

50/100

4

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

(DESTRUCTION OF RECORD RULES, 1990)

**INDEX**

O.A/T.A No. 0429/2004

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

E.P/M.A No.....

1. Orders Sheet.....O.A.....Pg. 1.....to 4.....
2. Judgment/Order dtd. 06.05.2005.....Pg. 1.....to 14 Allow counter Jmt  
04 224/03 & 49/2004
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A.....04 49/04.....Pg. 1.....to 24.....
5. E.P/M.P.....Pg.....to.....
6. R.A/C.P.....Pg.....to.....
- ✓ 7. W.S.....Pg. 1.....to 19.....
8. Rejoinder.....Pg.....to.....
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.)

Kalish  
08/11/17

FORM NO. 4  
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH.

ORDER SHEET

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

49/04

In O.A.

Name of the Applicant(S) N. Jha

Name of the Respondent(S) U.O.T Jams

Advocate for the Applicant S. Sarma, Ilin U. Dey

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

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

27.2.2004

Heard Mr. S. Sarma, learned counsel for the applicant and also Mr. M.K. Mazumdar, learned counsel for the respondents.

Issue notice to show cause as to why the application shall not be admitted. Returnable by four weeks.

List on 30.3.2004 for admission. In the meanwhile, the respondents are directed to collect the normal licence fee from the applicant.

Steps taken.

Dy. Registrar

JS  
26/2/04

Synopsis to be obtained

mb

K.V. Das  
Member (A)

Notice & order dt. 27/2/04  
sent to D/Section for  
issuing to respondents  
nos - 1 to 5.

27/3/04

6.4.2004

Heard Ms. U. Das, learned

counsel for the applicant and also  
Mr. M.K. Mazumdar, learned counsel  
for the respondents.

The application is admitted,  
returnable by four weeks.

List on 21.4.2004 for orders.  
Interim order dated 27.2.2004 shall  
continue.

*K. V. Prasad*  
Member (A)

mb

1.6.2004

Four weeks time is given to the  
applicant to file rejoinder. List on  
22.6.2004 for orders.

*K. V. Prasad*  
Member (A)

mb

20.7.04.

Present: The Hon'ble Mr.K.V.

Sachinandan, Judicial  
Member

The Hon'ble Mr.K.V. Prahlada,  
Administrative Member

When the matter came up for hearing the learned counsel for the applicant submitted that she has received the copy of the counter affidavit but she wants to file rejoinder. Let it be done within two weeks. Post the case before Division Bench.

*K. V. Prasad*  
Member (A)

*K. V. Prasad*  
Member (J)

lm

1.10.2004

On the plea of learned counsel  
for the applicant, list on 5.11.04  
for hearing.

*K. V. Prasad*  
Member (A)

mb

*P. V. Prasad*

Pl copy order  
dated 6/4/04.

NS  
6/4/04

notice issued vide  
NO. \_\_\_\_\_ dated \_\_\_\_\_.

2.6.04

W/S submitted  
by the Respondent.  
No. 3.

*P. V. Prasad*

A/D card return  
from respondent  
No-1.

*Class*  
10/6/04.

30.9.04

Service duly served  
on Respondent No.1. ~~except~~

W/S submitted by the  
Respondent No.3 and No. W/S  
submitted by the respondent  
No. 1, 2, 4 & 5.

4-11-04

Pl come ready for  
hearing.

O.A. 49/2004

Notes of the Registry

Date

Order of the Tribunal

5.11.2004

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

Case is ready for hearing.

None for the parties. List on

10.12.2004.




Member (A)

mb

14.12.04.

Ms.U.Das learned counsel for the applicant is present. None for the respondents. The learned counsel for the applicants states that she will inform the learned counsel for the respondents. Stand over to 15.12.04.


lm

  
Vice-Chairman

15.12.2004

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

Ms U. Das, learned counsel for the applicant and Mr M.K. Mazumdar, learned counsel for the respondents seek adjournment in order to place all rules applicable in the matter as also the order of allotment of the residence to the applicant. Stand over to 9.2.2005 alongwith identical matter O.A.No.224/2003.


  
Vice-Chairman

nkm

09.02.2005

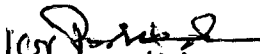
Present : The Hon'ble Mr. M.K. Gupta,  
Judicial Member.


List on 10.02.2005 for hearing  
before the Division Bench.

  
Member (J)

mb

10.2.05. ... Adjourned on the request of Ms. U. Das  
learned counsel for the applicant to  
11th Feb, 2005.

  
Member (A)


  
Member (J)

lm

11.2.2005 Present: Hon'ble Shri M.K. Gupta,  
Judicial Member

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

After hearing the learned counsel  
for the parties for sometime, list for  
further hearing on 15.2.05.

  
Member (A)

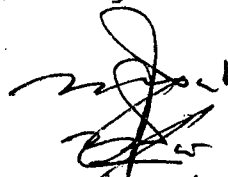
  
Member (J)

nkm

17.2.2005

Heard both sides at length. Order  
is reserved.

  
Member (A)

  
Member (J)

bb

20.5.05

6.5.2005

Judgment pronounced in open Court.  
kept in separate sheets.

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

  
Member

bb

Copy of the judgment  
has been sent to  
the office for the  
issuance of the order to  
the L/Advocate  
for the parties.

HH

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

XXXXXXXXXXXXXXXXXXXX  
GUWAHATI BENCH: GUWAHATI

O.A.No. 224/2003 & 49/2004  
XXXXXXX

DATE OF DECISION 06.05.2005.

Rajveer Singh & Anr. Applicant(s)

Mr. S. Sharma and Ms. U. Das Advocate for the Applicant(s)

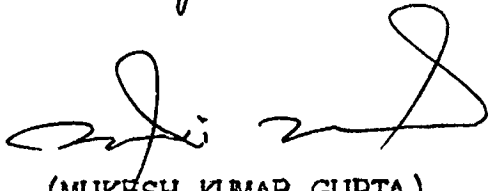
VERSUS

Union of India and Others Respondent(s)

Mr. M.K. Mazumdar Advocate for the Respondent(s)

CORAM: SHRI MUKESH KUMAR GUPTA, MEMBER (J)  
SHRI K.V. PRAHLADAN, MEMBER(A)

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

  
(MUKESH KUMAR GUPTA)  
MEMBER (J)

X

**CENTRAL ADMINISTRATIVE TRIBUNAL**

**GUWAHATI BENCH: GUWAHATI**

**ORIGINAL APPLICATION Nos. 224/2003 & 49/2004**

**DATED THIS THE 6TH DAY OF MAY, 2005**

**SHRI MUKESH KUMAR GUPTA, MEMBER (J)**

**SHRI K.V. PRAHLADAN, MEMBER (A)**

**O.A. NO.224/2003**

Shri Rajveer Singh,  
C/o Shri Dhara Mal,  
Post Graduate Teacher (Economics),  
Kendriya Vidyalaya,  
Umroi Cantt, Meghalaya-793103.

(By Advocates Mr. S. Sharma and Ms U. Das)

Vs.

1. The Union of India,  
Represented by the Secretary  
to the Government of India,  
Ministry of Human Resources & Development,  
NEW DELHI

(deleted vide Order dated 8.12.2004 in MA No. 125/2003)

2. The Commissioner.  
Kendriya Vidyalaya Sangathan,  
18, Institution Area,  
Shaheed Jeet Singh Marg,  
NEW DELHI-16
3. The Assistant Commissioner,  
Kendriya Vidyalaya Sangathan (R.O),  
Guwahati-12 (Assam).
4. The Principal,  
Kendriya Vidyalaya, Umroi Cantt.  
Shillong, Meghalaya.
5. The Principal,  
Kendriya Vidyalaya, N.T.P.C.  
Badarpur, New Delhi-44. ...

