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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

FORM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET.

Org. App/Misc. Petn/Cont. Petn/Rev. Appl.....

In O.A. 266/04

Name of the Applicant(s) K.C. Boro

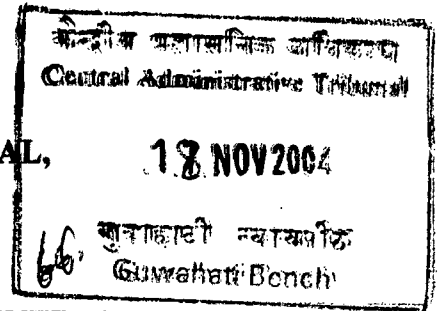
Name of the Respondent(s) M.O. I & Ors

Advocate for the Applicant A. Ahmed

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

OFFICE NOTE	DATE	ORDER OF THE TRIBUNAL
<p>This application is in form is filed/C.F. for Rs. 50/- deposited vide IPO/BD No. <u>20 Cr 110402</u> Dated <u>16/11/04</u></p> <p><i>Dorez</i> Dy. Registrar <u>18/11/04</u></p> <p><i>NS</i> <u>19/11/04</u></p> <p>Steps taken <u>18/11/04</u></p> <p>Received Order dated <u>22.11.04</u> alongwith extra Copies (3 nos) 2 applications. <i>M.K. Majumdar</i> <i>S.C. H.S. Sanyal</i> <u>23/11/04</u></p>	<p>22.11.2004</p>	<p>Present : The Hon'ble Mr. K.V. Prahladan, Member (A).</p> <p>Heard Mr. A. Ahmed, learned counsel for the applicant and also Mr. M.K. Mazumdar, learned counsel for the respondents.</p> <p>This application is filed against non disposal of the appeal of the applicant dated 8.9.2004. The respondents are directed to give reply to the appeal dated 8.9.2004, within four months from the date of receipt of this order.</p> <p>The application is disposed of. No order as to costs.</p> <p><i>K.V. Prahladan</i> Member (A)</p> <p>mb</p>

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.



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

ORIGINAL APPLICATION NO. 266 OF 2004.

BETWEEN

Shri Khagen Chandra Boro

...Applicant

-Versus-

The Union of India & Others

... Respondents

LIST OF DATES AND SYNOPSIS

Annexure-A is the photocopy of Order No.F.4-4/2001-KVS (Vig) dated 16-07-2004.

Annexure-B is the photocopy of Order dated 07-09-2004 passed by the Hon'ble Tribunal in Misc. Petition No.95 of 2004 in O.A. No.164 of 04.

Annexure-C is the photocopy of Appeal dated 08-09-2004 filed by the Applicant before the Respondent No.1 i.e. the Appellate Authority.

This application is directed against non-disposal of the Appeal filed by the Applicant on 08-09-2004 before the Respondent No.1 i.e. the Appellate Authority under Rule 24 of CCS (Class, Control & Appeal) of 1965 against the Impugned Office Order No. F4-4/2001-KVS (Vig) dated 16-07-2004 issued by the Respondent No.2.

Sri K. C. Boro,

RELIEF SOUGHT FOR:

That the Hon'ble Tribunal may be pleased to dispose off this Original Application at the Admission stage and direct the Respondents particularly Respondent No.1 to dispose off the Appeal filed by the Applicant on 08-09-2004 under Rule 24 of CCS (Class, Control & Appeal) of 1965 as early as possible.

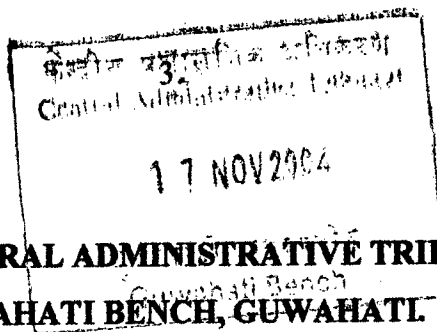
To Pass any other relief or relieves to which the applicant may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.

To pay the cost of the application.

INTERIM ORDER PRAYED FOR:

No Interim Order is prayed by the Applicant.

