

50/100
CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 303/2003

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

E.P/M.A No. 38/05 & 162/04

1. Orders Sheet..... OA Pg..... 1 to 2
MP 38/2005 order Pg. 1 to 8/10/10/05
2. Judgment/Order dtd. 16.08.2005 Pg. 1 to 10 8/10.M.P/62/04 no
Separate order
3. Judgment & Order dtd..... Received from H.C/Supreme Court
4. O.A. OA 303/2003 Pg. 1 to 21
5. E.P/M.P. 38/05 Pg. 1 to 5
MP 162/04 Pg. 1 to 9
6. R.A/C.P. Pg. to
7. W.S. Pg. 1 to 9
8. Rejoinder. Pg. 1 to 7
9. Reply. Pg. to
10. Any other Papers. Pg. to
11. Memo of Appearance.
12. Additional Affidavit.
13. Written Arguments.
14. Amendment Reply by Respondents.
15. Amendment Reply filed by the Applicant.
16. Counter Reply.

SECTION OFFICER (Judl.)

Khalil

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

ORDER SHEET

303/04

Org. App. / Miscretn/ cont. Petn / Rev. App.

In O.A.

Name of the Applicant(s) ... P.C. Mahapatra.....
Name of the Respondent(s) ... U.O. I. Govt.
Advocate for the Applicant ... A. Dasgupta, K. Bhattacharjee
Counsel for the Railway/CGSC ... K.Y.S. Counsel

ORDER OF THE TRIBUNAL

OFFICE NOTE

DATE

This application is in form 25.11.04
is filed/C.F. of Rs 10/-
and posted via D.P. AD
No. 209135561
Dated 23.11.04

Done
Dy. Registrar

*NS
25/11/04*

Steps taken

Done

pg

Heard Mr A. Dasgupta, learned counsel
for the applicant assisted by Mr K.
Bhattacharjee as well as Mr M.K. Mazumdar,
learned counsel for the respondents.
List the matter for hearing on interim
relief before the Division Bench on
30.11.04.

In the meantime status quo is to be
maintained till the next date regarding
the continuation of the applicant in
his/her present post.

KV Pathak
Member

30.11.04 Present : Hon'ble Justice Shri R.K. Batta, Vice-Chairman

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

Notice & order sent to D/Section for issuing to resp. Nos. 1, 2 and resp. No. 3 received by hand.

*Conc
2/11/2004*

Heard Mr A. Dasgupta, learned counsel for the applicant and Mr M.K. Mazumdar, learned counsel for the respondents 2 and 3.

Issue notice to the respondents on admission. Mr M.K. Mazumdar, learned counsel for the respondents seeks four weeks time to file reply.

List on 4.1.2005 for filing reply. Status quo order dated 25.11.04 shall continue till next date.

K. Bhattacharjee
Member

R
Vice-Chairman

pg

4.1.2005

Mr K. Bhattacharjee, learned counsel for the applicant and Mr M.K. Mazumdar, learned counsel for the respondents are present.

On the plea of Mr M.K. Mazumdar, learned counsel for the respondents four seeks time is allowed for filing reply. List on 3.2.2005 for filing reply. Status quo order dated 25.11.04 shall continue till next date.

K. Bhattacharjee
Member

bb

10.1.2005

Written statement has been filed. The applicant may file rejoinder, if any. List on 3.2.2005. Status quo order dated 25.11.2004 shall continue till next date.

K. Bhattacharjee
Member (A)

mb

CENTRAL ADMINISTRATIVE TRIBUNAL:: GUWAHATI BENCH

Original Application Nos. O.A.268/04(M.P.127/04), 269/04(M.P.129/04), 270/04(114/04), 271/04(M.P.134/04), 272/04(M.P.131/04), 273/04(M.P.120/04), 274/04(M.P.128/04), 275/04(M.P.130/04), 276/04(M.P.135/04), 277/04(M.P.117/04), 278/04(M.P.118/04), 279/04(M.P.116/04), 280/04(M.P.133/04), 281/04(M.P.115/04), 282/04(M.P.132/04), 283/04(M.P.124/04), 284/04(M.P.121/04), 286/04(M.P.126/04), 287/04(M.P.122/04), 288/04(M.P.119/04), 289/04(M.P.136/04), 290/04(M.P.159/04), 291/04, 292/04(M.P.137/04), 293/04(M.P.163/04), 294/04(M.P.160/04), 295/04(M.P.138/04), 296/04(M.P.161/04), 297/04(M.P.164/04), 298/04, 299/04(M.P.157/04), 300/04(M.P.139/04), 302/04(M.P.158/04), 303/04(M.P.162/04), 304/04(M.P.140/04), 305/04(M.P.141/04), 306/04(M.P.123/04), 307/04(M.P.125/04) and 313/2004.

Date of Order : This the 16th day of February, 2005.

THE HON'BLE MR. M.K. GUPTA, JUDICIAL MEMBER.

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

1. O.A. No. 268/2004 and M.P. 127/2004

Mrs. Biraja Mishra
Wife of Ashok Kumar Mishra
Principal, Kendriya Vidyalaya
Happy Valley
Shillong.

2. O.A. No. 269/2004 with M.P. 129/2004.

Shri Ashok Kumar Mishra
Son of Shri Bhahaban Mishra
Principal, Kendriya Vidyalaya
EAC, Upper Shillong, Shillong.

3. O.A. 270/2004 with M.P. 114/2004.

Smti. Ina Baruah
Daughter of Late Munindra Nath Gogoi, IAS,
Sundarpur Zoo Road,
P.O. & P.S. - Dispur, Guwahati - 5.

4. O.A. 271/2004 with M.P. 134/2004.

Shri Ashok P
Son of Late Sri K.S. Paramu Pillai
Principal, Kendriya Vidyalaya, AFS,
Jorhat, Assam.

5. O.A. 272/2004 with M.P. 131/2004.

Shri Amit Tripathi
Son of Shri Debabrata Tripathi
Principal, Kendriya Vidyalaya
Tura, Garo Hills, Meghalaya.

6. O.A. 273/2004 with M.P. 120/2004.

Shri Ranjit Kumar Sinha
Son of Shri Tej Kishore Prasad Sinha
Principal, Kendriya Vidyalaya, AFS,
Borjhar, Guwahati, Guwahati – 17.

7. O.A. 274/2004 with M.P. 128/2004.

Sri Chandra Kumar Ojha
Son of Sri Shakti Kumar Ojha
Principal, Kendriya Vidyalaya
HPCL, Jagiroad, Morigaon, Assam.

8. O.A. 275/2004 with M.P. 130/2004.

Sri Janakirajan Dash
Son of Late Mayadhar Dash
Principal, Kendriya Vidyalaya, AFS,
Digaru, Kamrup, Assam.

9. O.A. 276/2004 with M.P. 135/2004.

Sri R.C. Agarwal,
Son of Late Roshan Lal Agarwal
Principal, Kendriya Vidyalaya,
ONGC, Jorhat.
Assam.

10. O.A. 277/2004 with M.P. 117/2004.

Shri K.S. Murali Krishna
Son of Shir K. Sankar Narayan
Principal, Kendriya Vidyalaya
No. 1 Tezpur, Assam.

11. O.A. 278/2004 with M.P. 118/2004

Shri Nilamani Pany
Son of Late Murali Dhar Pany
Principal, Kendriya Vidyalaya
Umroi Cantt.
Shillong, Meghalaya.

12. O.A. 279/2004 with M.P. 116/2004

Sri Gona Rama Rao

Son of Shri Giona Raghupati Rao
 Principal, Kendriya Vidyalaya,
 Missnari, Sonitpur, Assam.

13. O.A. No. 280/2004 with M.P. 133/2004
 Shri Vijay Prakash Mishra,
 Son of Shri Sadafal Mishra
 Principal Kendriya Vidyalaya,
 RRL, Jorhat
 Assam.

14. O.A. 281/2004 with M.P. 115/2004.
 Shri Vijayakumar M. Karkal
 Principal, Kendriya Bidyalaya,
 Lokra
 District – Sonitpur, Assam.

15. O.A. 282/2004 with M.P. 132/2004.
 Sri A. Jyothy Kumar
 Son of Sri A.A. Nayar
 Principal, Kendriya Vidyalaya,
 Tenga Valley,
 West Kameng, Arunachal Pradesh.

16. O.A. 283/2004 with M.P. 124/2004.
 Shri D.C. Chattopadhyay
 Principal, Kendriya Vidyalaya
 Panbari, Dhubri
 Assam.

17. O.A. 284/2004 with M.P. 121/2004
 Sri Ranjan Kishore
 Son of Late Siya Saran Verma,
 Principal, Kendriya Vidyalaya,
 Kokrajhar, Assam.

18. O.A. 286/2004 with M.P. 126/2004
 Smt. Pathamitra Basu
 Daughter of Late Priyabrata Ghosh
 Principal, Kendriya Vidyalaya,
 NEPA, Barapani, Shillong, Meghalaya.

19. O.A. No. 287/2004 with M.P. 122/2004
 Shri Arpal Singh Bhati
 Son of Late Hanwant singh Bhati

7
4
Principal, Kendriya Vidyalaya
NERIST, Nirjuli, Arunachal Pradesh.

20. O.A. No. 288/2004 with M.P. 119/2004

Smt. Bandana Mohanty
Daughter of Sri Hare Krishna Mohanty
Principal, Kendriya Vidyalaya
No. 1 Itanagar, Arunachal Pradesh.

21. O.A. No. 289/2004 with M.P. 136/2004

Sri Devendra Kumar Dwivedi
S/O Chandra Bali Dwivedi
Principal Kendriya Vidyalaya
Duliajan
Dist. - Dibrugarh (Assam), 786602.

22. O.A. 290/2004 with M.P. 159/2004.

Mr. V. Sivaji
S/o - Venkatraman
Principal Kendriya Vidyalaya
Karimganj, Assam.

23. O.A. 291/2004 .

N.M Varadharajulu
Son of N. Munuswamy Naidu
Principal, Kendriya Vidyalaya
Air Force Station chabua,
District - Dibrugarh, Assam.