Respondents



(By Shri M.K. Mazumdar, Advocate)

**O.A. NO.49/2004**

Shri Narottam Jha,  
Physical Education Teacher,  
Kendriya Vidyalaya,  
North East Hill University (NEHU),  
Shillong (Meghalaya)

. .... Applicant

(By Advocates Shri S. Sarma and Ms. U. Das)

Vs

1. Union of India,  
Represented by the Secretary,  
(Department of Education),  
Ministry of Human Resource &  
Development, Shastri Bhawan,  
NEW DELHI -110 001.
  2. The Commissioner.  
Kendriya Vidyalaya Sangathan,  
18, Institution Area,  
Shaheed Jeet Singh Marg,  
NEW DELHI-16.
  3. Mr. S.S.Sahrawat,  
The Assistnat Commissioner,  
Kendriya Vidyalaya Sangathan,  
(Guwahati Region), Maligaon Chariali,  
Guwahati-12.
  4. Mr. R.K.Gautam,  
Principal, Kendriya Vidyalaya (NTPC),  
Badarpur, New Delhi-110 044.
  5. The Principal,  
Kendriya Vidyalaya,  
North East Hill University (NEHU) Campus,  
Shillong -22
- Respondents

(Shri M.K. Mazumdar, Advocate)

**ORDER**

**SHRI MUKESH KUMAR GUPTA, MEMBER (J)**

Since the questions of law involved in these two applications are grounded on common facts, they are being disposed of by the present common order.

*[Signature]*



2. The questions of law involved are i] whether a teacher of Kendriya Vidyalaya, who was allotted accommodation by the Kendriya Vidyalaya, Badarpur, New Delhi, is liable to pay damage rent on being transferred and posted to North Eastern Region after 2 months of such transfer and ii) whether the employee of KVS transferred to North East Region will be eligible to retain the residence allotted by the KVS for the period prescribed by the Government from time to time.

FACTS OF O.A. NO.224/2003

3. Shri Rajveer Singh joined Kendriya Vidyalaya Sangathan (hereinafter referred to as 'KVS' for short) on 30.11.1981 and while working as PGT, Economics, KV, NTPC, Badarpur, New Delhi, was transferred to KV, Umroi Cantt., Meghalaya, vide order dated 16<sup>th</sup> August, 2001. He was relieved on 17<sup>th</sup> August, 2001 and joined his duties at the new place of posting on 11<sup>th</sup> September, 2001. While posted at KV, NTPC, Badarpur, he was allotted residential accommodation No.6-A/III vide communication dated 3.12.1996 by the Principal, KV, NTPC, Badarpur, New Delhi. He submitted representation dated 20<sup>th</sup> August, 2001 seeking permission to retain the said Quarter which was granted by the Principal, KV, NTPC, Badarpur under para 11-B, of Appendix-24 of KVS Accounts Code stipulating the condition that the licence fee payable would be one and half times of the normal rates. Subsequently, vide communication dated 14<sup>th</sup> June, 2002, he was directed to vacate/surrender the Quarter in his possession by 30<sup>th</sup> June, 2002 and after that he was made liable to pay penal rent at NTPC rules. He submitted various representations including the

*[Handwritten signature]*

one made on 15<sup>th</sup> July, 2003, stating that since his children are studying in Schools as well as College and higher education facility being not available at the place of his posting and also for the reasons that his wife being a TB patient, he be allowed to continue to retain the said residential accommodation. Further more, it was pointed out that he was granted such permission as per facilities available for serving in North East Region under Appendix 24 of KV Accounts Code. The Principal, KV, NTPC, Badarpur, New Delhi, vide communication dated 1<sup>st</sup> August, 2003 addressed to the Principal KV, Umroi Cantt., conveyed that the applicant would have to pay market rent with effect from 17.10.2001 at the rate of Rs.3794/- per month besides electricity and water charges at the rate of Rs. 14/- and Rs. 2/- respectively and the latter was directed to recover the amount of market rent from the applicant's salary with effect from 17.10.2001. Subsequently, vide communication dated 29<sup>th</sup> August, 2003, a revised rate of licence fee as well as statement containing the amount recoverable from the applicant was issued by the Principal, KV, NTPC, Badarpur to Principal, KV Umroi, as per which a sum of Rs.96,164/- was required to be recovered from the applicant till August 31<sup>st</sup>, 2003.

FACTS OF O.A. NO.49/2004

Shri Narottam Jha, joined as Physical Education Teacher with KVS on 5.8.1974 and while working in the said capacity at NTPC, Badarpur, New Delhi, was transferred in public interest to KV, EAC, Upper Shillong (Meghalaya) vide 17<sup>th</sup> April, 2002 and accordingly joined his duties on 6<sup>th</sup> May, 2002. He was transferred once again from the said School to KV, North East Hill University




(NEHU), Shillong, vide order dated 11<sup>th</sup> April, 2003. While working as Physical Education Teacher with KVS, Badarpur, he was allotted Government residential accommodation No.6-A/IV, BTPS Staff Colony. He submitted a request dated 23<sup>rd</sup> April, 2002 for retention of the said accommodation under para-11B, Appendix-24 of KV Accounts Code. The licence fee as per rules was paid by the applicant and accepted by the respondents till August, 2003. Vide communication dated 1<sup>st</sup> August, 2003, the Principal KV, NTPC, Badarpur directed the Principal, KV, NEHU, Shillong to make immediate recoveries from him and also issued the statement containing the details of amount of licence fee etc. He submitted representation dated 1.11.2003 as well as 18.12.2003 through proper channels to the Chairman (Nominee) VMC, KV, NTPC, Badarpur and also met him personally. This meeting was disliked by the Principal, KV, NTPC, Badarpur and he, therefore, vide communication dated 12.12.2002 requested Assistant Commissioner, KVS, Guwahati, to direct Principal, KV, NEHU, to make immediate recoveries from him, which was endorsed to the applicant vide communication dated 7.1.2004. He submitted further representation dated 18<sup>th</sup> February, 2004 to the Assistant Commissioner, KVS, Guwahati and specifically pointed out that he was allowed to retain the accommodation as per the verbal order of the Chairman, VMS, KV, NTPC and he is yet to receive any specific response turning down the said request from him.



5. Both the applicants have challenged the respondents action for recovering damage and market rent for the residential accommodation occupied by their families for bonafide use.

6. The respondents have resisted their claim and taken more or less the same stand in both the O.As. In the reply filed it was stated that KVS have framed rules in the Code under Chapter XIX (Land and Building). Article 163 deals with "Quarters and Cantonments and Factories areas rent for". Under Article-163-A, the Principal is required to work as Care Taker of all the assets etc. to be maintained and in the possession of KVS. Further, that KVS (Allotment of Residence), Rules 1998, have been framed as appearing vide Appendix-28 of the Accounts Code. Rule 3.10 defines meaning term of 'residence'. Rule-20 deals with the applicability to rules framed by the Government, while Rule-21 deals with the applicability of the Rules of sponsoring Agencies. It was stated that NTPC, KV, Badarpur, is a project fully financed by the NTPC and under the Rules, an official is entitled to retain the quarter/accommodation only for a period of 2 months and thereafter liable and obliged to pay market rent/damage rent. NTPC, Badarpur, asked for collection of regular rent payable as fixed for its own employee and therefore, the respondents action in directing the Principal of the School concerned to recover market rent was justified.



7. The applicant in O.A. No.224/2003 has filed rejoinder and disputed the contentions raised by the respondents. No rejoinder was filed in O.A. No.49/2004.

8. We have heard learned counsel for the parties at length and perused the pleadings carefully.

9. Before we proceed further, it will be expedient to notice certain provisions of Rules, definition and orders applicable in such circumstances. Appendix-24 of the Accounts Code for KVS deal with the "Special Allowance and Facilities for Service in North Eastern Region Etc." Para-11 deals with the concession regarding rant of HRA and has been divided into 2 part. Section-A deals with "Benefit of Double HRA", while Section-B deals with "Retention of Allotment of Alternate Government Accommodation." The said para 11-B reads as under:

"11-B .Retention of a allotment of alternate Government accommodation -

The facility of retention of Government official accommodation will continue to be available. Licence Fee will be charged at normal rates if the accommodation is below the entitled type and at one and a half times the applicable normal rates if the entitled type is retained. The facility of retention will be admissible for three years beyond the normal permissible period of retention.