K. E. Bono.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

Filed by
Shri Khagen Chandra Boro
Applicant
Through
(ADIC AHMED) ✓
Ahmed

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

ORIGINAL APPLICATION NO. 268 OF 2004.

BETWEEN

Shri Khagen Chandra Boro
Ex Assistant Superintendent,
Kendriya Vidyalaya Sangathan,
Regional Office, Guwahati-12.

11

... Applicant

-AND-

- 1) The Commissioner, Kendriya Vidyalaya Sangathan, 18, Institutional Area, Saheed Jeet Singh Marg, New Delhi-110016.
- 2) The Joint Commissioner (Admn.) Kendriya Vidyalaya Sangathan, (Head Quarter) 18, Institutional Area, Saheed Jeet Singh Marg, New Delhi-110016.
- 3) The Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office-2nd Floor of Chhayaram Bhawan (Statefed Building), Maligoan Chariali, Pandu, Guwahati-781012 (Assam).

... Respondents

Sri K. C. Boro

1) DETAILS OF THE APPLICATION PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE:

This application is directed against non-disposal of the Appeal filed by the Applicant on 08-09-2004 before the Respondent No.1 i.e. the Appellate Authority under Rule 24 of CCS (Class, Control & Appeal) of 1965 against the Impugned Office Order No. F4-4/2001-KVS (Vig) dated 16-07-2004 issued by the Respondent No.2.

2) JURISDICTION OF THE TRIBUNAL

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

3) LIMITATION

The Applicant further declares that the subject matter of the instant application is within the limitation prescribed under Section 21 of the Administrative Tribunal Act 1985.

4) FACTS OF THE CASE:

Facts of the case in brief are given below:

4.1) That your humble Applicant is a citizen of India and as such he is entitled to all rights and privileges guaranteed under the Constitution of India. He belongs to very poor economically backward Schedule Tribe Community of Assam.

4.2) That your Applicant begs to state that he was selected and appointed as Group-D staff of Kendriya Vidyalaya Sangathan, Regional Office, Guwahati on 07-08-1979. His service was regularised with effect from 07-11-1979 vide Office Order dated 27-08-1980 issued by the Respondent No.3. It may be stated that at the time of appointment he was not a Matriculate and his date of birth was shown at his Service Book as 01-12-1961 without his knowledge. It is worth to mention here that the Employment Exchange Registration Card dated 07-04-1978, (prior to his appointment under Respondents) which was issued to the Applicant by

the Government of Assam, Department of Labour, the Date of the Birth of the Applicant was recorded as 01-01-1961. He was promoted to the post of Draftary and subsequently he was promoted to the post of Lower Division Clerk at Kendriya Vidyalaya Sangathan, Regional Office, Guwahati. Lastly he was working as Assistant Superintendent, Kendriya Vidyalaya Sangathan, Guwahati Region, Guwahati.

4.3) That your Applicant begs to state that at the time of his initial appointment of Group-D staff under the Respondents his date of birth was wrongly recorded in his Service Book as 01-12-1961 without his knowledge and the actual date of birth should be 01-01-1961. The said wrong date of birth i.e. 01-12-1961 was recorded in his Service Book by the Respondents due to oversight of the Principal, Palasbari Higher Secondary & Multipurpose School while issuing the Educational Qualification Certificate of the Applicant at the relevant time. Your Applicant appeared in the Matriculation Examination in the year 1980 and passed the same on Compartmental Chance in the year 1982. The Secondary Board Of Education, Assam had issued the Matriculation (H.S.L.C.) Certificate of the Applicant and the age of the Applicant was shown as 18 years 3 months on 1st March 1980 and 20 years 3 months on 1st March 1982 respectively, which was not correct. Then he immediately on 3rd September 1982 applied before the Secondary Board of Education, Assam through the Principal, Palasari R.B.H.S. & M.P. School for correction of his age and the Principal, Palashbari R.B.H.S. & M.P. School, Mirza vide his letter dated 3rd September 1982 requested the Secretary, Board of Secondary Education Assam, Bamunimaidan, Guwahati-21 to correct the age of the Applicant. The Concerned authority i.e. Secondary Board of Education, Assam corrected his age as 21 years 2 months as on 1st March 1982. It may be stated that the corrected original Matriculation Certificate of the Applicant was misplaced and lost. An Advertisement was published by the Applicant in local daily paper "Asomia Pratidin" about the lose of his Original Certificate and he also filed an F.I.R. before the Palashbari Police Station about the lost of his Original Certificates. The Case was registered as Palashbari P.S. Case No. 727 dated 27-05-1999. The Applicant also filed a Standard form of Application before the Secondary Education, Assam, Guwahati-21 for issuing Duplicate Certificates of H.S.L.C. Examination through Principal, Palashbari R.B.H.S. & M.P. School, Mirza. The

Sai K. G. Boroo.