24. O.A. 292/2004 with M.P. 137/2004.

Sri Bhat Keshav Narasinha
S/O Narasinha Bhat
Principal Kendriya Vidyalaya
Namrup.

25. O.A. 293/2004 with M.P. 163/2004.

Sri Gobind Prasad Saini
S/o C.L. Saini
Principal, Kendriya Vidyalaya,
ONGC Nazira.

26. O.A. 294/2004 with M.P. 160/2004

Sri Sri Sojan P John
S/o P.V. Johan
Principal, Kendriya Vidyalaya,
Hijuguri Colony Tinsukia.



27. O.A. 295/2004 with M.P. 138/2004.

Sri P.C. Ratha,
Son of Mr. Rama Chandra Ratha
Principal Kendriya Vidyalaya
Kunjaban, Agartala.

28. O.A. 296/2004 with M.P. 161/2004

Sri K. Lakhmipathi
Son of Mr. E. Kothandapani
Principal, Kendriya Vidyalaya,
K.V. Project Sewak, C/o 99 APO.

29. O.A. 297/2004 with M.P. 164/2004

Sri Md. Shabidur Rahman
S/o Sh. Abdul Rashid
Principal, Kendriya Vidyalaya
ONGC, Sibsagar.

30. O.A. 298/2004.

Sri B.K. Pradhan
S/O Mr. G.M. Pradhan
Principal Kendriya Vidyalaya
Kailashahar, North Tripura.

31. O.A. 299/2004 with M.P. 157/2004

Sri E. Ananthan
S/o – Ellappa Naidu
Principal, Kendriya Vidyalaya,
Tarapur, Silchar.

32. O.A. 300/2004 with M.P. 139/2004

Sri S. Sarangi
Son of Sri M.D. Sarangi
Principal Kendriya Vidyalaya
ONGC, Agartala.

33. O.A. 302/2004 with M.P. 158/2004

Sri Radha Gobinda Das
Son of Late Sarat Narayan Das
Principal, Kendriya Vidyalaya
Zakhama, Dist. – Kohima, Nagaland.

34. O.A. 303/2004 with M.P. 162/2004

Sri P.C. Mahapatra
S/o Sri S.B. Mohapatra

JK

Principal, Kendriya Vidyalaya
64 Bn. BSF, Jaraitola, Cachar, Assam.

35. O.A 304/2004 with M.P. 140/2004

Sri B. Bvijaya Varma
S/o B. Kannayya Raju
Principal Kendriya Vidyalaya
Tuli.

36. O.A. 305/2004 with M.P. 141/2004

Sri Dayaram Yadav
Son of Lt. R.C. Yadav
Principal, Kendriya Vidyalaya
Kumbhirgram (AFS), Dist. – Cachar, Silchar.

37. O.A. 306/2004 with M.P. 123/2004

Sri R.S. Ramanujam,
Son of Sri Srinivasan R.
Principal, Kendriya Vidyalaya
New Bongaigaon, Assam.

38. O.A. 307/2004 with M.P. 125/2004

Sri K. Sreenivasan,
Son of Kalyanasundaran
Principal, Kendriya Vidyalaya
ARC, Doordamna,
Tinsukia, Assam.

39. O.A. 313/2004 .

Sri Mandem Krishna Mohan
Son of Mr. M. Munaswamy
Principal, Kendriya Vidyalaya,
GC CRPF, Langjing, Imphal, Manipur- 795113

Applicants

By Advocates S/Sri A.C.Buragohain & N.Borah for Sl.No.1 to 20 and S/Sri A.Dasgupta & K.Bhattacharya for Sl.No.21 to 39.

• Versus –

1. Chairman,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi – 1.
2. Kendriya Vidyalaya Sangathan
Represented by the Commissioner, KVS
18, Institutional Area,
Shaheed Jeet Singh Marg,

[Signature]

New Delhi-110 016.
Through its Chairman

3. Assistant Commissioner
Kendriya Vidyalaya Sangathan
Guwahati Regional Office,
Maligaon, Guwahati-12. Respondents

(By Advocate Sri M.K. Mazumdar, KVS Standing Counsel)

O R D E R (ORAL)
SHRI M.K. GUPTA, MEMBER (J):

Rejoinders have been filed in each case, which are taken on record. With the consent of parties, we have taken up the cases for final hearing at admission stage.

2. Since the question of law involved in these O.As is identical, we propose to dispose of the abovesaid 39 O.As by this common order.

3. The applicants were appointed as Principal in different Kendriya Vidyalayas. One set of the said applicants had been appointed as Principals on regular basis and others had been appointed on deputation/ad hoc basis. Their grievance is common.

4. By ~~virtue of~~ present O.As they seek setting aside of the decision of the Chairman, Kendriya Vidyalaya Sangathan whereby direction had been given to Commissioner, Kendriya Vidyalaya Sangathan, to cancel or terminate their appointment to the post of Principal, KVS and also quashing such decision which culminated in termination order dated 18.11.2004 passed by the Commissioner, KVS.

5. It is an admitted fact that as far as the question of validity of orders passed in individual case vide order dated 18.11.2004 by the Commissioner, KVS is concerned, the same had been the subject matter before the Principal Bench of this Tribunal in O.A. No.281/2004, Mrs. Radha G. Krishan & Ors. Vs. KVS & Ors. decided on 21.12.2004.

6. After considering the rival contentions of the parties as well as noticing catena of judgements by the Hon'ble Supreme Court on various issues including the mandate of the principle of natural justice etc. the aforesaid termination order dated 18.11.2004, which is common to all applicants in present O.As as well as in the O.A before the Principal Bench, was quashed and set aside on the ground that when Rules and Regulations confer particular power on an authority only, the said authority should exercise the same rather than act on the directions of another, may be the superior authority. The Principal Bench noted that Commissioner, KVS in his impugned order had specifically stated that : "the undersigned has been directed by the Chairman, KVS to cancel the Appointment Order.....". Similarly, the Co-ordinate Bench in para 34 of the said judgement observed that:

"Ordinarily when the persons who had been appointed on regular basis as Principals, have a vested right as accrued in normal circumstances and they should have been given a chance to explain and thereafter taking stock of the totality of facts, an order could be passed pertaining to if they could be reverted to the lower post or not."

At the same time the Bench added that their aforesaid expression should be treated as opinion on merits. The Co-ordinate Bench also ruled that: "In all fairness, the applicants



could have been given opportunity to explain in this regard, particularly to those who have been regularly appointed."

7. After noticing various judgements, the Principal Bench also recorded the following conclusion:

"50. These facts which we have analysed, clearly indicate that so far as the post of the Principal is concerned, the appointing authority is the Commissioner of KVS and he is also the disciplinary authority to impose all penalties. So far as the Chairman is concerned, the powers are circumscribed by the Rules that have been framed. It does not give him the power to remove the concerned persons as against the requirement of the rules. It is true that under Rule 25 to which we have referred to above, the Chairman can exercise such powers as may be delegated by the Sangathan or the Board. But our attention has not been drawn to any such delegation of power by the Sangathan or the Board by amending the relevant rules conferring the powers of the appointment and of the disciplinary authority or any such other power which is vested with the Commissioner of KVS.

51. Once it is clear that the order has been passed on the dictate of the Chairman and not by the Commissioner applying his own mind as is clear from the tenor of the order, the orders in both the cases, on this ground, are liable to be quashed."

8. A close perusal of the aforesaid order passed by the Principal Bench would show that certain other observations were also made, which we are not repeating here except to reiterate. We as a Co-ordinate Bench are bound to follow the said precedent as held by the Hon'ble Supreme Court in S.I. Rooplal and Another vs. Lt. Governor through Chief Secretary, Delhi and Others, AIR 2000 SC 594. It is pointed out by learned counsel for the applicants that the Writ Petition (Civil) No.29-32 of 2005 as preferred before the Delhi High Court, wherein the validity of the said order had been



questioned. Vide judgement dated 25.1.2005 the High Court of Delhi maintained the order passed by the Principal Bench in so far as the termination of the Principals on the dictate of Chairman, KVS. As far as the other question relating to declaration that the petitioners were direct recruits on the post of Principal in KV and were entitled to be absorbed against their vacancies, it was not decided and the issue was remanded to the Tribunal for adjudication.

9. We may note that in all the O.As the order dated 18.11.2004 was filed subsequently byway of various Misc. Petitions filed which have also been taken up along with the O.As

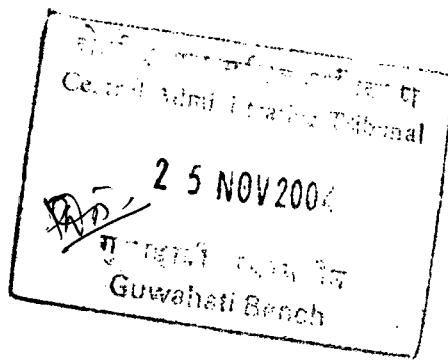
10. Following the ratio and the dicta laid down in the aforementioned judgement we allow the present O.As and quash order dated 18.11.2004 passed by the Commissioner, KVS terminating the services of the applicants on the dictate of Chairman, KVS, with liberty to the respondents to take action in accordance with rules and law as held in para 52 of the aforesaid order passed by the Principal Bench.

11. Accordingly O.As and Misc. petitions are disposed of. No costs.

Sd/ MEMBER (J)

Sd/ MEMBER (A)

District: - Silchar



**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH, GUWAHATI**

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

Original Application No. 303 of 2004

SRI P.C. MOHAPATRA

....Applicant

-VS-

The Union of India and Ors.

....Respondents

SYNOPSIS

The applicants submit that the recruitment rules provide for method of recruitment to the post of Principal by direct recruitment or by promotion or by deputation / transfer and 66.2/3% is by direct recruitment on the basis of all India advertisement and 33.1/3% by promotion. On such recruitment the period of probation is for two years and the academic qualifications required for the post of Principal is Masters Degree from recognized university with at least 60% marks in aggregate and D.Ed or equivalent teaching degree. The working experience required is the person holding analogous post or posts of Principals in the grade of Rs. 10000-15200 or Vice Principals / Asst. Education Officers in pay scale of Rs. 7500-12000 with six years service in the aforesaid grade or persons holding Group 'B' posts or the posts of PGTs or Lecturer in the pay scale of Rs. 6500-10500 or equivalent

with atleast 10 years regular service in the aforesaid grade. The age limit for direct recruits is 35 – 50 years relaxable upto 5 years in the case of employees of Kendriya Vidyalaya Sangathan and age relaxation for SC / ST and other categories as applicable under the Government of India Rules.