Note:

- i. The benefit will not be admissible to those employees who shift their families to a station other than last place of posting or bring their families to the place of their transfer/posting.
- ii. The quantum of HRA at the last station where the family continues to stay will not change till the employees remains posted in that area and the family continues to stay at that station." (emphasis supplied)



KVS (Allotment of Residence) Rules, 1998, were also framed and noticed in Appendix-28 of the said Code. Rule 20 and 21 of the aforesaid Rules reads as under:-

“20. Applicability to Rules framed by the Government.

The Allotment of Government Residences (General Pool in Delhi) Rules of the Government and the orders issued there under shall mutatis-mutandis apply in respect of the matters not provided under these rules as also in matters of reservation of residences for allotment to the SC/ST and other categories of employees.

21. Applicability of the Rules of sponsoring Agencies.

Notwithstanding anything contained in these rules, the orders and rules of the sponsoring agencies shall mutatis-mutandis apply where the terms and conditions of allotment so provide.” (emphasis supplied)

Rule-3 deals with Definition and Clause-3(10) defines ‘Residence’ as:

‘Residence’ means any building under the control of the Kendriya Vidyalaya, Regional Offices(s) and Headquarters office of the Kendriya Vidyalaya Sangathan, and authorized to be used as residence, including residence belonging to the sponsoring agencies and handed over to the Sangathan for allotment to the employees of the Sangathan.”

Shri S. Sharma appearing along with Ms. U. Das, learned counsel for the applicants, vociferously contended that the applicants cannot be subjected to the market/damage rent as under the Rules, they are entitled for retention of Government accommodation at the last Station for a period of 3 years beyond the normal permissible period and for this purpose strong reliance was placed on Rule-12 of the KVS (Allotment of Residences) Rules, 1998, which deals with the subject “Period for which allotment

subsist and the concessional period for further retention". Clause-7 of the aforesaid Rule-12 reads as under:

"The employee transferred and posted in North Eastern Region, Andaman & Nicobar islands will be eligible to retain the residence allotted under these rules for the period prescribed by the Government from time to time."

Ld. Counsel strongly contended that the applicants are entitle to retain the residential accommodation under the aforesaid provisions of the rules and respondents action in levying the damage rent is arbitrary, illegal, discriminatory and untenable in law & therefore, the impugned communications dated 1.8.2003, 29.8.2003 as well as 7.1.2004 are liable to be quashed. Reliance was also placed on KVS communication dated 22/23.11.2001 to the Assistant Commissioner, Regional Office, Patna in the respect of Sh. R.S.Yadav and Smt. Radha Upadhyaya, teachers of KV, Varanasi transferred to N.E. Region, wherein similar reference to Rule 12 (7) of the KVS (Allotment of Residence Rules, 1998 as well as provisions envisaged under Appendix-9 of FR/SR were made. Strong reliance was also placed on Directorate of Estates OM No 12035/24/77-Pol.II (Vol.IV) Dated 30<sup>th</sup> April, 2002 whereby the facilities for retention/allotment of alternate Govt. accommodation by Civilian Central Govt. employees and officers posted to the States of N.E Region, Sikkim, Union Territory of Andaman and Nicobar Islands and Lakshadweep has been allowed for a further period of three years i.e upto 30.6.2005.


Sh. Mazumdar, Ld. Counsel for the respondents, on the other hand, contended that the applicants are governed by the rules of the sponsoring agencies i.e NTPC, whose rules did not permit them



to retain the accommodation for more than 2 months especially in case of transfer/posting like in the present circumstances. It was also denied that the KVS communication dated 22/23.11.2001 would have any relevance in the facts & circumstances of the present OAs, inasmuch as the KV, Varanasi is a defence sector School and not comparable with NTPC.

On bestowing our careful consideration to the contentions raised at bar, and upon perusal of the rules position as well as the admitted facts of the case, we are of the concerned opinion that there is no justification and substance in the respondents contentions for the reasons detailed hereunder:

**Firstly**, under Para 11-B of the Appendix 24, a Govt. official/KV employees are entitled to retention of government accommodation for three years beyond the normal permissible of retention. Rule 20 the KVS (Allotment of Residence) Rules, 1998 also make applicable all Orders/ Rules of Central Government on the said aspect to the KV mutatis mutandis. Merely such similar facilities are not detailed in the rules of the sponsoring agencies, how the teachers merely based on his posting could be denied the applicability of the facilities extended by the Central Govt. Similarly such facilities have been extended by the Central Govt. to its employees including officers of All India Services. Distinction sought to be projected by the respondents between the rules of KVS and sponsoring agencies is illusory, arbitrary and discriminatory and cannot be sustained. We may note that 1976 Rules of Allotment stood implied superseded by 1998 aforementioned rules.





It is well settled law that two conditions must be fulfilled for a reasonable classification, namely, (i) that the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group and (ii) that, that differentia must have a rational relation to the object sought to be achieved by the statute in operation. What is intelligible differentia when the teachers working in the Kendriya Vidyalaya are sought to be distinguished merely based on the School where they are posted like School owned by KVS or funded by the Sponsoring agency. Similarly the object behind providing such facility is to encourage the official to be posted at North Eastern Region as well as other part of the Country like Andaman & Nicobar Islands, Lakshwadeep etc. If the official belonging to KVS are denied to retain residential accommodation at the place of original posting, in comparison to the officials of Central Govt. how the object sought by such policy could become reality. Such classification between the properties of Sponsoring and non sponsoring agency in our considered view is illegal, arbitrary, and discriminatory & do not satisfy twin test and therefore such classification cannot be sustained.

**Secondly**, we may also note one more aspect from the Rules governing on the said aspect. Namely when there is a conflict between the rules framed by the Central Government as well as other Authority/Autonomous body/Society, particularly when all of them are applicable. If there is any inconsistency/repugnancy, the rules framed by the Central Government alone which would

have to be preferred and made applicable and not the rules framed by the Autonomous body/Society/Public Sector like the instance in the present case.

**Thirdly**, Rule 21 of the aforesaid rule i.e. Rules of sponsoring agencies apply mutatis mutandis "where the terms and conditions of allotment so provide". We have perused copy of the allotment letter dated 3.11.1996 allotting the concerned accommodation to applicant in OA No224/2003, which makes reference to Allotment of Residences (KVS) Rules, 1976 and no where deals/makes references to rules of the sponsoring agency i.e NTPC. We were informed that the allotment of accommodation to applicant in OA No 49 of 2004 proceeded on the same lines as of the applicant in OA NO 224/03. We may also note that the applicant in OA No 49/04 vide representation dated 1.11.2003 had made a request to retain the said accommodation "up to academic session of 2004-05", which is well within the limits of three years as provided under the rules/order in vogue.

