr. N.N. Singh &amp; ors.....Applicant.

Versus

.....Union of India &amp; ors.....Respondents.

Sir,

I am directed to forward herewith a copy of judgement/order  
dated...21.9.2001.... Passed by this tribunal in the above mentioned  
case for information and necessary action, if any.

Please acknowledge the receipt.

Your's faithfully,

Encl.: - as above.

(SECTION OFFICER)

Judl.-II  
for Registrar

Certified to be true Copy

  
Rakhee Singh Clerk  
ADVOCATE

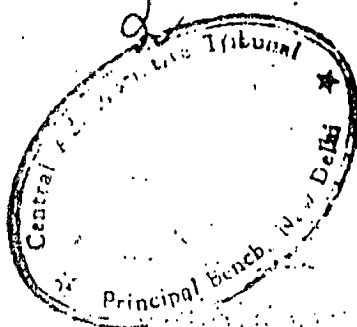
CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A.NO.1325/2000

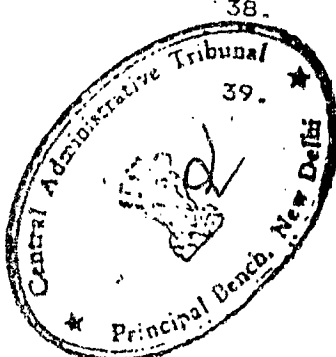
New Delhi, this day the 21st. September, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)  
Hon'ble Shri S.A.T. Rizvi, Member (Admn)

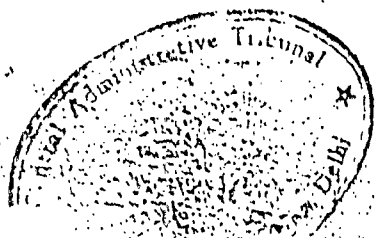
1. Dr. N.N. Singh S/o Shri Raj Nath Singh,  
Principal, JNV, Rahikwara, Satna (Madhya Pradesh)
2. Dr. Mohd. Kaleem S/o Late Shri Mohd. Naeem,  
Principal, JNV, Padmi, Mandla ( Madhya Pradesh)
3. Shri M.C. Charles S/o Late Shri R.G. Charles,  
Principal, JNV, Barginagar, Jabalpur (M.P)
4. Shri N.K. Bhalla S/o Shri A.P. Bhalla,  
Principal, JNV, Butana, Sonapat (Haryana)
5. Shri Bharat Singh Chuhra S/o Shri Matadin Chauhara,  
Principal, JNV, Kundol, Agra, Uttar Pradesh
6. Shri B.B. Thakre, S/o Shri B.D. Thakre,  
Principal, JNV, Latur, Maharashtra
7. Shri K.P. Mathur S/o Late Shri H.P. Mathur  
Principal, JNV, Khairatal, Alwar, Rajasthan
8. Shri M.D. Ramachandran, S/o Shri T.N. Damodharan  
Nair, Principal, JNV, Calicut (Kerala)
9. Shri V.L. Balasubramanian S/o Shri V.K. Lakshmana  
Iyer, Principal, JNV, Kasargod (Kerala)
10. Shri A.D. George S/o Shri A.L. Devassy,  
Principal, JNV, Palakkad (Kerala)
11. Shri S.B. Rao, S/o Shri Jogi Raju,  
Principal, JNV, Vizayanagaram (Andhra Pradesh)
12. Shri N. Satyanarayana Reddy, S/o Shri N. Venkata  
Reddy, Principal, JNV, Vizayanagaram (A.P)
13. Shri K. Sadagopan, S/o Shri K.Narasimha Charry,  
Principal, JNV, Warrangal (AP)
14. Shri Eapen Luke S/o Shri K.L. Eapen,  
Principal, JNV, Alleppy (Kerala)
15. Shri K.P.N. Pillai, S/o Shri S.K. Pillai,  
Principal, NVA, Yevatmal (Maharashtra)
16. Shri Joseph Mundiakal S/o Shri M. Joseph,  
Principal, JNV, Kollam (Kerala)
17. Shri S. Chandrasekharan S/o Shri C.T. Srinivasan  
Principal, JNV, Mysore (Karnataka)
18. Shri George Joseph S/o Shri C.C. George,  
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PGT (Economics), JNV, Butana, Sonapat (Haryana)
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PGT (Biology), JNV, Ghaziabad (UP)
27. Shri R.K. Dwivedi S/o Shri R.S. Dwivedi  
PET, JNV, Junapani, Distt. Khargone (MP)
28. Shri Suresh Chandra S/o Shri B. Ram,  
PGT, JNV, Dhoom, Manikpur, Gautambudh Nagar (UP)
29. Dr. Z. Hussain S/o Shri Basheer Ahmed  
PGT, JNV, Dhoom, Manikpur, Gautambudh Nagar (UP)
30. Miss Abhilasha Singh D/o Shri Kanchan Singh  
PGT, JNV, Dhoom, Manikpur, Gautambudh Nagar (UP)
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PGT (Economics), JNV, Rajgarh (MP)
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42. Shri Pritam Singh S/o Shri Shyam Lal Singh  
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43. Mrs. Aparna Yadav, S/o Shri S.R. Yadav  
TGT (English), JNV, Gauriganj, Sultanpur (UP)
44. Shri Rajiv Varshney, S/o Shri R.P. Varshney  
PET, JNV, Gauriganj, Sultanpur (UP)
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46. Shri R.B. Singh S/o Late Shri S.P. Singh,  
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48. Shri Anshuman Singh S/o Shri Rudra Pratap Singh,  
PGT(Eco), JNV, Jabalpur (MP)
49. Ms. Shraddha Ranjan D/o Shri M.G. Mishra,  
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53. Shri Om Prakash Malviya S/o Shri K.L. Malviya  
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54. Smt. Anita Jain W/o Shri Abhay Kumar Jain  
Librarian, JNV, Sagar (MP)
55. Smt. S.G. Visalakshi Ammal W/o Shri V.K. Lakshmana  
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(Kerala)
56. Shri P.K. Sharma, S/o Shri Ishwar Dass,  
Section Officer, NVS HQrs, A-39, Kailash Colony  
New Delhi
57. Shri K.V. Lohidakshan S/o Late Shri K.C.  
Velayudhan, Personal Asstt., NVS HQrs, A-39,  
Kailash Colony, New Delhi
58. Shri M.A. Sikandar S/o Er. M.A. Wahab Rowther  
Assistant, NVS HQrs, A-39, Kailash Colony,  
New Delhi
59. Shri T. Surya Prakash S/o Shri I.G. Krishna  
Murthy, Assistant, NVS HQrs, A-39, Kailash Co