The applicants submit that as per the existing recruitment rules, the applicants are entitled for holding the post of Principals since they are the persons holding Group 'B' posts or posts of PGTs or Lecturer in pay scale of Rs. 6500-10500 or equivalent with atleast 10 years regular service in the aforesaid grade. As per the amended rules since in the year 2000 recruitments were conducted every year Similar is the case of the other applicants, who were recruited pursuant to the notifications issued from time to time during the period 2000 – 2004. All the applicants have cleared the screening test conducted successfully with merit and pursuant to the passing of the screening test, the applicants were called for the interviews and only thereafter qualifying in the interviews, they were offered the post of Principal.

18

District: - Silchar

**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH, GUWAHATI**

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

Original Application No. 303 of 2004

SRI P.C. MOHAPATRA

....Applicant

-VS-

The Union of India and Ors.

....Respondents

INDEX

SL. No.	Particulars	Annexure	Page No.
1.	Original application		1 - 10
2.	Verification		11
3.	Annex - 1		12-13
4.	Annex - 2		14-15
5	Annex - 3		16-17
6	Annex - 4		18-19
7	Annex - 5		20
8	Annex - 6		21

Filed by

S. Bhup

2

Filed by
the applicant
through
Subroto Bhattacharya

District: - Silchar

**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH, GUWAHATI**

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

Original Application No. 303 of 2004

I. PARTICULARS OF THE APPLICANT

SRI P.C MOHAPATRA

S/O Sri S.B. Mohapatra

Principal Kendriaya Vidalaya,

64 Bn. BSF, Jaraitola, Cachar, Assam

II. PARTICULARS OF THE RESPONDENTS

1. Union of India,

Through the Secretary to the Govt. of India, Ministry of Human Resource Development, Central secretariat, New Delhi.

2. Kendriya Vidalaya Sangathan,

18, Institutional Area,

Shaheed Jeet Singh Marg

New Delhi, Through its Commissioner.

3. Assistant Commissioner,

Kendriya Vidalaya Sangathan,

Regional Office, Silchar.

III. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE.

P. C. Mohapatra

The applicants declare that aggrieved by the action of the respondents in canceling the appointment of the applicants as Principles of Kendriya Vidyalaya Sangathan on an erroneous ground of violation of Rules and Constitutional Provisions on equality of opportunity without affording an opportunity the present O.A. is filed seeking for a relief of continuing the applicants as Principals

IV. JURISDICTION OF THE TRIBUNAL

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

V. LIMITATION.

The applicant declares that the present application is within the limitation prescribed in section 21 of the Administrative Tribunal Act, 1985.

VI. FACTS OF THE CASE.

- A. The applicants submit that the recruitment rules provide for method of recruitment to the post of Principal by direct recruitment or by promotion or by deputation / transfer and 66.2/3% is by direct recruitment on the basis of all India advertisement and 33.1/3% by promotion. On such recruitment the period of probation is for two years and the academic qualifications required for the post of Principal is Masters Degree from recognized university with at least 50% marks in aggregate and D.Ed or equivalent teaching degree. The working experience required is the person holding analogous post or posts of Principals in the grade of Rs. 10000-15200 or Vice Principals / Asst. Education Officers in pay scale of Rs. 7500-12000 with six years service in the aforesaid grade or persons holding Group 'B' posts or the posts

P. C. Mchaptor

of PGTs or Lecturer in the pay scale of Rs. 6500-10500 or equivalent with atleast 10 years regular service in the aforesaid grade. The age limit for direct recruits is 35 – 50 years relaxable upto 5 years in the case of employees of Kendriya Vidyalaya Sangathan and age relaxation for SC / ST and other categories as applicable under the Government of India Rules.

B. The applicants submit that as per the existing recruitment rules, the applicants are entitled for holding the post of Principals since they are the persons holding Group 'B' posts or posts of PGTs or Lecturer in pay scale of Rs. 6500-10500 or equivalent with atleast 10 years regular service in the aforesaid grade. As per the amended rules since in the year 2000 recruitments were conducted every year Similar is the case of the other applicants, who were recruited pursuant to the notifications issued from time to time during the period 2000 – 2004. All the applicants have cleared the screening test conducted successfully with merit and pursuant to the passing of the screening test, the applicants were called for the interviews and only thereafter qualifying in the interviews, they were offered the post of Principal.

C. The applicants submit that initially they were offered the post of Principal on deputation basis (the word deputation is used as a misnomer in the appointment letter by the respondents since all the applicants are the regular employees of Kendriya Vidyalaya Sangathan and the question of deputation does not arise) It is pertinent to point out at this juncture that the appointments are made only against a general vacancy and all the applicants belong to the general category. As such the applicants humbly submit that their appointment is done only against the general vacancies and in the process the system of reservation was not nor deviated from the prescribed recruitment procedure. It is not out of place to mention that at the time of initial recruitment after conducting of screening test and interview, the respondent Sangathan has followed all the rules and regulations with regard to the SC/St

P. C. Mohapatra

reservations. I submit that the Principals like the applicants were also assigned their all India seniority.

D. That applicants respectfully submit that the amendment of the recruitment rules existing as on date were done pursuant to the 65th Meeting of the Board of Governors of Kendriya Vidyalaya Sangathan on 19.03.1999 and the rules and regulations so amended are not modified so far any further. The applicants recruited subsequent to the amended recruitment rules have put up outstanding work and they are discharging their duties to the utmost satisfaction of their superiors. The Minister for Human Resources Development is the Chairman of Board of Governors, The Minister of State in the Ministry of HRD is the Dy. Chairman and The Joint Commissioner (Admin) shall function as the Secretary of the Board in his capacity as Ex-officio Secretary of the Sangathan and the Board of Governors consist of other members including Commissioner, KVS and two members of Parliament etc.

E. As things stands such it has come to the knowledge of the applicants through the News papers and one such news item appeared in the Hindu dated 20.11.2004 under the heading "APPOINTMENT OF 300 PRINCIPALS CANCELLED". The applicants fall within the category of those appointments are sought to be cancelled by the action of the Ministry of Human Resources Development in a most arbitrary and illegal manner under the guise that these appointments were made in violation of Rules and Constitutional Provisions on equality of opportunity. Such action was initiated by Ministry of Human Resources Development (MHRD for brevity) only with an intention to unsettle the settled issues to somehow over rule the decisions of the previous Government / Administration.

F. The applicants submit that the applicants apprehend that they would be reverted without giving an opportunity in terms of the principles of natural justice and also in violation of all the norms

P. C. Mohapatra

and protection available to the applicants as laid down in various instructions and judicial pronouncements from time to time. It is further submitted that confirming their apprehensions, the respondents are going ahead in a frenzied spree of reverting all the Principals recruited subsequent to the amended recruitment rules which are in force as on date, including the applicants herein only to please their political bosses.

G. That applicants submit that the order of reversion was already issued to some of the Principals in many regions through out India in violation of the principles of natural justice. One such order issued at Delhi is filed herewith and the respondents are issuing similar orders to all the applicants herein. It is submitted that none of the applicants have been reverted so far by issuance of such order and the balance of convenience for issuing interim order to continue the applicants as Principals is in favour of applicants. In the circumstances, the applicants have no other alternative or equally efficacious remedy except to approach this Hon'ble Tribunal in the exercise of its jurisdiction under section 19 of the Administrative Tribunals Act, 1986.

VII. GROUNDs.

- a) The respondents ought to have given a reasonable opportunity to the applicants before issuing any orders, which are adverse to their service conditions and thereby violated the cardinal principle of audi altarem partem which is the basic tenet of Administrative Law.
- b) The respondents ought to have seen that as long as the recruitment rules are not amended the promotions given to the applicants cannot be withdrawn.
- c) The respondents ought to have seen, that any amendment of recruitment rules is prospective in nature and cannot be

P. C. Naohapara

permitted to be given a retrospective effect and therefore, even the recruitment rules are amended / modified, the services of the applicants cannot be disturbed.

- d) The respondents ought to have seen that all the applicants belong to the general category and they were recruited only against the general vacancies and are confirmed against the general vacancies and as such their appointment cannot be brought under any dispute.
- e) The respondents ought to have seen that the Minister for HRD is only a Chairman of the Board of Governors and therefore, acting alone he cannot over rule the decisions taken by the Board of Governors in their 65th Meeting conducted on 19.03.1999. The respondents ought to have also seen that no retrospective effect can be given to such an illegal and arbitrary decision and dislocate the applicants herein.
- f) The action of the respondents is arbitrary and violative of Art 14 of the Constitution of India wherein the right of equality before law is provided. In the guise of protecting the equality of opportunity the right available under Article 14 of the Constitution of the applicants is being disturbed.
- g) The respondents ought to have seen that Article 311 of the Constitution of India provides for an elaborate procedure in the event it has been decided to reduce him to a lower rank by providing a reasonable opportunity of being heard and the action of the respondent is inconsistent with the same and therefore, the proposed action of the respondents is liable to be held bad in law.
- h) The respondents ought to have seen that the appointments of the applicants were ratified by the Board of Governors in 65th Meeting held on 19.03.1999 and therefore, the order of the Chairman is illegal and the said 'order is proceeding on an erroneous presumption and a rather misleading ground that the appointments were done by the Commissioner and therefore,

P. C. Mohapatra

29

the Chairman has got the power to review the same. It is most respectfully submitted and reiterated that the appointments were by the Board of Governors and as such the Chairman being part of the Board of Governors, he alone cannot take decision singly as Chairman without the convening of the meeting of the Board of Governors. Moreover, assuming for a moment but without admitting that the Board of Governors has consented to the decision of the Chairman, the same cannot be given a retrospective effect to cancel the appointments given to the applicants.