**Fourthly**, the respondents in their reply statement in OA No 224/03 have specifically stated that: "The market rent of Rs. 3794 per month has been charged w.e.f. 1.11.2001", while on the one hand KVS, Badarpur, New Delhi communication dated 1.8.2003 specifically directed the Principal, KV, Umroi Cantt. to "recover the amount of market rent w.e.f. 17.10.01" from the said applicant, and on the other hand, later communication dated 14.6.2003 as well Deputy Commissioner (Finance), KVS dated 12<sup>th</sup> July, 2002 specifically stated the said applicant "be charged market rent for

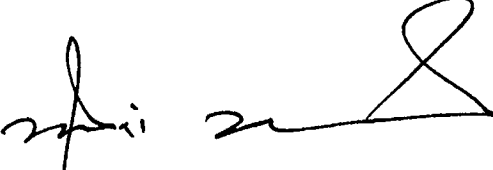
the entire period of overstayal beyond 30.6.2002". When the said applicant was required to vacate the premises upto 30.6.2002 then how the damage rent could be imposed from an earlier date remains unexplained. We may note that date of 30<sup>th</sup> June, 2002 has a relevance & significance inasmuch as it was upto the said date, the facility of retention of residential accommodation, was initially applicable, which has been extended further upto 30<sup>th</sup> June, 2005 by the Directorate of Estate, Ministry of Urban Development & Poverty Alleviation OM dated 30<sup>th</sup> April, 2002. The impugned communication dated 29<sup>th</sup> August, 2003 detailing the arrears of licence fee indeed goes to show that damage rent is sought to be recovered from Nov, 2001. The OM dated 30<sup>th</sup> April, 2002 has not been taken into consideration by the respondents. Therefore, we are of the considered view that there has been no application of mind on the part of respondents while issuing the impugned communications.

In view of the discussion made herein-above, we hold that the applicants were entitled to retain the residential accommodation for a period of three years beyond the normal permissible period of retention & therefore are not liable to damage rent. We further hold that rule 21 of the KVS Allotment of Residences Rules, 1998 cannot be read in isolation and has to be read alongwith Rule 20 of the said Rules and since the terms of conditions of allotment did not provide application of the rules of Sponsoring agencies in exclusion to the Order/Rules of the Central Govt., and rather the Central Govt. applied mutatis mutandis to KVS, the said rule 20 has no application.

Accordingly OAs are allowed. Impugned communications directing the concerned Principal, KV to recover the damage rent from the applicants are quashed and set aside with all consequences.

  
(K.V.PRAHLADAN)

MEMBER (A)

  
(MUKESH KUMAR GUPTA)

MEMBER (J)

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

26 FEB 2004

गौहाटी न्यायाधीश

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUHATI BENCH :: GAUHATI

O.A. No. 49...../2004.

Narottam Jha

..... Applicant.

- Vs -

U.O.I. & ors.

..... Respondents

INDEX

S.No. ***	Description of Documents	*** Annexures	*** Page(s)
1.	Application with Verification	-	1 - 13
2.	Representation dated 23.4.02	Ann-1	14
3.	Provisions of Accounts Code	Ann-2	15- 16
4.	Order dated 29.8.2003	Ann-3	17- 19
5.	Representation dated 01.11.03	Ann-4	20
6.	Representation dated 18.12.03	Ann-5	21
7.	Order dated 07.01.2004	Ann-6	22
8.	Representation dated 18.02.04	Ann-7	23
9.	Order dated 22.11.2001.	Ann-8	24

Filed by - Alsha Das.

Advocate.

22

SYNOPSIS

O.A.No. 49/04

1. That the applicant while serving at Kendriya Vidyalaya, N.T.P.C., Badarpur, New Delhi - 44 was allotted Quarter No. 6A/IV in the capacity of a Physical Education Teacher (P.E.T.).
2. That vide Transfer Order dated 17.04.2002 he was allegedly transferred on surplus ground at Kendriya Vidyalaya, Upper Shillong in North-East Region and accordingly he complied the order under Mr. R.K. Gautam, Principal (who is at present Principal, at K.V., Badarpur and Respondent No.-4 in this O.A.).
3. That thereafter the applicant was again transferred on the same ground to K.V., NEHU, Shillong and again he complied the Order.
4. That on receipt of his Transfer Order the applicant vide Representation dated 23.4.02 (Ann - 1 at page- 14) requested to the Principal for retention of his Quarter for bonafide use of his family as per K.V.S. Rules (Ann - 2 at pages - 15 and 16) on being posted in N-E. Region.
5. That vide impugned Order dated 29.08.2003 (Ann - 3 at pages - 17 to 19) the Respondent No.-4 under his own signature dated 1.8.2003 ordered the recovery of amounting Rs. 77030/- as Licence Fee etc. at Market Rent Rates from the salary of the <sup>applicant</sup> with immediate effect by violating the provisions of K.V.S. Rules as mentioned in Ann - 2 as well as guidelines and order passed by the Dy. Commissioner (Pers), K.V.S., New Delhi (Ann - 8 at page-24) whereby similar category of teachers at Varansi have been permitted to retain their quarters on being posted to N - E. Region but applicant is denied.

6. That thereafter the Respondent No.-4 also allegedly rejected to accept the Licence Fee paid by Demand Draft for the months of September and October'2003.

7. That the applicant wrote several representations to the K.V.S. authorities and the Hon'ble Chairman, (Nominee), V.M.C. at K.V, Badarpur wherein requested for the retention of the said quarter as per the K.V.S. Rules etc. some of which are annexed herewith as ready reference.

8. That the Respondent No.-4 also recommended to Respondent No.-3 who thereby vide order dated 07.01.04 (Ann - 6 at page - 22) directed to Principal, K.V, NEHU (Respondent No.-5) for immediate recovery of the Licence fee etc. at the Market Rent Rates without caring the K.V.S. Rules as well as Govt. of India circulars for providing facilities to the employees on being their posting to N - E. Region from outside and hence this O.A. praying for the stay of the impugned Orders dated 29.8.03 (Ann - 3 ) and Order dated 07.01.04 (Ann - 6).

24  
Filed by  
the applicant through  
Shri Basu  
Advocate  
26/2/04

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUHATI BENCH :: GAUHATI

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

O.A.No .....49...../2004.

BETWEEN

Narottam Jha,

(Physical Education Teacher)

Kendriya Vidyalaya, North-East Hill University (NEHU)  
Shillong, (Meghalaya).

..... Applicant.

- Vs -

1. Union of India,

Represented by the Secretary, (Dept. of Education)  
under Ministry of Human Resources & Development  
(MHRD), Shastri Bhawan, New Delhi - 01.

2. The Commissioner,

Kendriya Vidyalaya Sangathan,  
18, Institutional Area, Shaheed Jeet Singh Marg,  
New Delhi - 16.

3. Mr. S. S. Sahrawat,

The Assistant Commissioner,  
Kendriya Vidyalaya Sangathan, (Gauhati Region),  
Maligaon Chariali, Gauhati - 12.

N. Jha



4. Mr. R. K. Gautam,

The Principal,  
Kendriya Vidyalaya, (NTPC)  
Badarpur, New Delhi - 44.

5. The Principal,

Kendriya Vidyalaya, North-East Hill University,  
(NEHU) campus, Shillong - 22, (Meghalaya).

..... Respondents .

DETAILS OF APPLICATION :-

1. Particulars of the Order(s) against which the application  
is made :-

1.1 Order No. F. KVB - 2003/LF/475 dated 29.8.03 (Ann - 3 )  
passed by the Principal, Kendriya Vidyalaya, N.T.P.C., Badarpur,  
New Delhi - 44 (Respondent No.-4) whereby recovery of Rs. 77030/=  
at the Market Rent Rate is charged from the salary of the  
applicant immediately.

1.2 Order No. F. 2-32/KVS (GR)/2003-04/17109-10 dated  
07.01.2004 (Ann - 6 ) passed by the Assistant Commissioner,  
Kendriya Vidyalaya Sangathan (Gauhati Region), Maligaon,  
Gauhati - 12 whereby directed the Respondent No.-5 (Principal,  
K.V, NEHU, Shillong - 22) for recovery under intimation to  
his office.

2. Jurisdiction :-

The applicant declares that the subject matter of the Order against which he wants redressal is within the jurisdiction of this Hon'ble Tribunal.

3. Limitation :-

The applicant further declares that the application is within the limitation period prescribed in Section - 21 of the Administrative Tribunal Act '1985.