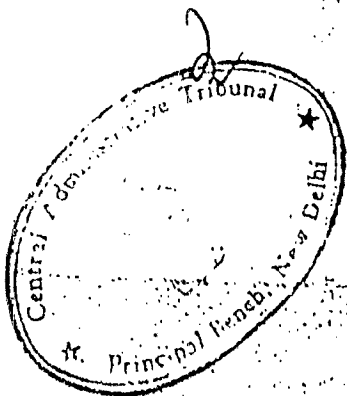
60. Editorial Assistant, NVS Hqrs. A-39, Kailash Colony, New Delhi
61. Mrs. Manju Negi, W/o Shri Pradeep Negi, UD Clerk, NVS Hqrs, A-39, Kailash Colony, New Delhi
62. Shri Narendra Kumar, S/o Shri Balbir Singh UD Clerk, JNV, Butana, Sonapat, Haryana
63. Shri Ved Prakash, S/o Shri Gillu Ram LD Clerk, NVS Hqrs, A-39, Kailash Colony, N. Delhi
64. Shri D.N. Dahiya, S/o Late Shri Indu Singh, Store Keeper, JNV, Butana, Sonapat, Haryana
65. Shri Vijay Kumar S/o Shri Mukh Lal Gest. Operator, NVS Hqrs, A-39, Kailash Colony, New Delhi.
66. Shri Tek Ram Sharma S/o Shri Dharam Prakash Electrician, NVS Hqrs, A-39, Kailash Colony, New Delhi
67. Shri S.D. Choudhury, S/o Late Shri S.R. Dutta Choudhury, Driver, NVS Hqrs, A-39, Kailash Colony, New Delhi
68. Shri Ram Avtar, S/o Shri Shiv Lal, Driver, NVS Hqrs, A-39, Kailash Colony, New Delhi
69. Shri G.S. Rajawat, S/o Shri H.S. Rajawat, Lab. Attendent, JNV, Multan, Dhar, MP
70. Shri Ram Dayal S/o Shri Babu Lal verma, Cook, JNV, Ratibad, Bhopal, M.P.
71. Shri Munna Lal, S/o Shri Ram Avtar, Sweeper-cum-Chowkidar, JNV, Gauriganj, Sultanpur (U.P.)
72. Shri R.B. Singh, S/o Shri Mahadeo Singh, Mess Helper, JNV, Gauriganj, Sultanpur (U.P.)
73. Shri Vivek Yadav, S/o Late Shri U.P. Singh, Catering Asstt., JNV, Gauriganj, Sultanpur (U.P.)