Principal of the said School forwarded the application to the Secondary Education, Assam, Guwahati-21. The Board of Secondary Education, Assam, Guwahati-21 issued the Duplicate Certificates of H.S.L.C. to the Applicant.

4.4) That your Applicant begs to state that, one Shri Pradip Chandra Das, Upper Division Clerk of Kendriya Vidyalaya Sangathan vide his letter dated 05.04.1999 out of personal grudge against the Applicant, complained before the concerned authority by bringing some wild allegations against him that he had submitted fabricated and furnished false certificate before the authority concerned regarding his age and educational qualification. On receipt of the said complain by the higher authority the matter was referred to Respondent No.3 for investigation. The Respondent No.3 deputed Shri G.C.Choudhury, Principal, Kendriya Vidyalaya, CRPF, Amerigog to inquire into the matter. During inquiry a questionnaire was given to Applicant to fill up the required columns and submit along with the attested photocopies of relevant Certificates, Mark sheets and Admit cards. Accordingly on 08-07-1999 your Applicant fill up the questionnaire put by Shri G.C.Choudhury, Principal, Kendriya Vidyalaya, CRPF, Amerigog. In the mean time the Assistant Controller of Examination, Board of Secondary Education, Assam vide his letter No.SEBA/TECH/VERI/1/95 Dated 21st August 1999 informed Shri G.C.Choudhury, Principal, Kendriya Vidyalaya, CRPF, Amerigog that the " The photocopy of the Original Certificate of Khagen Chandra Boro Roll D-23 No.528 of 1982 and the Admit Card bearing Roll D-23 No.528 of 1980 are found to be genuine. His age as per our record is 18 yrs 3 months on 1st March 1980 or 20 yrs 3 months on 1st March 1982. Further with reference to your letter FNO.109/KVA/CRPF/99-2000/467 dt. 21-08-99 I am to state that the photocopy of the Original Certificate furnishing his age as 21 yrs 2 months on 1st March 1982 and Admit Cards showing his age as 19 yrs 2 months on 1st March 1980 are found to be forged". It is to be noted that after knowing the full facts of the Case the Board of Secondary Education, Assam did not file any F.I.R. or complain before any Police Station against your Applicant. No Criminal Case is also pending or was initiated against the Applicant in any Court of Law about the alleged forgery. After that the Respondent No.2 vide his Memorandum No.F4-4-2001-KVS (Vig) dated 25/28.05.2001 proposed to hold an inquiry against your Applicant under Rule 14 of the

Sai K. C. Boro,

Central Civil Services (Classification, Control and Appeal) Rules 1965. In the said Memorandum of Charge Sheet one Article of Charges were brought against the Applicant. It is alleged in the Article No.1 that the Applicant had produced forged documents relating to his Age and Educational Qualification to the Lawful Authority of the Sangathan investing a complain against him. In the aforesaid act of Shri K.C.Boro constitutes a misconduct under Rule 3(1)[i][ii] and [iii] of Central Civil Services [Conduct] Rules, 1964 as applicable to the employees of the Sangathan. In the said Memorandum your Applicant is directed to submit reply within 10 (Ten) days of the received of the Memorandum. Your Applicant vide his letter dated 06-06-2001 requested the Respondent No.2 to provide him copies of the document listed at Serial No.1 to 4 mentioned in Annexure-III of the Charge sheet to enable him to submit written statement of defence. Your Applicant denied all the charges framed against him vide Memo dated 25/28.05.2001.