- i) The order that was proposed to be served on the applicants makes a very curious reading that since the initial appointment itself is void ab initio and non-est in the eyes of law and therefore, the cancellation of the same without issuing show cause notice is justified in law is a self serving statement to justify their illegal and arbitrary act in canceling the rightful appointment of the applicants.
- j) The respondents ought to have seen that the applicants who are recruited as per the extant regulations and having worked for more than four years as Principals and having been regularized, the proposed office order is nothing but an attempt to deny the principles of natural justice. The respondents themselves offered the appointment to the applicants and the basic minimum requirement of a reasonable opportunity being denied to the applicants shows the vengeance that is being exhibited towards them with utter disregard to their employees.]
- k) The action of the respondents created severe damage to the careers of the applicants, they could have applied in some other organizations had they not been appointed as Principals in this respondent organization and it is now too late in their careers to do the same, and irreparable damage that is being done by this arbitrary and high handed action need to be given a serious consideration by this Hon'ble Tribunal.

P. C. Michapatra

1) The applicant may be permitted to urge other grounds at the time of hearing.

VIII. DETAILS OF THE REMEDIES EXHAUSTED

As applicants declare that in view of the urgency there is no other alternative or equally efficacious remedy except to approach this Hon'ble Tribunal in the exercise of its jurisdiction under section 19 of the Administrative Tribunal Act, 1985.

IX. MATTER NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT.

The applicants declare that they have not filed any writ petition or application before any other court or any bench of this Hon'ble Tribunal nor any such application is pending before any them regarding the subject matter of this O.A.

X. RELIEF SOUGHT

For the reason stated above, the applicants herein pray that this Hon'ble Tribunal may be pleased to call for the records pertaining to the cancellation of the appointments of the applicants as Principals and consequently direct the respondents to not to cancel the appointment of the applicants as Principals by declaring that they are appointed as per the recruitment rules and to pass such other or further orders as it deems just and proper in the circumstances of the case.

XI. INTERIM RELIEF IF ANY SOUGHT FOR

Pending finalization of the O.A. the applicants herein pray that this Hon'ble Tribunal may be pleased to direct the respondents to not to cancel the appointments of the applicants and not to revert them as

P. C. Mohapatra

PGTs as the balance of convenience is in their favour and pass such other or further orders as it deems just and proper in the circumstances of the case.

XII. PARTICULARS OF THE POSTAL ORDER

- a. IPO No. 20 G 13556 Date. 23.11.04 For Rs.50/-
- b. Envelopes with acknowledgment
- c. Vakalat
- d. Material papers as per index.

XIII. LIST OF ENCLOSERS

1. Appointment letter 12.06.2001
2. Paper Notification dated 18.11.2000
3. Order dated 24.06.2002
4. Order dated 07.07.2003
5. Order dated 28.06.2004
6. Paper Notification the Hindu

P. C. Mohapatra

VERIFICATION

I, Sri P.C. Mohapatra, S/O S.B. Mohapatra, aged about 42 yrs, by profession service, resident of 64 Bn. BSF, Cachar, Assam do hereby verify that I am the applicant in the accompanying application. I am acquainted with the facts and circumstances of the case. I hereby verify that the statements made in paragraphs 1 to XIII are true to my knowledge and that I have not suppressed any material facts.

And I set my hand in this verification today 25. November 2004, at Guwahati.

P.C. Mohapatra

Signature.

KENDRIYA VIDYALAYA SANGATHAN
(ESTT. II SECTION)

SPEED POST

18 - INSTITUTIONAL AREA
SHAHEED JEET SINGH MARG
NEW DELHI - 110016

F.7-4/2001-KVS(E.II)/0065

DATE:

12/11/01

12 JUNE 2001

THE ASSISTANT COMMISSIONER
KENDRIYA VIDYALAYA SANGATHAN
REGIONAL OFFICE, MUMBAISubject: Appointment of Shri P.C. Mohapatra, PGT(Geog),
KV No.1 Deolalito the post of PRINCIPAL in Kendriya
Vidyalaya Sangathan by transfer on DEPUTATION
BASIS in Pay Scale of Rs.10000-325-15200/-.

Sir/Madam,

On the basis of the recommendations of the Selection Committee, the competent authority has approved the appointment of Shri P.C. Mohapatra as Principal in KVS on deputation basis in pay scale of Rs.10000 - 325 in KVS on deputation basis in pay scale of Rs.10000 - 325 15200/- with effect from the date he/she assumes the charge of the post. His/Her deputation in KVS will be initially for a period of ONE YEAR or till further orders whichever is earlier. The period of deputation can be extended on year to year basis for a maximum period of 5 years depending upon his/her conduct and performance and administrative exigencies. The appointment will be governed by usual deputation terms.

2. He/She is posted as Principal at Kendriya Vidyalaya, Dolchera

He/She will have an option to draw pay in the scale of the post or draw deputation allowance as per Govt. of India orders/ instructions on this subject.

3. Shri P.C. Mohapatra may be informed that this appointment on deputation will not confer on him/her any claim for permanent absorption/regular appointment as Principal in Kendriya Vidyalaya Sangathan. Moreover, he/she cannot claim for extension of deputation period as a matter of right. It should be clearly understood that the aforesaid period of deputation can be curtailed at the sole discretion of the Commissioner, KVS. On completion/termination of deputation period, he/she will be reverted back to his/her Parent Office/feeder post.

Contd....p/2...

Attested
8244

(60) Page 13

4. It is, therefore, requested that Shri P.C. Mohapatra may please be relieved the instructions as Principal latest by 30.6.2001, failing which it will be presumed he/she is not interested in this offer and this offer will be treated as WITHDRAWN without any further notice. Before relieving, it may be ensured that no disciplinary case is pending or contemplated.

In case it is found at any stage that the candidate does not satisfy/fulfil the eligibility condition as prescribed in Recruitment Rules for the post of Principal OR is not clear from Vigilance angle or has furnished incorrect particulars or suppressed any material/information in the application for the post of Principal, his/her deputation shall stand terminated.

Yours faithfully,

(V.K. Gupta)
Assistant Commissioner(Admn)
For Commissioner

Copy to:-

1. Shri P.C. Mohapatra, PGT(Geog), KV No.1 R.C. Road, Deolali, Nashik. - 422401
He may communicate his/her acceptance immediately to this office within 7 days from the date of issue of offer and also report to posting place as stated above by the stipulated period.
2. The Chairman, VMC, K.V. Dolchera with the request to intimate the date of joining of individual concerned to this office as well as Assistant Commissioner, KVS, RO, concerned immediately by Speed Post/Fax.
3. The Principal, KV No.1 Deolali
4. The Asst. Commissioner, KVS, RO, Silchar
He/She is requested to intimate the date of joining of the incumbent to this office immediately by Speed Post/Fax.
5. Personal file.
6. Guard file.

UP
Assistant Commissioner(Admn)

*Abcdeed
Samp*

KENDRIYA VIDYALAYA SANGATHAN
(Estd. II Section)18, Institutional Area,
Shahid Jeet Singh Marg,
New Delhi - 110016

No. F.7-07/2002.KVS(Estd. II)

Dated: - 26/06/2002

OFFICE ORDER

Approval of the competent authority is hereby conveyed for extension of deputation periods in respect of the following Principals of Kendriya Vidyalayas, who have been working on deputation basis for a period of one more year or till further orders whichever is earlier as indicated against each:-

No.	Name of Principal and KV, where working	Date of extension of deputation period
-----	---	--

SILCHAR REGION

01.	SHRI SG SHROTI RANGAPAHAR	16.7.2002
02.	SHRI SURESH KUMAR BOKAJAN	28.6.2002
03.	SHRI K SREENIVASAN DULIAJAN	9.7.2002
04.	SHRI KN BHATT NAMRUP	29.6.2002
05.	SHRI DK DWIVEDI DOOM DOMA	27.6.2002
06.	SHRI B VIJAYA VERMA DIMAPUR	10.7.2002
07.	SHRI E ANANTHAN KUMBHIGRAM	30.6.2002
08.	SHRI M KRISHNA MOHAN LANJING NO2 IMPHAL	12.6.2002
09.	SHRI PC MAHAPATRA DHOLCHERRA	26.6.2002
10.	SHRI V SHIVAJI NO.1 SILCHAR	27.6.2002
11.	SHRI DR YADAV KRIMGANJ	29.6.2002
12.	SHRI EM REDDY PANISAGAR	16.7.2002
13.	Sh-SM-Garg Aizwal.	30.6.2002
14.	Shri, RG Das Zakhama	25.7.2002

Passed
S. B.
6/8

2. The terms & conditions of the offer of appointment of deputation to the post of Principal remain unaltered.

(Rajvir Singh)
Dy. Commissioner (Pers.)
for Commissioner

29/6/64

Copy to:

1. Individual concerned.
2. The Asstt. Commissioner, KVS, RO concerned with the request to make proper entry in the S/Book of the individual concerned with proper attestation immediately and also regulate his increment as per rules.
3. The Chairman, VMC of Kendriya Vidyalaya concerned.
4. The Education Officer (Vigil), KVS (HQ), New Delhi.
5. Office-order file.

Attested
S. Singh

3
Annex-3
Page 16

Kendriya Vidyalaya Sangathan
(Estd. I Section)

No. F.7-07/2002.KVS(Estd. I)

18, Institutional Area,
Shahid Jeet Singh Marg,
New Delhi -110016

Dated:- 7/7/2003

OFFICE ORDER

In terms of the offer of appointment to the post of Principal on deputation basis, approval of the competent authority is hereby conveyed for extension of deputation period in respect of the following Principals of Kendriya Vidyalayas, who have been working on deputation basis, for a period of one more year or till further orders whichever is earlier as indicated against each:-

SNo.	Name of Principal and KV where working	Date upto which period of deputation extended
------	---	--

Silchar Region

01.	Shri S.G. Shrotri Rangapahar	15.7.2004.
02.	Sh. Suresh Singh Panchgram (Under order of transfer to No. 2 Army Bhuj)	27.6.2004.
03.	Shri K. Sreenivassan ARC Dumdooma	08.7.2004.
04.	Shri K.N. Bhatt Namrup	28.6.2004.
05.	Shri D.K. Dwivedi Duliajan	26.6.2004.
06.	Sh. B. Vijaya Verma Tuli	09.7.2004.
07.	Shri E. Ananthan Kumbhigram (Under order of transfer to Silchar)	29.6.2004.
08.	Sh. M. Krishna Mohan No. 2 Imphal	29.6.2004
09.	Sh. P. C. Mahapatra Dholchera	25.6.2004.
10.	Shri V. Shivaji No. 1 Silchar (Under order of transfer to Karimganj)	26.6.2004.
11.	Shri DR Yadav Karimganj (Under order of transfer to Kumbhigram)	28.6.2004.