..... Applicants

(By Advocate : Mr. Maninder Acharya)

Versus

1. Navodaya Vidyalaya Samiti through Director, A-39, Kailash Colony, New Delhi-110048
2. Union of India through Secretary, Department of Secondary Education and Higher Education, Ministry of Human Resource Development, Shastri Bhawan, New Delhi
3. Union of India through Secretary (Expenditure) Department of Expenditure, Ministry of Finance, North Block, New Delhi



4. Union of India through Secretary,  
Department of Pension and Pensioner Welfare,  
Ministry of Personnel, Public Grievances &  
Pensions, New Delhi

(By Advocate : Shri S. Rajappa for respondent 1  
None for respondents 2,3 and 4 )

O R D E R

By Shri S.A.L. RIZVI, Member (A) :

The applicants, 73 in number, working as Principals, Vice Principals, PGTs, TGTs etc. in the schools run by the Navodaya Vidyalaya Samiti (NVS), a body registered under the Societies Registration Act, pray for a direction to the respondents to extend the benefit of the Central Government Pension Scheme to them w.e.f. 1.1.1998, which is the date from which pensionary benefits have been allowed to the employees of the Indian Institute of Public Administration (IIPA). Accordingly they also seek a direction to the respondents to implement the recommendations of the 4th CPC in relation to them.

2. The matter regarding extension of pensionary benefits on par with the Central Govt. employees in favour of the applicants remained under consideration at the highest levels in the Government of India. However, by the O.O Letter dated 17.11.1997 (Annexure P-1) from the Minister of State for Finance to the Minister of State for Education, the aforesaid plea has been negatived, Inter alia, on the ground that in view of the present resource crunch, the Govt. of India find it difficult to support the proposal in question. The matter was taken up once again at the level of Union Ministers of HRD and Finance. However, once again the Union Finance Minister has



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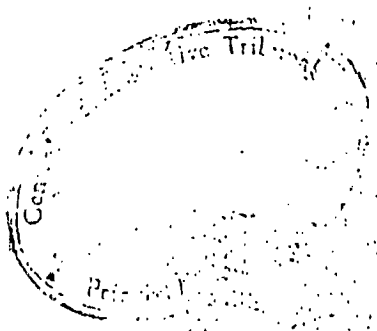
negated the aforesaid plea by and large on the same ground. This has been done by Union Finance Minister's O.O. letter to the Union Minister for HRD dated 5.2.1977 (Annexure P-2). The applicants are obviously aggrieved by the decisions conveyed in the aforesaid letters dated 17.11.1997 and 5.2.1999.