4.5) That your Applicant begs to state that the Respondent No.2 vide his Order No.F4-4/2001-KVS (Vig) Dated 09-10-2001 in exercise of the powers conferred by Sub-Rule-(2) read with Sub-Rule- (22) of Rule 14 of CCS (CCA) Rules 1965 appointed Shri Nisit Kumar Pal, Retired Regional Development Commissioner for Iron and Steel, Kolkata as enquiry authority to enquire into the charges framed against your Applicant. The Respondent No.2 appointed Shri S.Dutta, Administrative Officer, Kendriya Vidyalaya Sangathan, Regional Office, Kolkata as appointing authority. After taking cognizance of the case on the basis of case papers and relevant documents as forwarded by the Disciplinary Authority/Presenting Officer from time to time the inquiry Authority held Preliminary Hearing on 16-12-2002, and Regular Hearing(s) on 25.2.2003, 26.2.2003, 13.10.2003, 15.12.2003, 16.12.2003, 5.1.2004 & Final Hearing on 27.1.2004 at Kendriya Vidyalaya Sangathan.E.B.Block, Sector-I, Salt Lake, Kolkata-700084. It is worth to mention here that at the initial stage of Inquiry your Applicant objected the venue of Hearing at Kolkata and he prayed before the Authority concerned to shift the venue from Kolkata to Guwahati due to his Medical and Personal problem but the same was rejected by the Authority concerned.

Sri K.C. Boro

4.6) That your Applicant begs to state that during the Cross Examination of witness Shri Pradip Chandra Das (who had made the initial complain against the Applicant) has admitted that he has earlier approached the Hon'ble CAT, Guwahati Bench challenging the Age and Qualification of the Applicant i.e. Khagen Chandra Boro and which has been dismissed by the Hon'ble CAT. Shri G.C.Choudhury, Retired Principal, KV, CRPF Amerigog, Guwahati has also admitted in the Cross Examination that the Birth recorded in the Birth Certificate of Shri Khagen Chandra Boro at his initial appointment is 01-01-1961.

4.7) That your Applicant begs to state that the Enquiry Officer after completion of his Enquiry submitted his Report on 20-02-2004 before the Respondents. The Respondent No.2 vide his Letter/Notification No.F4-4/2004 KVS (Vig) Dated 25-03-2004 and vide Letter/Notification No.F4-4/2004 KVS (Vig) Dated 11-05-2004 asked your Applicant to submit Reply against the Enquiry Report submitted by the Enquiry Officer. Your Applicant submitted his Reply against the aforesaid Enquiry Report.

4.8) That your Applicant begs to state that the Respondent No.2 vide his letter No.F4-4/2001-KVS (Vig) Dated 16-07-2004 imposed the Major Penalty against the Applicant and dismissing from his Service with immediate effect and as such finding no other alternative your Applicant had approached this Hon'ble Tribunal by filing Original Application No.164 of 2004. The said case was admitted and record was called for. In the mean time your Applicant filed a Misc. Petition No.95 of 2004 before this Hon'ble Tribunal seeking permission for filing an Appeal before the Appellate Authority. This Hon'ble Tribunal vide its order dated 07-09-2004 passed in Misc. Case No.95 of 2004 in O.A.No.164 of 04 granted permission and directed that "Pendency of the Original Application shall not be a bar for the Applicant to file an Appeal under Rule 24 of CCS (CCA) Rules 1965". Accordingly the Applicant files an Appeal on 08-09-2004 before the Appellate Authority. After that your Applicant has withdrawn the Original Application No.164 of 2004. The Appeal filed by the Applicant is still pending before the Appellate Authority. As such your Applicant is compelled to file this Original Application for seeking a direction by this Hon'ble Tribunal to the Respondents particularly the Respondent No.1 to dispose

Sri K. Boro

up the Appeal filed by the Applicant on 08-09-2004 as early as possible for the ends of justice.

Annexure-A is the photocopy of Order No.F.4-4/2001-KVS (Vig) dated 16-07-2004.

Annexure-B is the photocopy of Order dated 07-09-2004 passed by the Hon'ble Tribunal in Misc. Petition No.95 of 2004 in O.A. No.164 of 04.

Annexure-C is the photocopy of Appeal dated 08-09-2004 filed by the Applicant before the Respondent No.1 i.e. the Appellate Authority.