4. Facts of the Case :-

4.1 That the applicant entered in the services of Kendriya Vidyalaya Sangathan on 5.8.1974 and as such while serving as a Physical Education Teacher (P.E.T.) at Kendriya Vidyalaya, (Hereinafter referred to as K.V.) N.T.P.C., Badarpur, New Delhi-44, he was allegedly transferred to Kendriya Vidyalaya, E.A.C., Upper Shillong (Meghalaya) in North-Eastern Region vide office Order No. F.3-1(SUR)/2002 - KVS(E.IV) dated 17.04.2002 passed by the Dy. Commissioner (Admn.) Kendriya Vidyalaya Sangathan, New Delhi - 16 and accordingly the applicant joined his duties on 06.05.2002 in the said Vidyalaya.

Thereafter, the applicant was again transferred from K.V, Upper Shillong to K.V, North-East Hill University (NEHU), Shillong - 22 on alleged ground of surplus and he again complied the Order on 11.04.2003.

4.32

- 4 -

4.2 That the applicant vide a representation dated 23.4.02 requested to the Principal, Kendriya Vidyalaya, N.T.P.C., Badarpur, New Delhi - 44 for retention of his Quarter as per K.V.S. Rules and since then his family alongwith his children is residing in that Quarter on regular payment of normal Licence Fee plus electricity and water charges without any objections.

The copy of the application dated 23.4.2002 and K.V.S. Rules are annexed as Annexures - 1 and 2.

4.3 That the applicant states that the problems of vacating the Quarter and recovery of Licence Fee etc. from Market Rent Rate arose after the transfer of Mr. R.K. Gautam, Principal from K.V. Upper Shillong to K.V. N.T.P.C., Badarpur, New Delhi - 44, for his vested interests only in violation of K.V.S. Rules & Govt. of India policy under which the applicant was serving in Upper Shillong.

4.4 That vide a letter dated 01.08.2003 the Respondent No. 4 sent a forged /doctored Bill at the Market Rent Rates bearing Memo No. F.KVB - 2003/LF/475 dated 29.08.03 under his own signature at the behest of N.T.P.C. authority to the Respondent No. 5 for immediate recovery from the salary of the applicant.

The copy of the letter dated 01.08.2003 with ~~Order~~ dated 29.8.03 are annexed as Annexure - 3.

10/2/04

- 5 -

4.5 That since the joining of the applicant in Shillong, he has been continuously submitting several representations through proper channel to the various authorities of K.V.S. and N.T.P.C. for the retention of his quarter at normal payments paid regularly by Bank Drafts but in vain till date.

4.6 That adding insult to the injury, the Respondent No.4 (Principal, K.V, Badarpur) rejected to accept the DD.No. 518446 dated 29.09.03 and D.D.No. 518771 dated 31.10.2003 in respect of the Licence Fees etc. for the months of September and October'2003 respectively which was sent to him through proper channels. It is to be stated that the Respondent No.4 also ordered to the Respondent No.5 not to forward any representation in respect of the applicant to him and thus illegality, arbitrariness and malafide is apparent from the actions of the Respondent No.-4.

4.7 That thereafter the applicant submitted representations dated 01.11.2003 and 18.12.2003 through proper channels to the Hon'ble Chairman (Nominee), V.M.C., K.V, N.T.P.C., Badarpur and also personally met the Hon'ble Chairman, (Nominee) in the chamber of the Principal, K.V, Badarpur and respectfully submitted his genuine grievances for the retention of the Quarter at normal Licence Fee etc. Be it submitted that the said application dated 18.12.2003 was duly forwarded by the Principal, K.V, Badarpur on 20.12.2003 for necessary action to the Hon'ble Chairman (Nominee) of K.V, Badarpur.

The copy of the representations dated 1.11.03 & 18.12.03 are annexed as Annexures - 4 & 5 respec-

11-32

4.8 That the applicant had a reason to believe that the verbal suggestion/order furnished by the Hon'ble Chairman (Nominee) was disliked by the Respondent No.4 (and) thereafter the Respondent No.-4 vide a letter dated 12.12.03( which appears to be written in back date) requested to the Respondent No.3 to direct the Respondent No.5 for immediate recovery from the salary of the applicant.

4.9 That on receipt of the aforesaid backdated letter dated 12.12.2003 the Respondent No.3 vide Order dated 07.01.04 directed to the Respondent No.-5 for immediate recovery at the market rent rates.

The copy of the Order dated  
07.01.04 annexed as Annexure - 6.

4.10 That on receipt of the said Order dated 07.01.2004, the applicant again requested to the Respondent No.3 vide his representation dated 18.2.2004 not to deduct the Licence Fee etc. at the Market Rent Rate from the salary of the applicant till the disposal of his representations by the Hon'ble Chairman, N.T.P.C, Badarpur sent through proper channels for seeking justice.

The copy of the representation  
dated 18.2.2004 is annexed as  
Annexure - 7.

4382

- 7 -

4.11 That the applicant most humbly submits and states that under similarly situated category of teachers transferred from K.V, Varansi Cantt. to North-East Region have been permitted to retain their quarter at Varansi in compliance with the order dated 22.11.01 passed by the Dy. Commissioner, K.V.S.(H.Q.), New Delhi - 16 but the case of the applicant is not being considered and the applicant is being asked to vacate the Quarter without affording any reasonable opportunity to him and/or also being ordered for Penal Rent recovery at the Market Rent Rates with immediate effect.

Further it is also submitted that the provisions of retention of Quarter has also been extended upto 30.6.2005 by the Govt. of India vide O.M. dated 30.4.2002 and thus the applicant is also entitled for retention of Quarter.

The copy of the Order dated 22.11.01 is annexed as Annexure - 8.

4.12 That the applicant most humbly submits that if Orders of the said recovery of Penal Rents at Market Rent Rates are not stayed and set aside as well as the applicant is not allowed to retain that Quarter No. 6A/IV at Badarpur, it would cause an irreparable loss and injury to the applicant and as such it is a fit case where your Lordship(s) would be pleased to exercise jurisdiction.

- 8 -

4.13 That the applicant demanded justice which has been denied to him.

4.14 That there is no other alternative and equally efficacious remedy except this application which is filed bonafide before your Lordship(s) seeking urgent and immediate justice.

5. Grounds of relief with legal provisions :-

5.1 For that the Orders dated 29.8.03 and 07.01.04 respectively directing to the Respondent No.-5 for the recovery of Licence Fee etc. at the Market Rent Rate is per se illegal, arbitrary and discriminatory as well as in clear violation of the provisions of the Accounts Code for K.V.S. and as such the said Orders are liable to be set aside and quashed.

5.2 For that there are not proper facilities of higher education and medical treatments like AIIMS for the applicants children and wife respectively at NEHU, Shillong - 22 and as such on this ground alone the aforesaid Orders are legally unsustainable in law.

5.3 For that under similarly situated category of teachers in Varansi have been permitted to retain the quarter for a

31/10/04

32

- 9 -

period of three years beyond normal periods and as such the applicant has been discriminated by the Respondents and thus the Orders dated 29.8.03 and 07.1.04 are liable to be set aside and quashed.

5.4 For that the refusing of the Demand Drafts containing the Licence Fee and other allied charges for the month of September and October'2003 respectively sent through proper channel by the Respondent No.4 is totally arbitrary, illegal, malafide and against the principle of natural justice.

5.5 For that the statements of recovery is not sent by N.T.P.C. and the same is doctored documents containing forged/ fabricated entry and as such the same is also unsustainable in law, same being violative of Articles 14,16 and 19 and 21 of Constitution of India and laws framed thereunder.

5.6 For that the applicant is fully eligible for retention of the quarter at K.V,Badarpur in the light of the Order dated 22.11.2001 passed by the Deputy Commissioner(Pers) K.V.S. (H.Q.), New Delhi as per the provisions of Rule 12(7) of Allotment of Residence Rules,1998.

5.7 For that the applicant will suffer an irreparable loss and injury if the penal rent at Market Rent Rate value is recovered from his salary and as such the impugned orders dated 29.8.03 and 07.1.2004 are liable to be set aside and quashed.