3. We have heard the learned counsel on either side and have perused the material placed on record.

4. The learned counsel appearing in support of the OA has drawn our attention to the policy document issued by the Government of India known as Programme of Action (national policy on education 1986) wherein amongst other things the following provision has been made:

"Recruitment and old-age benefits and medical-care - All teachers in Government local bodies and in institutions created by Government or by Acts of Parliament/State Legislatures will be eligible for retirement and medical benefits identical with Government servants. Teachers in aided and private institutions will also be eligible for such benefits in accordance with such directions as may be issued by the Government from time to time"

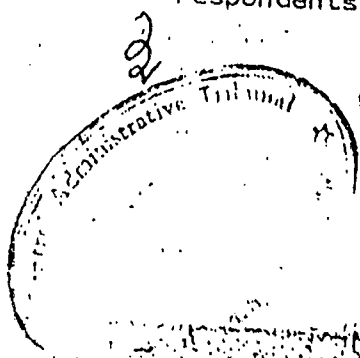
5. The learned counsel has argued that the aforesaid policy document has had the approval of the Union Cabinet, which is the highest decision making body. The NVS, according to him, is an institution created by the Government and, "therefore, going by what has been stipulated in the paragraph reproduced above, the Union Government is committed to extend the retirement benefits to the applicants as well on par with such benefits made available to the Central Government employees."



(7)

6. The learned counsel has also submitted that the benefit of the pension scheme on par with the Central Government Pension Scheme has already been extended to similarly placed institutions such as Kendriya Vidyalaya Sangathan (KVS) which also happens to be a Society under the Societies Registration Act. In addition, according to him, the aforesaid scheme has been extended also to the employees of the Central Tibetan Schools Administration (CTSA). Similar benefits have been made available also to the National Open School (NOS), again a Society registered under the Societies Registration Act. This has been done much after the establishment of the NVS, respondent 1 herein. The pension scheme has also been applied to the Indian Institute of Public Administration (IIPA), Indira Gandhi National Open University (IGNOU), National Human Right Commission (NHRC), National Council for Education, Research & Training (NCERT) and Central Board of Secondary Education (CBSE). Pensionary benefits have also been made available to the Life Insurance Corporation of India employees along with the employees of General Insurance Corporation of India, National Insurance Company Limited, The New India Assurance Company Limited, The Oriental Insurance Company Limited and the United India Insurance Company Limited.

7. Having regard to the facts brought out in the previous paragraph, the learned counsel appearing on behalf of the applicants has submitted that ~~the~~ not extending the pension scheme to the applicants, the respondents have discriminated against the applicants and



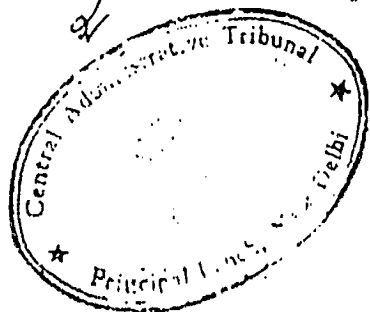
(8)

the same constitutes violation of provisions of Article 14 and 16 of the Constitution.

8. The learned counsel appearing on behalf of the NVS, respondent 1 herein, has advanced the plea that even though there is a good case for extending the pensionary benefit in favour of the applicants as well, the NVS by themselves are not in a position to implement the pension scheme in relation to the Principals, Vice Principals, etc. etc. working under them. The main problem is the availability of sufficient funds on a recurring basis and without Government's financial support, the benefit of the pension scheme cannot be extended so as to cover the applicants.

9. The learned counsel appearing on behalf of the official respondent Nos. 2, 3 and 4, has in his submissions, reiterated more or less what has already been stated by the Union Finance Minister in his letter to the Union Minister for HRD dated 5.2.1999 which, in turn, covers the points made in the other impugned letter dated 17.11.1997.

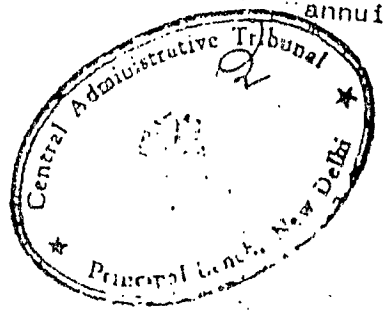
10. We have considered the issue carefully and find that matters such as these are necessarily policy matters and, therefore, decisions taken by the Union Government in relation to them cannot and should not be interfered with. We have also gone through the reasons assigned by the aforesaid official respondents in support of the denial of the pension scheme insofar as the applicants are concerned. The financial liability likely