4.9) That your Applicant begs to state that action of the respondents are illegal, arbitrary, malafide and also not sustainable before the eye of law as well as in facts.

4.10) That your Applicant submits that he has got reason to believe that the Respondents are resorting the colorable exercise of power.

4.11) That your Applicant submits that the action of the Respondents is in violation of the fundamental rights guaranteed under the constitution of India and also in violation of principles of natural justice.

4.12) That your Applicant submits that the action of the Respondents by which the Applicant has been deprived of his legitimate Rights, is arbitrary. It is further stated that the Respondents have acted with a mala-fide intention only to deprive the Applicant from his legitimate right.

4.13) That your Applicant submits that he has no alternative means for his livelihood. Now he is facing acute financial hardship with his entire family members.

4.14) That your Applicant submit that the Respondents have deliberately done serious injustice and put him into great mental trouble and financial hardship to his entire poor family including his children.

Smt K. C. Bora

4.15) That your Applicant submits that the action of the Respondents is highly illegal, improper, whimsical and arbitrary.

4.16) That this application is filed bonafide and for the interest of justice.

5) GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1) For that, due to the above reasons narrated in detail the action of the Respondents is in prima facie illegal, mala fide, arbitrary and without jurisdiction.

5.2) For that the Respondents have violated the Article 14,16 & 21 of the Constitution of India.

5.3) For that, the action of the respondents is arbitrary, mala-fide and discriminatory with an ill motive.

5.4) For that, in any view of the matter the action of the respondents are not sustainable in the eye of law as well as fact.

The Applicant craves leave of this Hon'ble Tribunal advance further grounds the time of hearing of this instant application.

6) DETAILS OF REMEDIES EXHAUSTED:

That there is no other alternative and efficacious and remedy available to the Applicant except the invoking the jurisdiction of this Hon'ble Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

7) MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:

That the Applicant further declares that he has not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other court, authority, nor any such application, writ petition of suit is pending before any of them.

8) RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the applicant most respectfully prayed that Your Lordship may be pleased to admit this application, call for the records of the case, issue notices to the Respondents as to why the relief and relieves sought for the Applicant may not be granted and after hearing the parties may be pleased to direct the Respondents to give the following relieves.

8.1) That the Hon'ble Tribunal may be pleased to dispose off this Original Application at the Admission stage and direct the Respondents particularly Respondent No.1 to dispose off the Appeal filed by the Applicant on 08-09-2004 under Rule 24 of CCS (Class, Control & Appeal) of 1965 as early as possible.

8.2) To Pass any other relief or relieves to which the applicant may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.

8.3) To pay the cost of the application.

9) INTERIM ORDER PRAYED FOR:

No Interim Order is prayed by the Applicant.

10) Application is filed through Advocate.

11) Particulars of I.P.O.:

I.P.O. No. :- 206 110402
 Date of Issue :- 16.11.2004
 Issued from :- Guwahati C.P.O.
 Payable at :- Guwahati

12) LIST OF ENCLOSURES:

As stated above.

Verification

SM K. C. Borw.

-VERIFICATION-

I, Shri Khagen Chandra Boro, ^{Ex} Assistant Superintendent, Kendriya Vidyalaya Sangathan, Regional Office, Guwahati-12 do hereby solemnly verify that the statements made in paragraph nos. 4.1, 4.9, 4.10, 4.11
_____ are true to my knowledge, those made in paragraph nos. 4.2 to 4.8 _____ are being matters of records are true to my information derived there from which I believe to be true and those made in paragraph 5 are true to my legal advice and rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 8th day of November 2004 at Guwahati.

Shri Khagen Ch. Boro.
DECLARANT

ANNEXURE - 15 A

13

By Speed Post/Confidential

KENDRIYA VIDYALAYA SANGATHAN,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi-110016.

F.4-4/2001-KVS(Vig.)

Dated 16-7-2004

ORDER

WHEREAS Shri K.C. Boro, Assistant Superintendent, Kendriya Vidyalaya Sangathan, Guwahati was Charge-sheeted under Rule-14 of CCS (CCA) Rules, 1965 as extended to the employees of the K.V.S. vide Memorandum of even number dated 25/28.05.2001 for producing fabricated/altered documents related to his age and educational qualification to the Investing Officer inquiring into a complaint against him.