32



- 10 -

5.8 For that the aforesaid quarter has been handed over by N.T.P.C. to K.V.S. permanently till the existence of the Vidyalaya and as such this quarter belongs to K.V.S. and therefore the contention of the Respondent No.-4 is totally unreasonable, arbitrary and the same is liable to be set aside and quashed.

5.9 For that the Hon'ble Chairman (Nominee), V.M.C., K.V., N.T.P.C., Badarpur personally asked the Principal for the retention as per K.V.S. provisions and Govt. of India Rules in respect of the applicant on being his transfer to North - East Region and on this ground alone the entire actions initiated by the Respondent No. 4 allegedly is bad in law.

5.10 For that the Order dated 07.1.04 passed by the Respondent No.-2 at the instance of Respondent No.-4 directing for recovery from the salary with intimation to his office suffers from serious infirmity and illegality and as such the same is liable to set aside and quashed.

5.11 For that the Respondents No.-2, 3 and 4 etc. while posted in N.E. Region have/had already availed /availing all the facilities provided by K.V.S. as well as Govt. of India Rules but the applicant is denied the benefit of retention of Quarter of Badarpur. Be it stated that the Respondent No.-3 is still drawing double H.R.A. while residing in K.V.S. (Regional Office) itself alongwith Transport Allowances etc, even though the Govt. transport is provided by K.V.S. and thus the impugned orders are liable to be set aside and quashed on this ground alone.

6.Details of remedies sought for :-

The applicant declares that he has exhausted all the remedies.

7.Matters not pending before any other Court :-

The applicant further declares that this matter is not pending before any other Court.

8.Relief sought for :-

Under the facts and circumstances of the case as stated above the applicant prays for following reliefs :-

- (i) Order dated 29.8.03 passed by the Respondent No.4 be set aside and quashed.
- (ii) Order dated 07.1.2004 passed by the Respondent No.3 be set aside and quashed.
- (iii) The applicant be allowed to retain the quarter at Badarpur as per K.V.S. as well as Govt. of India Rules, at normal rents.
- (iv) The Principal, K.V, NEHU, Shillong - 22 be directed not to recover the licence fee etc. @ Market Rent from the salary of the applicant pursuance to Orders dated 29.8.03 and 07.1.04 respectively.
- (v) With Costs.
- (vi) Any other relief which your Lordship(s) may deem fit, and proper to meet the ends of justice.

9. Interim prayer :-

During the pendency of the rule the operation of the Orders dated 29.3.03 and 07.1.2004 be stayed and the applicant be allowed to retain the quarter at Badarpur, New Delhi on regular payment of Licence fee and allied charges as being paid earlier through proper channel.

10. This application is filed by Advocate(s).

11.(i) I.P.O. No.-.....

(ii) Amount - .....

(iii) Payable at Gauhati .

12. List of Annexures :-

As stated above.

H-32

VERIFICATION

I, Narottam Jha S/O (Late) Ganesh Jha, aged about 54 years and at present working as Physical Education Teacher(P.E.T.) at Kendriya Vidyalaya, North- East Hill University ( NEHU), Shillong (Meghalaya) do hereby verify that the contents of the paragraphs 4.1 — 4.14 are true to my personal knowledge and Paragraphs ----- are believed to be true on legal advice and that I have not suppressed any material facts.

Place:- Gauhati

Date:- 26/02/2004.

Narottam Jha.

Signature of Applicant

To

The Principal.

K.V.M.T.P.C. Badarpur N.D.M.

Sub: - Retention of D No - 6A/IV  
B.T.P.S. Staff Colony BADARPUR  
N.D.M.

Ref: - (i) F.KVB/Transfer/2000/52 dt 20.11.2002  
(ii) F.3-1/SUR/2002 - K.V.S (EIV) dt 17.4.02

Madam

With due respect I have to  
say that I have to join KV Upper Shilling  
as per letter mentioned above.

I want to retain my quarter  
as above mentioned for my family as  
per K.V.S. Rules.

Kindly give me permission to  
retain the quarter.

Thanking you.  
Yours faithfully

(The)

N.Jho.

P.E.T.

Dt 23.04.02

Attested  
as an  
Advocate

(15)

422

Annexure 2

## APPENDIX 24

## SPECIAL ALLOWANCE AND FACILITIES FOR SERVICE IN NORTH-EASTERN REGION, ETC.

The need for attracting and retaining the services of teachers and officers for service in the North-Eastern Region comprising the states of Assam, Meghalaya, Manipur, Nagaland, Tripura, Arunachal Pradesh, Sikkim and Mizoram has been engaging the attention of the KVS for some time. It has been accordingly decided that the following improved allowances and facilities may be sanctioned to the employees of the KVS serving in the North-Eastern Region and Andaman & Nicobar Islands on the analogy of similar orders issued by the Government of India in respect of their civilian employees serving in that area. The orders came into effect from 1.11.83 as extended from time to time.

## 1. Tenure of Posting

There will be a following tenure of posting on transfer at a time for KVS employee having All India transfer liability and on completion of this tenure, they will be considered for posting to a station of their choice as far as possible.

- a) For staff with service of 10 years or less : Three years  
b) For staff with more than 10 years of service : Two years

Period of leave, training, etc. in excess of 15 days per year will be excluded in counting the tenure period. However, the period may be extended in exceptional cases in exigancies of public service or when the employee concerned is prepared to stay longer. Deputation allowance will be admissible during the extended period also.

This will not, however, be applicable to those officers and employees who have been specifically recruited for service in the North-Eastern Region.

## 2. Weightage for service in North-Eastern Region

Satisfactory performance of duties for the prescribed tenure in the North-Eastern Region shall be given due recognition in the case of eligible officers in the matter of:-

- a) Promotion in Cadre Posts;  
b) Deputation to Central tenure posts; and  
c) Courses of training in India and abroad.

A specific entry shall be made in CR of all employees who rendered a full tenure of service in the North-Eastern Region to that effect.

## 3. Special (Duty) Allowance

KVS employees who have All India transfer liability will be granted special (duty) Allowance @ 12-1/2% of basic pay. This will be in addition to special pay

423

and/or Deputation (duty) allowance, if any, drawn. Special compensatory (remote locality) allowance, construction allowance and project allowance can be drawn separately if admissible.

It will not be admissible during leave/training beyond 15 days at a time and 30 days in a year, and during suspension/joining time.

It will not be admissible to the employees serving in the North-Eastern Region etc., who have been specifically recruited by the Saigathan for service in that area.

Special (Duty) Allowance will not be treated as 'Pay' for any purpose.

## 4. Special Compensatory (Remote Locality) Allowance

This allowance is granted to KVS Employees serving in the specific remote localities of the country, at the following rates:-

Areas	Pay below Rs.3000	Pay Rs.3000 to Rs.4999	Pay Rs.4500 to Rs.5999	Pay Rs.6000 to Rs.8999	Pay Rs.9000 and above
	Rs.	Rs.	Rs.	Rs.	Rs.
<b>Part A</b>					
1. Sikkim					
2. Andaman & Nicobar Islands (Car Nicobar)	300	500	700	1000	1300
<b>Part B</b>					
1. Arunachal Pradesh					
2. Nagaland	250	400	550	800	1050
3. Andaman & Nicobar Islands (Port Blair)					
<b>Part C</b>					
1. Manipur					
2. Mizoram	150	300	450	600	750
3. Tripura					
<b>Part D</b>					
Assam					
Meghalaya	40	80	120	160	200

38

Attested  
as an  
Advocate

Note: i) Those in receipt of Special Compensatory Allowance will not be entitled to Hill Compensatory Allowance, in addition. However, where the Hill Compensatory allowance or any other compensatory allowance admissible

Officer posted in

Between stations

i) North-Eastern Region	Imphal/Silchar/Agartala/Aizwal/Lilabari and Calcutta
ii) Andaman and Nicobar Islands	Port Blair and Calcutta/Chennai

10. Children Education Allowance/Hostel Subsidy

If the children do not accompany the employee, CEA will be admissible up to class XII to children studying at the last station of posting or any other station where they reside. If such children are put in hostels, Hostel Subsidy will be admissible without other restrictions. The concession is admissible to the officials transferred from one place to another within the North-Eastern Region also.