After 6 days

12.	Shri R.G.Das Zakhama	24.7.2004
13.	Shri S.Sarangi ONGC Agartala	28.7.2004
14.	Shri PC Ratha Kunjaban, Agartala	02.7.2004
15.	Shri A.K.Dixie ONGC Sibsagar (Under order of transfer to Bakloh)	31.7.2004
16.	Shri S.P.John Tinsukia	27.6.2004
17.	Sh.K.N.Roy Choudhary Dinjan (under order of transfer to No.1 Jammagar)	04.7.2004
18.	Shri G.P.Saini ONGC Nazira	04.7.2004
19.	Shi.Sudhakar Singh Dimapur (Under order of transfer to BHU Varanasi)	25.7.2004

02. The terms and conditions of the offer of appointment of deputation to the post of Principal remain unaltered.

(. Rajvir Singh)
Deputy Commissioner(Pers)
for Commissioner.

Copy to:-

01. Individual concerned.

02. Asstt Commissioner, KVS, Regional office, Silchar with the request to make proper entry in the service book of the individual concerned with proper attestation immediately and also regulate his increment as per rules.

03. Chairman, VMC of Kendriya Vidyalaya concerned.

04. Education Officer(Vig).

05. Assistant Commissioner, KVS, RO, Ahmedabad/ Jammu /Patna for favourof information.

06. Office Order File.

Attested
8/7/04

33

Annex-4

KENDRIYA VIDYALAYA SANGATHAN
(ESTT-I SECTION)

607

Page 18

18-INSTITUTIONAL AREA,
SHRIKEED JEET SINGH MARG,
NEW DELHI - 110016.

F.7-7/2002-KVS(Estt.I)-

Dated: 28.6.2004.

OFFICE ORDER

In terms of the offer of appointment to the post of Principal on deputation basis, approval of the competent authority is hereby conveyed for extension of deputation period in respect of the following Principals of Kendriya Vidyalayas, who have been working on deputation basis, for a period of one more year or till further orders whichever is earlier as indicated against each:-

S.No.	Name of the Principal	KV where working	Date upto which period of deputation extended
01	Smt. Alka Srinivas	VGN, Nagpur	26.06.2005
02	Shri Hemant Upadhyay	Adm	20.06.2005
03	Sh. A. Tripathi	Tura	21.06.2005
04	Sh. C. M. Kurup	Koraput	26.06.2005
05	Sh Ravindra Prakash	Sikar	09.07.2005
06	Smt Sharli Chauhan	Jhawar	14.07.2005
07	Smt V. J. Pallam	No 3 NAL Bikaner	27.06.2005
08	Sh. M. L. Agarwal	No. 1 Akhnoor	28.06.2005
09	Sh. D. S. Duggi	Nanital Bijnor	27.06.2005
10	Smt Kiran Dala	DEN Shikar	27.6.2005
11	Dr. R. K. Poonia	Rajauri	05.7.2005
12	Sh. S. M. Garg	Ran Bareily	20.6.2005
13	Sh. T. Punna Rao	9 DRD Dune	29.6.2005
14	Sh. M. N. Sreekumar	INS Valsura	28.6.2005
15	Smt. Jyoti Sengupta	ITI Manakpur	26.6.2005
16	Sh. E. Ananthan	Silchar	29.6.2005
17	Sh. V. Shivaji	Karimgunj	26.6.2005
16	Sh. P. C. Mahapatra	Chotkhora	25.6.2005
19	Sh. D. R. Yardi	Kumbhigram	26.6.2005
20	Sh. Guresh Singh	Army Bhuj	27.6.2005
21	Sh. D. K. Dwivedi	Dultan	26.6.2005
22	Sh. K. N. Dagar	Hamirpur	28.6.2005
23	Smt. K. Srinivasan	Gromodoma	01.7.2005
24	Sh. M. Krishnayya	Kanhangad	29.6.2005
25	Sh. G. D.	Zakharia	27.7.2005
26	Sh. G. S. Brook	Pangapathar	15.7.2005

(Signature)

Attested
S. Biju

;02:

02.

It is clarified here that :-

i) the period of deputation can be extended on year to year basis for a maximum period of five years after reckoning the initial date of joining on deputation depending upon the individual concerned. Principal, conduct and performance and administrative exigencies of the organisation. Moreover, this appointment on deputation will not confer on him/her any claim for permanent absorption/regular appointment as Principal in Kendriya Vidyalaya Sangathan as well as he/she should not claim for extension of deputation period as a matter of right.

ii) The deputation period can be curtailed at the sole discretion of the Commissioner. On completion/termination of deputation period, he/she will be reverted back to his/her Parent office/feeder post.

02. Other terms and conditions of the offer of appointment of deputation to the post of Principal of the individual concerned remain unaltered.

(V.K.Gupta)

Deputy Commissioner(Admn & Fin)
for Commissioner.

Copy to:-

01. Individual concerned Principal of KV

02. Asstt Commissioner, KVS, Regional office with the request to make the proper entry in the service book of the individual concerned with proper attestation immediately and also regulate his increment which is due for this year under the provisions of rules as extended from time to time.

03. Chairman, VMC of Kendriya Vidyalaya concerned.

04. Education Officer(Vig).

05. Office order file.

*Abhisek
Gupta*

four-day Chhath festival, a God, concluded on a State today with seven in two incidents, reported from Begusarai.

Leader, Sanjay Yadav, and two others were killed by a gang led by him, 10 km from the town. Five others were injured. At Begusarai, Dhanabir Singh havildar, fired revolver after being cornered when he attempted to Bagh locality. He killed three persons. Police took the havildar and resorted to arson, police outpost, vehicles, meter and a godown of

by Our Diplomatic Correspondent

NEW DELHI, NOV. 19. India has expressed "strong concern" to the United States following reports of an impending American arms sale to Pakistan.

The Foreign Secretary, Shyam Saran, who is in the U.S., conveyed this concern to senior U.S. officials, including the National Security Adviser, Condoleezza Rice, in Washington.

"He [Mr. Saran] has pointed out the repercussions of such sales on the India-Pakistan dia-

logue, which is currently poised at a sensitive juncture. During the first term of President Bush's administration, India-U.S. relations saw a significant transformation and the U.S. is perceived in India as a strategic partner, particularly in terms of shared democratic values.

"In this context the decision to supply sophisticated weapons to Pakistan will inevitably have an impact on positive sentiments and goodwill that have come to characterise India-U.S. relations," the External Affairs Ministry spokesman said.

Asked if there had been any response from U.S. officials, he said they pointed out that Washington valued its relationship with India and recalled Mr. Bush's personal commitment to take it forward.

"As far as India-Pakistan relations were concerned, while the United States has an arms supply relationship with Pakistan, it was supportive of the India-Pakistan dialogue. It would also continue to take up concerns relating to cross-border terrorism," the spokesman added.

Appointments of 300 KV principals cancelled

By Our Special Correspondent

NEW DELHI, NOV. 19. The Human Resource Development Ministry today cancelled the appointment orders of over 300 Kendriya Vidyalaya principals issued during the Murli Manohar Joshi regime as these appointments were "made in violation of rules and constitutional provisions on equality of opportunity. Cancelling the appointments, the Ministry also issued orders repatriating them to their parent cadre."

These appointments were made in exercise of the Commissioner's power to appoint principals and cleared at the 65th meeting of the Board of Governors of the Kendriya Vidyalaya Sangathan (KVS) on March 19, 1999.

The appointments were initially made on a deputation basis and subsequently many of the appointees were regularised "in violation of the KVS rules and

reservation rules of the Government."

Given the vacuum that will be created in a number of Kendriya Vidyalayas across the country, the Ministry simultaneously announced that a drive would be undertaken to fill the backlog of vacancies for principals from the Scheduled Caste and Scheduled Tribe categories followed by a general recruitment for all categories to fill up the remaining vacancies.

The Recruitment Rules for principals in KVS will be amended to make 45 per cent at the post-graduate level the qualifying mark for direct recruits.

The qualifying mark had been increased to 50 per cent by the previous regime, "to the disadvantage of the reserved categories."

The rules will be amended to reduce the number of years for promotion as principal from vice-principal.

According to the ministry, the

decision to cancel the appointments was taken after a scrutiny of documents relating to the 65th Meeting of the Board of Governors of KVS. These documents revealed that the Commissioner's power to appoint principals was not followed strictly resulting in injustice to persons belonging to both reserved and general categories. Besides, constitutional provisions on equality of opportunity were violated as persons belonging to reserved/general categories did not get an opportunity to compete for the posts.

"Also, while appointing the deputationists on regular basis as principals, who were initially taken on deputation for a fixed tenure, the then Commissioner had not followed the Supreme Court judgment on reservation thereby depriving the legitimate rights of persons belonging to the reserved categories from getting appointed as principals in KVS," the ministry said.

Attested
S. Bhagat

MYK

Ref. 51-12/2000
Government of India, Ministry of Home Affairs
Office of the Director of Census
Operations, Kerala

C.G.O Complex, Poonkulum, Vellayani (P.O) Trivandrum- 695522
It is proposed to fill 3 vacant posts of Peon in the scale of pay of Rs. 2550-55-
2650-60-3200 for Regional Officer to be set up in state in connection with 2001
Census for a period of one year initially, but likely to be continued thereafter
until further orders by transfer on deputation basis under the Directorate of
Census Operations, Kurnool, Andhra Pradesh-22 from amongst suitable
officials of Central/State/UT Govt. departments according to their eligibility conditions as mentioned below.

Name of the Post	Scale of Pay	No. of Posts proposed to be filled	Eligibility conditions
Group 'D'	Rs. 2550-55- 2650-60-3200	3	(a) Officials of Central/State Government holding analogous posts. (b) Middle School standard passed recognised school.