WHEREAS Shri K.C. Boro having denied the charges, Shri Nisit Kumar Pal, Regional Development Commissioner (Retd.) D/O Steel was appointed as the Inquiring Officer to inquire into the charges framed against the said Shri K.C. Boro vide order dated 09.10.2001. The said Inquiry Officer has completed the inquiry and submitted his report dated 20.02.2004.

WHEREAS, the inquiry report was forwarded to Shri K.C. Boro, to submit his representation on the inquiry report vide memorandum dated 25.03.2004 and he has submitted his representation dated 22.05.2004.

AND WHEREAS on a careful consideration of the facts and circumstances of the case, findings of the Inquiry Officer and the averment made by the Charged Officer in his representation, it becomes apparent that he produced fabricated/altered documents related to his age & education qualification to the Investing Officer inquiring into a complaint against him. In view of assessment of evidence produced during the inquiry the Inquiry Officer finds that the charge framed against the Charged Officer is sustained. The act of the Charged Officer constitutes misconduct under CCS [CCA] Rules, 1965.

NOWHEREFORE, the undersigned being the competent authority imposes the major penalty of "Dismissal from Service" with immediate effect upon Shri K.C. Boro, Assistant Superintendent, Kendriya Vidyalaya Sangathan, Guwahati accordingly.

14/7
[D.S.B/IST]

JOINT COMMISSIONER [ADMN]

Copy to:-

1. Shri K.C. Boro, Assistant Superintendent, Kendriya Vidyalaya Sangathan, Guwahati.
2. The Assistant Commissioner, KVS, Regional Office, Guwahati.
3. The Deputy Commissioner (Admn.) KVS(HQ), New Delhi.
4. Guard file.

Handwritten signature and initials at the bottom of the page.

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

19-

14

ANNEXURE - B

ORDER SHEET

Original Application No. _____

Misc. Petition No. _____

95/04 No. A 164/04

Contempt Petition No. _____

Review Application No. _____

Applicants: Khagen Ch. Boro

Respondents: N. C. Das (K.V.S.)

Advocate of the Applicants: - Adil Ahmed

Advocate for the Respondents: - K.V.S.

Dates of the Registry

Date

7.9.04.

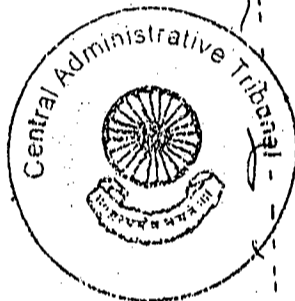
Order of the Tribunal

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

Heard learned counsel for the parties.

Pendency of this application shall not be a bar for the applicant to file an Appeal under Rule 24 of CCS(CA) Rules, 1965.

Prayer is allowed. Accordingly, Misc. Petition is disposed of.



Signature

Sd/MEMBER(ADM)

TRUE COPY
সত্যি

Signature
9/9/04

Section Officer (I)
C.A.T. GUWAHATI BENCH
Guwahati 781005

Signature
8/9

Signature
Advocate

To

Dated 08-09-2004

The Commissioner,
Kendriya Vidyalaya Sangathan,
Institutional Area, Saheed Jeet Singh Marg,
New Delhi-110016.

(Through Proper Channel)

Sub: - Appeal under Rule 24 of CCS (Class, Control & Appeal) of 1965 against the Office Order No.F4-4/2001-KVS (Vig) Dated 16-07-2004 issued by the Joint Commissioner (Admn.), Kendriya Vidyalaya Sangathan (Head Quarter), Institutional Area, Saheed Jeet Singh Marg, New Delhi-110016.

Hon'ble Sir,

Most humbly with due respect and humble submission I beg to state the following few lines for favour of your sympathetic and kind consideration for reasonable order.