11. Concession Regarding Grant of House Rent Allowance

A. Benefit of double HRA

Sangathan employees posted to the specified States/Union Territories from outside the N-E Region to another State/Union Territory of the N-E Region, and who are keeping their families in rented houses or in their own houses at the last place of posting will be entitled to HRA admissible to them at the old station, and also at the rates admissible at the new place of posting in case they live in hired private accommodation irrespective of whether they have claimed transfer T.A. for family or not subject to the condition that hired private accommodation or owned house at the last station of posting is put to bonafide use of the members of the family. These concessions are admissible also to those posted to Andaman and Nicobar Islands.

Those employees who have not been posted to the N-E Region from outside the N-E Region are not entitled to this benefit.

B. Retention of an allotment of alternate Government accommodation

The facility of retention of Government official accommodation will continue to be available. Licence Fee will be charged at normal rates if the accommodation is below the entitled type and at one and a half times the applicable normal rates if the entitled type is retained. The facility of retention will be admissible for three years beyond the normal permissible period of retention.

Note:

- The benefit will not be admissible to those employees who shift their families to a station other than last place of posting or bring their families to the place of their transfer/posting.
- The quantum of HRA at the last station where the family continues to stay will not change till the employees remains posted in that area and the family continues to stay at that station.

APPENDIX 25

SUMMARY OF PENSION RULES

1. Broadly speaking, in respect of the employees of the Sangathan the quantum of pension and the provision in regard to nomination and the main principles of reckoning qualifying service and emoluments for calculating pension are regulated by the Central Civil Service (Pension Rules) 1972 as revised and amended from time to time.

2. The Pension Scheme of the Sangathan came into force from 2nd April, 1968. It is applicable to all regular employees who joined the Sangathan service on or after 1.1.1986. It is also applicable to those regular employees (i) who had opted for the pension scheme in response to Sangathan's circular No.F/68-CSO(A/Cs) of May, 1968 and retired or died in harness on or after 2nd April, 1968 and (ii) who had joined service after the issue of this circular but had exercised an option in favour of the Pension Scheme instead of C.P.F. Scheme.

General Principles and Conditions

3. (1) In these Rules, the term pension includes gratuity except where it is used in contradistinction to gratuity. Gratuity includes:-

- 'Service gratuity' payable under Rule 49(1);
- 'Death-cum-retirement gratuity' payable under Rule 50(1)/50(3), and
- 'Residuary gratuity' payable under Rule 50(2).

(2) When an employee is required to retire on attaining a specified age, the day on which he attains that age is reckoned as his last working day and the employee must retire with effect from and including that day. The date of death should also be treated as a working day. (Rule 5)

(3) An employee cannot earn two pensions in the same post or service at the same time or by the same continuous service.

(4) Future good conduct is an implied condition of every grant of a pension. The Sangathan reserves the right of withholding or withdrawing a pension or any part of it, if the pensioner be convicted of serious crime or be guilty of grave misconduct.

(5) The Sangathan reserves to itself the right of withholding or withdrawing a pension or any part of it, whether permanently or for a specified period and the right of ordering the recovery from a pension of the whole or part of any pecuniary loss caused to the Sangathan, if in a departmental or judicial proceeding, the pensioner is found guilty of gross misconduct or negligence during the period of his service, including service rendered upon re-employment.

(6) (i) Dismissal or removal of an employee from a service or post entails forfeiture of his past service. (Rule 24)

Attested  
by  
Advocate

The Principal,  
Kendriya Vidyalaya  
Bapatnagar, Bangalore.

177-15/03/2003  
F-KVB-2003/LF/475

Annexure-3

dt. 29.8.03.

Sub: RECOVERY OF ARREARS OF LICENCE FEE DUE TO REVISION OF RATES  
BY THE SPONSORING AGENCY NTPC, BADARPUR, NEW DELHI. - P. 77030/2

Sir,

I am to state that Smt./Sh. N. Jha, P.T. was posted in this vidyalaya during the period w.e.f. 1.6.98 to Apr-2003 and allotted the quarter No. 15A by this vidyalaya. He/She was relieved from this vidyalaya on transfer to your K.V. on Apr-2003. Due to revision of rates of licence fee by the sponsoring agency of this vidyalaya i.e. N.T. P.C. Badarpur, New Delhi w.e.f. 1.6.98 and 1.8.99, I am to enclose a statement containing details of amount of licence fee etc. recoverable from him/her. You are requested to recover the amount from the salary of the teacher concerned and remit the same to this office immediately to settle the account and to avoid audit objection.

Thanking you,

Yours faithfully,

(Sd/-)  
(Sd/-) G. K. GUPTA  
PRINCIPAL

For Account  
of Kendriya Vidyalaya  
Bapatnagar  
29/8/03

Attested  
Non  
Advocate



KENDRIYA VIDYALAYA NTPC BADARPUR NEW DLEHI 110044

RECOVERY OF LICENCE FEE ARREARS W.E.F. 1.8.98 AND 1.8.99

OF EMPLOYEE: SH. N. JHA, P.E.T. H.NO.

RELIEVED IN APRIL 2002

OF OCCUPATION: 1.8.98

DATE OF VACATION:

OCCUPIED BY FAMILY

DUE

DRAWN

DIFFERENCE

MONTH HIREN ELECT WATER A.C.					TOTAL HIREN ELECT WATER A.C.					TOTAL HIREN ELECT WATER A.C.					TOTAL HIREN ELECT WATER A.C.				
Jan-98	225	24	4	0	253	145	24	4	0	173	80	0	0	0	173	80	0	0	0
Jul-98	225	24	4	0	253	145	24	4	0	173	80	0	0	0	173	80	0	0	0
Aug-98	225	24	4	0	253	145	24	4	0	173	80	0	0	0	173	80	0	0	0
Sep-98	225	24	4	0	253	145	24	4	0	173	80	0	0	0	173	80	0	0	0
Oct-98	225	24	4	0	253	145	24	4	0	173	80	0	0	0	173	80	0	0	0
Nov-98	225	24	4	0	253	145	24	4	0	173	80	0	0	0	173	80	0	0	0
Dec-98	225	24	4	0	253	145	24	4	0	173	80	0	0	0	173	80	0	0	0
Jan-99	225	24	4	0	253	145	24	4	0	173	80	0	0	0	173	80	0	0	0
Feb-99	225	24	4	0	253	145	24	4	0	173	80	0	0	0	173	80	0	0	0
Mar-99	225	24	4	0	253	145	24	4	0	173	80	0	0	0	173	80	0	0	0
Apr-99	225	24	4	0	253	145	24	4	0	173	80	0	0	0	173	80	0	0	0
May-99	225	24	4	0	253	145	24	4	0	173	80	0	0	0	173	80	0	0	0
Jun-99	225	24	4	0	253	145	24	4	0	173	80	0	0	0	173	80	0	0	0
Jul-99	225	24	4	0	253	145	24	4	0	173	80	0	0	0	173	80	0	0	0
Aug-99	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
Sep-99	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
Oct-99	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
Nov-99	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
Dec-99	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
Jan-00	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
Feb-00	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
Mar-00	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
Apr-00	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
May-00	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
Jun-00	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
Jul-00	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
Aug-00	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
Sep-00	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
Oct-00	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
Nov-00	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
Dec-00	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
Jan-01	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
Feb-01	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
Mar-01	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
Apr-01	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
May-01	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
Jun-01	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
Jul-01	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
Aug-01	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
Sep-01	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
Oct-01	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
Nov-01	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
Dec-01	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
Jan-02	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
Feb-02	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
Mar-02	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
Apr-02	570	24	4	0	598	145	24	4	0	173	425	0	0	0	173	425	0	0	0
May-02	570	24	4	0	598	0	0	0	0	0	570	24	4	0	0	570	24	4	0
Jun-02	570	24	4	0	598	0	0	0	0	0	570	24	4	0	0	570	24	4	0
Jul-02	4344	24	4	0	4372	0	0	0	0	0	4344	24	4	0	0	4344	24	4	0