The pay of selected officials will be regulated with the instructions contained in the Draft of Personnel and Training OM No.2/12/57 -Estt(Part II) dated 29.04.1999 as amended from time to time.

Applications of officials who are eligible and willing to be considered for appointment by transfer on deputation basis and relieved immediately after selection may be forwarded in prescribed proforma as per Annexure-I along with their Vigilance Clearance Certificate so as to reach this Directorate within 6 weeks from the date of publication of this advertisement in Employment News. The officials who volunteer for the above post will not be permitted to withdraw their name later.

1. Name : **ANNEXURE-I**

2. Date of Birth :

3. Educational and other Qualification :

4. Date of Entry into Government Service :

5. Designation of the post held at present :

6. Date from which the present post is held on regular basis :

7. Whether Permanent/Quasi permanent/Temporary

8. Whether SC/ST :

9. Scale of pay in the present post :

10. Present pay :

11. Details of Experience :

Period Post held	From to	Scale of pay	Nature of work done in details
			Signature of Applicant

Certificate to be given by the Head of Office of the Applicant
1. It is certified that the particulars furnished by the officials are correct.
2. It is certified that no disciplinary case is pending or contemplated against the applicant and he/she is clear from vigilance angle.

HEAD OF OFFICE
dav 2004 (1G1)2000

CD/4/11

Railway Recruitment Board

South Lalgudi, Secunderabad
No. 111/SC/C/659/05/04/99

Declaring the written examination result of App. Junior Engineer (P.Way) Gr-II Cat. No. 06 of E.N. No. 04/99 conducted by Railway Recruitment Board, Secunderabad on 22.10.2000.

Roll numbers of candidates who have provisionally qualified in the written examination conducted by the Railway Recruitment Board, Secunderabad on 22.10.2000, for the post of App. Junior Engineer (P.Way) Gr-II Cat. No. 06 of Employment Notice No. 04/99 are listed below.

Roll Number : 29

11140249 11341546 11510449 11511406
11230073 11341994 11520295 11610092
11312483 11342005 11520576 11620018
11340070 11342100 11540843 11620043
11340295 11342191 11540873 11620040
11340294 11342327 11541100 11620041
11340311 11342328 11541300 11620042
11340192 11342329 11541429 11620043

Total : Twenty Nine candidates

All the candidates bearing the above roll numbers are required to attend the office of the Railway Recruitment Board, Secunderabad on 03.12.2000 for verification of their original certificates in support of their qualification, date of birth, caste, and all other relevant records mentioned in the individual interview letter which are being sent separately. The candidates belongs to Ex-Serviceman category are required to produce their service discharge certificates and other relevant documents at the time of verification of certificates.

While every care has been taken in preparing the above result, the Railway Recruitment Board, Secunderabad reserves the right to rectify the errors and omissions if any.

Chairman
Railway Recruitment Board
Secunderabad

PH 040-6

RECRUITMENT AGENCY FOR COMPUTER AIDED DESIGN & CAD
Engineering, Diploma, Vocational & CAD covered in single course with emphasis on real time concept, programming & practicals on Trainer & softwares produced by CMC Machines.

Eligibility: XII/10+2 & above, including Mechanical D.F.O.M.C/I.I. & Students studying these courses. For XII/10+2 candidates, additional Mechanical coverage is given in CMC courses.

BATCHES: 1, 2, 3, 4 on 01st Dec., 2000 & 1st Jan., 2001.

Information brochure & application form can be collected personally free of cost or by sending a self addressed & R/c'd stamped envelope to Hostel Available, CAD-CAM TECHNICS (CNC - CAD Training Centre), ST : 143/110/14353005, 16, RAMA BHAVAN STREET, (near Madras Railway Station), THIRUVELLA, CHENNAI-17. E-mail: cadcadtech.net

111/SC/C/

KENDRIYA VIDYALAYA SANGATHAN

NOTICE

36

Applications are invited for preparing the panels to fill up the posts of Principals in Kendriya Vidyalaya on the pay scale of Rs. 10000-325-15200/- by transfer on deputation basis from amongst those serving the Central/State/Local Govt. Autonomous Organizations and C.B.S.E. affiliated 2 Schools and also for direct recruitment to fill up the broken vacancies of Principals in SC/ST fulfilling the following conditions.

Age : Should not exceed 50 years on the last date of receipt of the application. (Relaxable for SC/ST/Other Backward Class/Handicapped Persons/Govt. servants and employees of K.V.S.) as per rules.

Essential Qualifications :

(i) At least 2nd Class Master's Degree (45% marks and above considered as equivalent) in Mathematics, Physics, Chemistry, Zoology, Botany, English, Hindi, Sanskrit, History, Geography, Commerce/Economics/Political Science/Computer Science/Physical Education/Music/Fine Arts.

(ii) A Degree or Post Graduate Degree/Diploma in Teaching/Education.

(iii) At least 10 years experience in Educational Institutions including atleast 07 years teaching experience at Senior Secondary or Higher level in recognized Institutions and minimum of 03 years experience in educational administration. Experience in Educational administration is defined as under :

(a) As Principal/Headmaster of a High School/Higher Secondary School/Inter College/Degree College; OR

(b) As Vice-Principal of a Higher Secondary School/Inter College/Degree College/Head of Deptt. In a Degree College/University Teachers Training College; OR

(c) As House Master in Public/Salek School or as Officer in Army Education Corps; OR

(d) As a Vice-Principal in a Kendriya Vidyalaya for 03 years or more; OR

(e) As Vice-Principal and/or PGT in Kendriya Vidyalaya for atleast 15 years; OR

(f) As Vice-Principal and/or as PGT in Kendriya Vidyalaya for atleast 10 years in case of those who have passed the Departmental Examination; OR

(g) As Warden of Hostel in a Kendriya Vidyalaya.

Desirable :

(i) Working knowledge of Hindi and English.

(ii) Experience in organizing Games and Sports and Co-curricular activities.

Note : In case sufficient number of SC/ST candidates are not forthcoming for filling backlog vacancies, the competent authority can consider relaxing administrative experience to the following extent : 5 years educational experience including 03 years teaching experience at Senior Secondary or Higher level in recognized institution and 02 years experience in educational administration. In case of existing Post Graduate Teachers and Vice-Principals in Kendriya Vidyalaya belonging to SC/ST community who have rendered 10 years of service as PGT and Vice-Principal required administrative experience will be relaxed altogether.

How to apply

Applications complete in all respect as per proforma given in the Annexure along with attested copies of certificates, mark-sheets mentioned therein, one self addressed post card and Demand Draft of Rs. 200/- (Rupees two hundred only) drawn in favour of Kendriya Vidyalaya Sangathan, New Delhi should be submitted; In duplicate, to the Assistant Commissioner (Admin.), Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi-110016.

Applications neatly typed/written, in the prescribed proforma, on white paper only, on one side of the paper in double space (the size of paper should be that of foolscap size (21 x 30 cms) are acceptable. Candidates serving in any recognised institution/Organizations/Autonomous body or Central/State Govt. and C.B.S.E. affiliated 42 Schools must apply through proper channel. Applications through proper channel will be entertained only if they are received within two weeks after the last date. However, candidates should send an advance copy (along with the Demand Draft of Rs. 200/-) so as to reach Assistant Commissioner (Admin.) at the above mentioned address, before the last date. These advance applications will be considered provisionally subject to the condition that the applications through proper channel are received within two weeks after the last date. SC/ST/Ex-serviceperson/Physically Handicapped are exempted from payment of fee. The Ex-serviceperson candidates who have already joined the Govt. job are not entitled for fee concession. Fee paid by Cash, Crossed Cheque, Money Order will not be accepted under any circumstances.

LAST DATE FOR RECEIPT OF APPLICATIONS IS 15TH DECEMBER, 2000.

Instructions to the candidates :

(a) The prescribed essential qualifications are the minimum and mere possession of the same does not entitle a candidate to be called for written test/interview. The K.V.S. may at its discretion to hold a written test, and call the candidates for interview on the basis of merit position in the examination. The decision of the K.V.S. in this regard shall be final and no correspondence will be entertained in this regard.

(b) Departmental candidates belonging to the Kendriya Vidyalaya fulfilling the prescribed qualifications, etc. laid down for the post may apply through proper channel.

Terms and Conditions :

(i) The employees of Central/State Govt. Autonomous Organizations and C.B.S.E. affiliated 42 Schools recognized by the Government which have facilities to release its employees on deputation basis on retaining them are eligible to apply.

(ii) The term of deputation shall be five years and will be governed by the existing instructions of the Government of India relating to deputation. The K.V.S. reserves the right to re-allocate the services of a deputationalist at any time even before the completion of approved deputation period, depending upon their performance, without assigning any reasons. Further, the appointment on deputation basis will not confer any right, on the candidate, for permanent absorption by the K.V.S. at any time.

NOTE : (i) Applications if not received in duplicate shall be rejected.

(ii) Incomplete applications shall be rejected.

(iii) The date of eligibility in all respects shall be the last date for submission of the application.

(iv) No correspondence in this regard shall be entertained.

KENDRIYA VIDYALAYA SANGATHAN

APPLICATION FOR THE POST OF PRINCIPAL

(TO BE FILLED IN BY THE CANDIDATE IN HIS/HER OWN HANDWRITING)

DEMAND DRAFT FORM

FOR RS.

WHETHER BELONGS TO SCHEDULED CASTE/

SCHEDULED TRIBES/OTHER BACKWARD CLASS/

PHYSICALLY HANDICAPPED/EX-SERVICEPERSON

(Name of the Caste/tribe to which belongs Attested copy of the certificate from the Competent Authority should be enclosed)

1. NAME _____

(IN CAPITAL LETTERS)

2. S.L.N. _____

(WHITE M/F IF MALE AND F/F IF FEMALE)

3. FATHER'S/SPOUSE'S NAME _____

(IN CAPITAL LETTERS)

4. DATE OF BIRTH _____ (IN CHRISTIAN ERA)

(BOTH IN FIGURES AND IN WORDS)

Space for
Photograph
Form is liable to
be rejected
without photo

AGE AS ON _____ YEARS _____ MONTHS _____ DAYS _____

5. POSTAL ADDRESS (IN CAPITAL LETTERS)

(a) Permanent _____

PIN CODE _____

(b) Present Address _____

PIN CODE _____

Continued on page 21

Central Administrative Tribunal
Central

7 JAN 2005

জেনারেল মানগুলি
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH - GUWAHATI

O.A No. 303/2004

IN THE MATTER OF:

Sri P.C Mohapatra

Applicant

-V E R S U S-

The Union of India & others

Respondents

Written Statement filed by the
Respondents No. 2 & 3:

I, Sri U.N Khawarey, the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Guwahati, on being authorised to file this written statement do hereby solemnly affirm and file the written statement on behalf of Respondents No.2 and 3 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.