1. That I have worked as an Assistant Superintendent, Kendriya Vidyalaya Sangathan, Regional Office-Guwahati (Assam). The Joint Commissioner (Admn.), Kendriya Vidyalaya Sangathan (Head Quarter) vide his letter No.F4-4/2001-KVS (Vig) Dated 16-07-2004 imposed Major Penalty against me and terminated my Service with immediate effect and as such finding no other alternative I approached the Hon'ble Central Administrative Tribunal, Guwahati Bench vide Original Application No.164 of 2004 for quashing and setting aside the impugned Order No.F.4-4/2001-KVS (Vig) dated 16-07-2004. The Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati admitted the said Original Application and the record was called for. Meanwhile I filed a Misc. Petition No.95 of 2004 in Original Application No.164 of 2004 before the Hon'ble Tribunal to allow me to file an Appeal under Rule 24 of CCS (CCA) Rules 1965. The Hon'ble Tribunal on 07-09-2004 allowed my prayer and passed an Order that pendency of the Original Application No.164 of 2004 shall not be a bar for me to file an Appeal under Rule 24 of CCS (CCA) Rules 1965. Accordingly I filed this Appeal before you for you kind and sympathetic consideration of my case.

2. That I was charge sheeted vide Memorandum No.F4-4-2001-KVS (Vig) Dated 25/28-05-2001 and Article of Charge was framed against me. In the said Memorandum of Charge Sheet one Article of Charge was brought against me. It is alleged in the Article No.1 that I have produced forged documents relating to my Age and Educational Qualification to the Lawful Authority of the Sangathan investing a complain against

Attended
R. K. Advant

me. In the aforesaid act I constitute a misconduct under Rule 3(1)[i][ii] and [iii] of Central Civil Services [Conduct] Rules, 1964 as applicable to the employees of the Sangathan. In the said Memorandum I was directed to submit reply within 10 (Ten) days of the received of the said Memorandum. Then I requested the Joint Commissioner (Admn.), Kendriya Vidyalaya Sangathan (Head Quarter) to provide me the copies of document listed at Serial No.1 to 4 mentioned in Annexure-III of the Charge sheet to enable me to submit written statement of defence. I denied all the charges framed against him vide Memo dated 25/28.05.2001. The Joint Commissioner (Admn.), Kendriya Vidyalaya Sangathan (Head Quarter) vide his Order No.F4-4/2001-KVS (Vig) Dated 09-10-2001 in exercise of the powers conferred by Sub-Rule-(2) read with Sub-Rule- (22) of Rule 14 of CCS (CCA) Rules 1965 appointed Shri Nisit Kumar Pal, Retired Regional Development Commissioner for Iron and Steel, Kolkata as enquiry authority to enquire into the charges framed against me. The Joint Commissioner (Admn.), Kendriya Vidyalaya Sangathan (Head Quarter) appointed Shri S.Dutta, Administrative Officer, Kendriya Vidyalaya Sangathan, Regional Office, Kolkata as appointing authority. After taking cognizance of the case on the basis of case papers and relevant documents as forwarded by the Disciplinary Authority/Presenting Officer from time to time the inquiry Authority held Preliminary Hearing on 16-12-2002, and Regular Hearing(s) on 25.2.2003, 26.2.2003, 13.10.2003, 15.12.2003, 16.12.2003, 5.1.2004 & Final Hearing on 27.1.2004 at Kendriya Vidyalaya Sangathan.E.B.Block, Sector-I, Salt Lake, Kolkata-700084. It is worth to mention here that at the initial stage of the said Inquiry I objected the venue of Hearing at Kolkata and I prayed before the Authority concerned to shift the venue from Kolkata to Guwahati due to my Medical and Personal problem but the same was rejected by the Authority concerned. During the Cross Examination of witness Shri Pradip Chandra Das (who had made the initial complain against me) has admitted that he had earlier approached the Hon'ble CAT, Guwahati Bench challenging my Age and Qualification and which has been dismissed by the Hon'ble CAT. Shri G.C.Choudhury, Retired Principal, KV, CRPF Amerigog, Guwahati has also admitted in the Cross Examination that my Date of Birth recorded in the Birth Certificate at my initial appointment is 01-01-1961. The Enquiry Officer after completion of his Enquiry submitted his Report on 20-02-2004. The Joint Commissioner (Admn.), Kendriya Vidyalaya Sangathan (Head Quarter) vide his Letter/Notification No.F4-4/2004 KVS (Vig) Dated 25-03-2004 and vide Letter/Notification No.F4-4/2004 KVS (Vig) Dated 11-05-2004 asked me to submit Reply against the Enquiry Report submitted by the Enquiry Officer. I submitted my Reply against the aforesaid Enquiry Report. The Joint Commissioner (Admn.), Kendriya Vidyalaya Sangathan (Head Quarter) vide his letter No.F4-4/2001-KVS (Vig)

Attended
J.S. Admit

Dated 16-07-2004 imposed Major Penalty against me and terminated my Service with immediate effect.