to arise in consequence of the extension of pensionary benefits to the applicants will constitute avoidable burden on the finances of the Union Government and besides similar demands will then be made by a number of other autonomous/statutory bodies presently receiving grants-in-aid from the Government. The Government will find it much too difficult to resist such demands. The impugned letter dated 5.2.1999, we find, contains a word of sane advice which could be considered by the NVS so as to extend <sup>+ similar +</sup> some benefit to their employees. The suggestion made in the aforesaid letter is to the effect that the NVS may consider working out a suitable annuity scheme through the LIC based on voluntary contributions by the employees through a fund outside the body and without any liability on the Government. Alternatively, according to the same letter, the NVS employees may continue to be governed by the CPF Scheme or join the pension scheme for the Provident Fund subscribers introduced by the Ministry of Labour.

11. We also find that a question in regard to non-extension of pensionary benefits in favour of the applicants was raised in the Rajya Sabha on 16.3.1999 and the same was answered in the following terms:-

"Regular pensionary benefits are costlier than the Contributory Provident Fund Scheme which generally exists in organisations which receive grants-in-aid from the Central Government. Payment of pension is a recurring liability as compared to the one-time settlement under the Contributory Provident Fund Scheme. For these reasons, Governments are not generally in favour of extension of pensionary benefits to autonomous organisations, etc. However, such organisations can introduce suitable annuity schemes for their employees"



By the aforesaid answer, the Union Finance Minister has taken the Indian Parliament also in confidence about the policy decision in question which does not favour extension of pensionary benefits to the applicants.

12. Furthermore, the official respondents have submitted that the Central Governments pension liability has reached unsustainable proportions and as a percentage of GDP, it has risen from 0.5% in 1993-94 to 1% in 2000-2001. In the Budget speech (2001-2002) made in Parliament, the Union Finance Minister has proposed that persons who enter Central Govt. service after 1st October, 2001 would receive pension through a new pension programme based on defined contribution. A High Level Expert Group has also been proposed with a view to reviewing the existing pension system.

13. Having regard to the facts and circumstances brought out in the preceding paragraphs, we also conclude without hesitation that the policy decision taken by the Government denying the benefit of pension to the applicants is based on sound and justifiable considerations entirely in the public interest. The ground of discrimination pleaded on behalf of the applicants cannot also be sustained inasmuch as having regard to the public interest involved, the Government can always exclude Bodies and Organisations such as the NVS from the extension of benefits under the Pension Scheme. The policy decision in question cannot be said to be perverse nor mala fide nor does it suffer from the vice of arbitrariness. Articles 14 & 16 of the Constitution are, therefore, not hit.



(11)

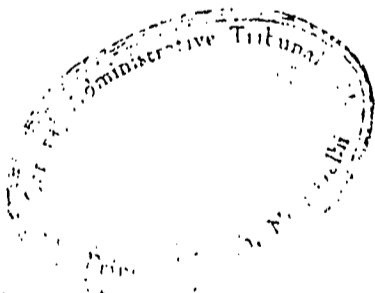
14. Moreover, a High Level Expert Group, as submitted by the learned counsel for the official respondents, is likely to review and examine the existing pension system so as to reach certain conclusions with regard to the Bodies such as NVS as well. The chapter is, therefore, not closed for ever. We also hope that having regard to the fact that the aforesaid policy document, namely, Programme of Action was issued with the approval of the Union Cabinet, the official respondents will, in doubt, have the matter in controversy in this OA placed before the Union Cabinet in due course and convey the final decision of the Government in the matter as expeditiously as possible. We do not consider it necessary to fix any time frame for this purpose.

15. For all the reasons mentioned in the preceding paragraphs, the OA fails and is dismissed without any order as to costs.

(S.A.T. RIZVI)  
MEMBER (A)

/pkf/

(MRS. LAKSHMI SWAMINATHAN)  
VICE CHAIRMAN (J)



प्रमाणित सत्यप्रतिरूप  
CERTIFIED TRUE COPY  
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Signature: [Signature]  
Name: [Name]  
Designation: [Designation]  
Office: [Office]  
Date: 20/11/2017