Contd....

Filed by the Respondent
Through Mr. Prakash
S.C.K.V Sangathan
6-1-05

- 2 -

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

3). That the deponent begs to apprise that the grievance of the applicant is that by issuing the order of cancellation of appointment and their repatriation to the substantive post their right have been violated, whereas the applicant has no right to submit that any of their right have been violated inasmuch as in the advertisement it is clearly mentioned that the term of deputation shall be for a period of one year extendable from year to year upto a maximum period of five years and will be governed by the existing instructions of the Government of India relating to deputation and that the Kendriya Vidyalaya Sangathan deserves the right to repatriate the deputationist at any point of time even before completion of the approved deputation period without assigning any reason.

4). That with regard to the statements made in paragraphs 6.A and 6.D, the respondent states that these are matter of records and does not submit any comment.

5). That with regard to the statements made in paragraphs 6.B and 6.C the respondent denies the correctness of the same for, the decision of the

Contd....

Chairman in cancelling the appointment made on deputation basis is lawful.

Had the applicants been appointed as per Rule of the Kendriya Vidyalaya Sangathan, then there was no need for the Kendriya Vidyalaya Sangathan to take action in the manner it has taken now. To allow the applicant to continue in the post would mean to giving a go-bye to all the Constitutional provisions and the Kendriya Vidyalaya Sangathan would remain a silent spectator by suppressing the legitimate rights of those persons who were eligible for being either promoted or recruited as Principals. It is submitted that the then Commissioner who happened to be the appointing authority appointed Principals on deputation basis on year to year basis. Simultaneously, the then Commissioner was approving clubbing of all the posts earmarked for General and OBC / other reserved category and went on appointing Principals on regular basis who were working on deputation, although no such provisions were not made in the recruitment Rule for the post of Principal. In all, upto now, there are 140 candidates whose appointments have been regularised against the Rules and as many as 187 persons working on deputation basis as Principals in various Kendriya Vidyalayas. These persons (Regularised as well as on Deputation) are occupying the posts meant for the reserved as well as general category candidates. The Commissioner's power to appoint Principals in the manner decided by the BOG was not followed strictly resulting in injustice to persons belonging to

Contd....

reserved / general category. The appointments made by the then Commissioner cannot stand the scrutiny of law inasmuch as their has been a flagrant violation of Constitutional provisions vis-à-vis persons belonging to reserved / general category who could not gather opportunity to compete for the post of Principal. Even the Hon'ble Supreme Court's Judgment on reservation has not been followed while operating the recruitment Rules thereby depriving the legitimate right of persons in the reserved category from getting appointed as Principals ever since the then Commissioner started regularising the deputationists as Principals who were initially appointed for a fixed tenure.

6). That with regard to the grounds set forth in the application in paragraph VII, the deponent submits that these grounds are ill founded and no legs to stand to support the claim of the applicant for the irregularities and illegalities as mentioned in above paragraph being committed in appointing the applicant in the initial, it has violated the provisions as under:

I. Direct recruitment quotas of ST/ SC/ OBC categories have been utilized by the deputationist's incidentally, reservation rules are not applicable when the posts are filled up with by way of deputation. Similarly, promotion quotas of all candidates have been utilized by deputationist. Deputationists for such period frustrated the very purpose of reservation Rules.

Contd....

II. By denying the opportunity of competing for the post of Principal to the general public, the Constitutional Provisions have been violated.

Therefore, from the above it is seen that no action contrary to law has been taken by the respondent and the actions have been taken in accordance with the Constitutional provisions and further more the applicants have no vested rights conferred upon them to seek quashing of the order dated 18-11-2004 and in the circumstances it is submitted that the applicant have not made out any case for interference by this Hon'ble Tribunal.

It is further submitted that, as submitted above there were irregularities committed by the then Commissioner, the present Commissioner referred the matter to the Chairman for taking a decision although the Commissioner himself had pointed out the following steps to rectify the same and details that was put forward by the Commissioner in this regard are as follows:

"Considering this blatant violations in the recruitment rules for the posts of Principals the following policy decisions are proposed to rectify the situation:

i. The order of appointment issued to the Principal on deputation for regularising their service as Principals while working on deputation may be cancelled.

Contd....

ii. All the deputationist working as Principal may be repatriated to their parent cadre.

iii. Recruitment Rules for Principals may be amended providing for 45% qualifying marks in Master Degree in case of direct recruitment and in case of promotees minimum 1 year qualifying service as Vice Principal in the Kendriya Vidyalaya for promotion to the post of Principal.

iv. Special Recruitment drive may be made for SC and ST to fill up the backlog vacancies followed by the general recruitment for all categories to fill up the remaining vacancies".

Thereafter, on getting the direction from the Chairman, the Commissioner proceeded to issue the order dated 18-11-2004. A reading of the order dated 18-11-2004 itself makes it clear that the Commissioner had applied his mind and it is only the applicant who are twisting the facts.

As submitted in the preceding paragraphs, the chairman, KVS who is duty bound to implement the decisions of the BOG has after going through the records took a decision in the manner resulting the issuance of the order dated 18-11-2004. This order had not been issued in violation of any principles of natural justice but to protect the constitutional provisions. It is further submitted that the orders has not been issued by way of punishment but the same

Contd....

-7-

has been passed for, their appointments as Principals when effected by contravening the rules. It is submitted that the order dated 18-11-2004 is not primitive in nature inasmuch as the applicant's original position has been restored and therefore question of civil rights having been violated does not arise.

It is most specifically submitted that since there is no right for the applicant to continue as Principal on deputation and his further continuance would have harmed the interest of the organisation, it was the high time that a decision was taken in this regard to review the appointment made. Had the appointment were made in accordance with rule no review would have taken place and therefore it cannot be stated that the order dated 18-11-2004 repatriating the applicant is illegal. It is further submitted that no prejudice is caused to the applicant and even if the principle of natural justice were to be followed the result would have been same inasmuch as appreciating the rule of deputation the applicant would not have got any right to continue in the post.

8). In view of the above it is submitted that there is no merit in the O.A and the O.A is liable to be dismissed with cost, it is also prayed that in view of the above the interim order passed by this Hon'ble Tribunal may be vacated.

AFFIDAVIT / *Verdict*

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 solemnly affirm and declare as follows:

1. That I am the Assistant Commissioner of the Kendriya Vidyalaya Sangathan, Maligaon, Guwahati, as such I am acquainted with the facts and circumstances of the case. By virtue of my office I am competent to swear this affidavit.
2. That the statements made in this affidavit and in the accompanying application in paragraph 1, 2, 3, 4, 5 are true to my knowledge, those made in paragraphs being matter of records are true to my information derived therefrom. Annexures _____ are true copies of the originals and groups urged are as per the legal advice.

And I sign this affidavit on this the 4th day of *January* October, 2005 at Guwahati.

Identified by

Uday Narayan Khawarey

DEPONENT

Advocate's Clerk.

55
Filed by
the applicant
through
Subrat Bhuya
Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Central Admin. **GUWAHATI BENCH - GUWAHATI**
O.A.NO. 903 OF 2004
2 FEB 2004 MISC. CASE NO. /2004

Between

P.C.MAHAPATRA Guwahati Bench

Applicant

AND

The Kendriya Vidyalaya Sangathan and others

Respondents

REJOINDER FILED BY THE APPLICANT HEREIN

I, Shri P.C.Mahapatra S/O Shri S.B.Mahapatra aged about 42 years, Principal, KV Dholchera, (Assam) do hereby solemnly and sincerely affirm and state as follows:

1. I am the applicant herein and as such well acquainted with the facts of the case. I submit that I have read the reply statement filed by the respondents herein and having understood the contents, do hereby deny all the material allegations, save those that are specifically hereunder.

2. The applicant begs to state that the entire reply statement is filed on a presumption that the applicant was initially engaged as Deputationist due to non-availability of suitable candidates for the direct recruitment and promotion. At this outset it is important to have a glance at the recruitment rules for the post of Principal. The deponent states that 66.2/3% is by direct recruitment on the basis of All India advertisement and 33.1/3% by promotion. The applicant falls under the category of 66.2/3% direct recruitment. It is a precondition to advertise for direct recruitment and only in the event suitable candidates are not available by following such procedure, the respondent Sangathan can opt for filling up the vacancies on Deputation basis. No suitable answer has come up from the respondents as to what are the efforts made by them for obtaining regular direct recruitment candidates before they opted for the procedure of drawing candidates by way of Deputation. No details or statistics are forthcoming from the reading of the reply statement filed by the respondents. The respondents, had they followed the procedure properly they would have definitely given the details and in the absence of such details an adverse inference need to be drawn that no such procedure has been followed and therefore, this Hon'ble Tribunal ought to lift the veil to see the mischievous intentions of the respondents in trying to repatriate/downgrade the posts of the applicants for no fault of theirs. Even as per the amended recruitment rules, an effort is to be made for direct recruitment before opting for filling up the vacancies by way of Deputation. The applicant states that no effort has been made by the respondents to fill up the vacancies by way of direct recruitment before opting for Deputation.