3. That the The Joint Commissioner (Admn.), Kendriya Vidyalaya Sangathan (Head Quarter) had willfully conducted the whole inquiry at Kolkata although the Cause of Action arose at Guwahati. The Enquiry Officer also did not Cross Examined or Verified the Official of Board of Secondary Education, Assam, Guwahati who had issued the letter Dated 21st August 1999. Due to venue of Enquiry was held at Kolkata, the Enquiry Authority could not take the witness or Cross Examine the Pricipal, Palashbari R.B.H.S. & M.P. School, Mirza who is the vital witness of the prosecution to prove the Case. Moreover I was compelled to withdraw one of my Defence Assistant for the reason that the Defence Assistant refuses to go to Kolkata. The Enquiry Official also lost sight the vital materials on records i.e. Employment Exchange Registration Card, which was issued to me prior to my appointment under the Kendriya Vidyalaya Sangathan. Moreover the main witness of the said Case Shri Pradip Chandra Das has admitted before the Enquiry Officer in Cross Examination that he has challenged my Age and Educational Qualification before the Hon'ble CAT and the Hon'ble CAT dismissed the said Case. Another witness Shri G.C. Choudhury has admitted before the Enquiry Officer in Cross Examination that my date of birth is recorded in Birth Certificate as 01-10-1961. I have served about 25 (Twenty five) years under the Kendriya Vidyalaya Sangathan without any blemish to my service career. I was never been issued any Office Memorandum against my conduct or I have been warned by the competent authority. The so-called Allegations brought against me by one Shri Pradip Chandra Das, UDC, Kendriya Vidyalaya Sangathan, Regional Office, Guwahati who has frustrated due to his non-promotion. Moreover I was promoted from Group-D post to Assistant Superintendent rank due to my sincerity and devotion to his work and also for the Reservation of Quota of Schedule Tribes enumerated in our Indian Constitution.

Under the facts and circumstances of the case the Appellant respectfully prays that the inquiry conducted against me was quite defective and without granting me the reasonable opportunity and natural justice. The argument of the Enquiry Officer in the inquiry report and consideration thereto by the Disciplinary Authority and by conferring decision the award of drastic and harsh punishment with removal from service is found to be not only un-judicious but also quite in-human consideration leaving the Appellate and his family members to be street beggars after 25 (twenty five) years of dedicated service of the Appellant. The Appellant further prays before your honour that he may be exonerated from the alleged charges and also to re-instate him in his service by

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Admitted

quashing and setting aside the Office Order No.F4-4/2001-KVS (Vig) Dated 16-07-2004.

And for this act of your great kindness the Appellant with the family members would remain ever grateful to you. With best respect and profound regards.

Yours Faithfully

Handwritten signature of Khagen Chandra Boro

(KHAGEN CHANDRA BORO)

Ex. Assistant Superintendent,
Kendriya Vidyalaya Sangathan,
Regional Office, Guwahti-12.

o/c

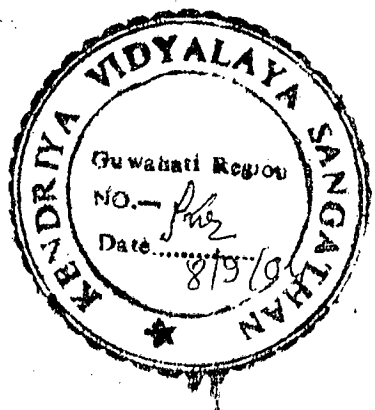
Copy for Information and necessary action: -

The Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office-Second Floor of Chhayaram Bhawan , Maligoan Chariali, Guwahati-12.

Handwritten signature of Khagen Chandra Boro

(K. C. Boro)

o/c



Handwritten notes: Adv. C.I. and Adv. G.