P.C. Mahapatra

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3. Applicant begs to state that a perusal of Appendix-12 of the Accounts Code for the Kendriya Vidyalaya clearly indicates that the term Deputation/Foreign Service can be used only in the event of appointments made in public interest outside the normal field of deployment (i) on a temporary transfer basis to other Central Government Departments and State Governments and (ii) on temporary transfer on foreign service to bodies (incorporated or not) wholly or substantially owned or controlled by Government and organizations like Municipalities, Universities etc. The applicant is borne on the records of KVS as PGTs prior to his selection as Principal and even as Principal he is borne on the records of KVS. As such there is no element of Deputation in the selection of the applicant and hence by no stretch of imagination, his selection can be termed as Deputation. As already submitted an effort must be made by the respondents to appoint Principals by way of direct recruitment prior to appoint Principals on Deputation basis and hence the applicant reiterates that the selection of the applicant is a Direct Recruitment and the term DEPUTATION is a MISNOMER and MISCHEVIOUS.

4. In the year 2002, the KVS authorities issued instructions to the Asstt. Commissioners of the Regional Offices not to forward the applications of the Principals outside KVS admitting that they are facing shortage of Principals. This act of the respondents clearly indicates that the KVS had many vacancies of the Principals and they needed the services of the applicants to run the schools. By way of issuing such orders the respondents have deprived the applicant of an opportunity outside KVS.

(A copy of the instructions is annexed hereto and marked as Annexure-A.)

5. The respondents have not offered promotion by applying the rule of pro forma promotion to any Principal working on so called Deputation basis who have fallen in the zone of Promotion from the post of PGT to Vice Principal from the year 2000 to 2004, which clearly indicates that the KVS has treated all these appointment on regular basis.

6. The applicant begs to state that the respondent KVS being an instrumentality of State under Article 12 of the Constitution of India should act more responsibly respecting the Fundamental Rights and Principles of natural justice. In the instant case, having recruited the applicant, the respondents did not even feel the necessity of issuing a notice disclosing the intentions to cancel the appointment of the applicant as Principal and they make a self serving statement that the cancellation of appointment of the Principals by proceedings dated 18-11-2004 is not by way of any disciplinary proceedings as the same is only to correct the mistake committed by the department. The deponent states that such a statement

P. R. Mahopadhye

by the respondents indicates the irresponsible and arbitrary attitude they have towards their employees in utter disregard of all the rights available to them. The statement submitted by the respondents that the constitutional provisions have been violated as the general public was denied of the opportunity of competing for the post of Principal does not hold good because the applicant was selected through open advertisement inviting applications from all eligible candidates belonging to all category.

7. It is not out of place that the respondents failed to explain as to the reasons existing for cancellation of the appointments in such haste in utter disregard to the Constitutional Rights as well as the Principles of natural justice. In the process, the respondents are committing a blunder of canceling the duly selected Principals by directing them to handover the charge by making adhoc arrangements, by directing them to handover the charge to the Vice Principals/Senior most PGTs. The respondents failed to explain as to how such an arrangement would correct the imbalance in the rule of reservation, which they allege had occurred by the appointment of the applicants.
8. The applicant states that the respondents failed to explain as to how the Chairman can over rule the decision taken by the Board of Governors in their 65th Meeting, which was ratified, in the 66th meeting. Further the respondents failed to explain the irregularity committed by the then Commissioner when he is only an implementing authority and he has only implemented the decision of the Board of Governors as approved by the Department of Personnel and Training
9. Applicant states that the appointing authority for the post of Principals is the Commissioner and the Chairman has no right to interfere when the Commissioner was implementing the decisions of the BOG as Executive Head to implement the rules and regulations as decided by the BOG of the Sangathan. Under Article 15 of the Education Code for KVS, the Commissioner has got power to make appointment to all posts at Head Quarters and Regional offices as well as Vidyalayas corresponding in status to Group-A excluding Asst. Commissioner and above, on the recommendation of the Appointment Committee/DPC. The deponent states that the Commissioner made the appointment of the applicant pursuant to the minutes of the 65th and 66th Meetings of the Board of Governors and only on the recommendation of the Appointment Committee/DPC and as such there is no irregularity committed by the Commissioner, which warranted the interference of the Chairman. The applicant is appointed after following the due procedure prescribed for the selection and the applicant is also fully qualified to hold the post of the Principal and therefore, the interference of the Chairman is uncalled for and unwarranted. The applicant states that when the Commissioner only implemented the decision of the BOG, the Chairman has no authority to direct the Commissioner to nullify the resolutions of the BOG.

P. P. Mahopatra

10. The applicant begs to state that the statements of the respondents that there is no provision for regularizing the deputationist against the regular vacancies without following the recruitment rules is a mischievous and misleading statement intended only to disguise the malafide actions of the respondents in repatriating the services of the applicant as PGT without even following the basic minimum principles of natural justice and the protections available to them under the service rules as well as the Constitution of India. It is not out of place that the applicant was not recruited without following any recruitment rules and it is respectfully submitted that the applicant is fully qualified and selected only pursuant to the procedure followed for direct recruitment.

11. The applicant begs to state that the entire procedure followed for recruiting the applicant is the procedure that is to be adopted for direct recruitment, as is evident from the fact that the procedure adopted for the direct recruitment of the SC/ST/OBCs is the same as that is followed for the selection of the applicant. In fact the applicant as well as the reserved category candidates have gone through the same procedure for their selection and there is no difference. For instance a written test was conducted followed by an interview, which constituted the selection process for both the reserved category as well as the applicant who belongs to the general category. The deponent respectfully states that though mistakenly the respondents termed the selection of the applicant as by way of Deputation, their intention all along is only to select the applicants on Direct recruitment basis since the procedure that is to be adopted is first to make an attempt to secure candidates for direct recruitment, failing which by way of deputation. When the respondents are not forthcoming with any information as to the attempts made by them to procure Principals by way of direct recruitment, for all practical purposes as well as per the intentions of the respondents, the applicant was recruited as Direct recruitment Principal and they are estopped from taking a huge U turn and state that they were initially recruited as deputationists and therefore, their regularization and absorption in the KVS is unsustainable.

12. It is pertinent to point out that the Chairman is not the Competent Authority as per the Education Code and therefore, the Chairman cannot abrogate the powers that are not vested in him and try to interfere and over rule the acts of the Commissioner done pursuant to the decision of the Board of Governors.

13. Applicant states that the analysis of the reply statement filed by the respondents indicate that the decision to cancel the appointments of the applicant is taken in view of the fact that there was a violation of the reserved quota system but the respondents failed to furnish any statistics or any facts to prove their contention. The bald and bare statements cannot be a justification for cancellation of the appointments of the applicants. In fact the rule of reservation is followed as is

P.C. Mahapalna

evident from the notification calling for candidature wherein, it is categorically mentioned that the backlog vacancies etc., of the reserved communities.

14. Applicant respectfully begs to state that in June 2001 the services of 84 Principals recruited through the same procedure and qualification were regularized after completion of one year in the post. In the month of June 2002 the services of only 20 Principals appointed in applicant's batch were regularized and in the month of June 2004 again the services of another 36 Principals of applicant's batch leaving 26 Principals were regularized. The deponent is being repatriated as PGT whereas other Principals selected through same procedure and qualification in the same year and placed in the same panel have been absorbed as regular Principals.
15. Applicant begs to state that the respondents cannot be permitted to use the word Deputation to their favour when for all practical purposes I was selected as Direct recruit Principals. Assuming but without admitting deponent states that when his initial recruitment is for a tenure of 5 years his continuation as Principals cannot be termed as indefinite when not even the minimum tenure offered is allowed to be completed. Moreover, there are no unfettered powers to cancel the deputation without assigning any valid reasons. The deputation can be concluded only basing on the conduct, performance and achievements but not otherwise. Therefore, even on this count the respondents miserably failed to make out a case for the repatriation of the applicants.
16. Applicant states that the intention of the respondents is always to treat the recruitment of the applicant as Direct recruitment in letter and spirit as could be seen from the fact that consequent to the selection of the applicant as Principal the vacancies of the PGTs were filled up on regular basis. The said vacancies arose as a result of the applicants being selected as Principals. Therefore, whatever may be the terms used by the respondents, the process that was undertaken was only for direct recruitment but not Deputation. Now the respondents cannot be permitted to take advantage of the terminology used by them and term the selection of applicant as only deputation but not direct recruitment.
17. Therefore, it is prayed that this Hon'ble Tribunal may be pleased to allow the O.A. as prayed for and to pass such other or further orders as it deems just and proper in the circumstances of the case or else the applicant herein will suffer irreparable loss and injury.

P. P. Mahapalne

VERIFICATION

I, Shri P.C.Mahapatra S/O Shri S.B.Mahapatra aged about 42 years, by profession service , resident of Dholchera (Assam), do hereby verify that I am the applicant in the rejoinder. I am acquainted with the facts and circumstances of the case. I hereby verify that statements made in paragraphs 1 to 17 are true to my knowledge and that I have not suppressed any material facts.

And I set my hand in this verification today 2005, at Guwahati.

P.C. Mahapatra

Signature

-7-

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

Answered-A

No. F-6-50/84/KVS (Estt.II)

Date: 09/10/2002

(For Personal Attention)

The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
All Regional Offices,

Subject:- Forwarding of application in respect of Principals of Kendriya Vidyalaya for employment outside the Sangathan.

Sir/Madam,

I am to draw your kind attention to the above noted subject and to say that in the recent past some Principals of Kendriya Vidyalayas have applied for employment on deputation basis or as a direct recruitee outside the Sangathan in response to the open advertisement of the respective organisation.

02. It is informed in this behalf that the matter has been examined at length under the provisions of rules and also taking into the consideration of the facts the services of the Principals of Kendriya Vidyalayas are required for smooth functioning of the Vidyalayas so that the students who are studying in the Vidyalaya should get the education in an uninterrupted manner.

03. At present the KVS is running short of required number of Principals to man the vacant posts and therefore, it has been decided by the competent authority not to allow the existing Principals to apply for outside employment.

04. In view of this fact all the Assistant Commissioners are advised, not to forward application from the Principals for employment outside KVS.

05. This issues with the approval of the competent authority.

Yours faithfully,

Sd/

(S. K. Talapatra)
Sr. Administrative Officer (Estt.)

Copy to:-

01. All dealing hands of Estt - II Section.

No. F.Misc/2003/KVS(GR)/

Dated 14/02/2003

Forwarded to all Principals of Kendriya Vidyalayas under Guwahati Region for information and necessary action.

Sd/

(S. S. Sehrawat)
(Assistant Commissioner)

Attested
Shreyas