Attested  
w/o  
Advocate

Principal  
Advocate

NAME OF EMPLOYEE: SH. N. JHA, P.I.T. H.NO.  
DATE OF OCCUPATION: 1.8.98

RELIEVED IN APRIL, 2002

DATE OF VACATION: OCCUPIED BY FAMILY  
DIFFERENCE

DUE					DRAWN					DIFFERENCE					
MONTH	H.RENT	ELECT.	WATER	A.C.	TOTAL	H.RENT	ELECT.	WATER	A.C.	TOTAL	H.RENT	ELECT.	WATER	A.C.	TOTAL
Aug-02	4344	24	4	0	4372	0	0	0	0	0	4344	24	4	0	4372
Sep-02	4344	24	4	0	4372	0	0	0	0	0	4344	24	4	0	4372
Oct-02	4344	24	4	0	4372	0	0	0	0	0	4344	24	4	0	4372
Nov-02	4344	24	4	0	4372	0	0	0	0	0	4344	24	4	0	4372
Dec-02	4344	24	4	0	4372	0	0	0	0	0	4344	24	4	0	4372
Jan-03	4344	24	4	0	4372	0	0	0	0	0	4344	24	4	0	4372
Feb-03	4344	24	4	0	4372	0	0	0	0	0	4344	24	4	0	4372
Mar-03	4344	24	4	0	4372	0	0	0	0	0	4344	24	4	0	4372
Apr-03	4344	24	4	0	4372	145	24	4	0	173	4199	0	0	0	4199
May-03	4344	24	4	0	4372	145	24	4	0	173	4199	0	0	0	4199
Jun-03	4344	24	4	0	4372	145	24	4	0	173	4199	0	0	0	4199
Jul-03	4344	24	4	0	4372	0	0	0	0	0	4344	24	4	0	4372
Aug-03	4344	24	4	0	4372	0	0	0	0	0	4344	24	4	0	4372
TOTAL	83916	1512	252	0	85680	7250	1200	200	0	8650	76666	312	52	0	77030

*[Signature]*  
24/10/02

Attested  
wSan  
Advocate

To

The Chairman,  
VMC,  
Kendriya Vidyalaya NTPC,  
Badarpur, New Delhi - 110044.

Dated 01.11.2003

Annexure-4

Through the Principal, Kendriya Vidyalaya NEHU, Shillong and Principal, Kendriya Vidyalaya NTPC, Badarpur.

Ref: (i) Letter No. F. KVB-2003/LF/475 dated 29.08.2003  
(ii) Letter No. F 4-14(I)2001 of KVS (Admn) dated 22/23.11.2001 regarding allotment of residence rules 1998 as well as provision envisaged under Appendix-9 of FR/SR.

Subject: Recovery of arrears of License Fee on Market rent basis.

Sir,

With due respect I have to state that Quarter No. 6A/IV, BTPS colony was allotted to me as per KVS rules, when I was posted at KV NTPC Badarpur.

As per KVS rules, I was transferred on surplus ground from KV Badarpur to KV EAC, Upper Shillong (North East Region) vide letter No. F. 3-1/(SUR)/2002/KVS(E-IV) dated 17.04.2002 and again within short spell of time on the same surplus ground, I got my transfer to KV NEHU, Shillong (NE Region) vide letter No. F.1.1/02-03.KVS(E.II) dated 20.01.03.

As per KVS and Govt. of India rules retention facilities of accommodation to its staff posted at NE Region is provided.

In this regard, I am also enclosing the order of our honourable Deputy Commissioner (Pers) as mentioned above in Ref. IInd, through which retention facilities was provided to the teachers posted in NE Region in November 2001.

In the light of the subject cited above, I want to put following facts before you, Sir, for your kind consideration:

1. I was posted at KV HEC Ranchi - 4 from 1974 to 1993. During long stay at Ranchi, due to humid weather condition there my wife became the severe patient of Allergic Bronchial Asthma.

After several request I got my transfer at KV NTPC, Badarpur for the treatment of my wife at AllMS/Patel chest institute Delhi. Due to dry weather and best possible treatment at Delhi my wife's health improved. Due to unfavorable weather condition of Shillong, my family is not in a position to stay with me as it has the adverse effect in their health.

2. My wife is under regular treatment of AllMS for the above said Chronic Asthma.
3. My two children are studying at Delhi and still I have not got any Govt. accommodation in Shillong.
4. Under these circumstances it is very difficult for my family consisting of wife along with two youngest children to stay outside BTPS Campus at Delhi in unsafe environment.
5. Due to frequent transfers, I have been suffering a lot to manage the expenditure regarding treatment of my wife and education of my grown up children, as my eldest daughter is pursuing her M.Sc. Bio-technology at University of Pune, IInd daughter is pursuing B.Tech IVth Year in CSE at NIT Jalandhar and Youngest two children are studying at Delhi. Beside education now I have to arrange marriage of my grown children. Due to above said circumstances, I am not in a position to pay the huge amount of recovery of Licence fee at market rate.

Keeping in view the above, time and again I requested to the Principal Sir of KV NTPC, Badarpur for providing quarter retention facilities. So that I may able to pay License fee at Govt. rate.

Now it is my humble request to you Sir, kindly consider my case sympathetically and grant me retention facilities of my said accommodation up to academic session of 2004-2005 and oblige.

Thanking you.

Yours faithfully

(Signature)

(NAROTTAM JHA)

PET

KV NEHU, Shillong - 22

Attended  
was  
Advocate

21

Annexure-5

18.12.2003

To

The Chairman

V.M.C

K.V. NTPC Badarpur, N.Delhi-44

Through The Principal

K. V. NTPC Badarpur, ND-44

Sub: Retention of Qr No 6A type 4, BTPS Staff Colony.

Sir,

With due respect I have to state that above said accommodation was allotted to me as per KVS rules when I was posted at K V. NTPC, Badarpur, New Delhi-44.

I was transferred from K. V. NTPC, Badarpur, New Delhi to K. V. EAC, Upper Shillong(North Eastern region) vide transfer order no.F.3-1/(SUR)/2002/KVS(E-4) dated 17-4-2002 on surplus ground and again within short spell of time I was transferred to K.V Nehu ,Shillong (N.E Region) vide letter no .F.1.1/2002-03,KVS(E-2) dated 20-01-03 on the same surplus ground.

As per KVS and Government of India rules retention facilities of accommodation to its staff posted in NE Region is provided. In this regard I am enclosing a Xerox copy of appendix 24, Sl.no.11 A/B of KVS account code for ready references.

In light of the subject cited above I would like to put the following facts before you for your kind consideration.

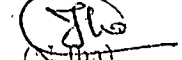
1. My wife is acute patient of Allergic Bronchial Asthma. Due to heavy rain and unfavorable humid weather of Shillong, she is not in a position to stay with me as it has the adverse effect on her health.
2. My wife is under treatment of AIIMS for Asthma.
3. My two children are studying at Delhi.
4. Due to frequent transfers, I'm suffering a lot to manage the expenditure regarding treatment of my wife and higher education of my grown up children. Besides education now I've to arrange marriage of my grown up children.

Due to above said facts, I'm not in a position to pay the huge amount of recovery of license fee at market rate. Under these circumstances I want to retain the above said accommodation for my family as per rules.

Sir, so it is my humble request to kindly consider my case sympathetically and grant me above mentioned facilities up to the academic session 2004-05 and oblige me.

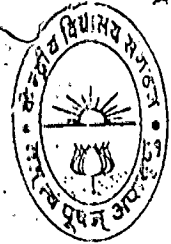
Thanking you

Yours faithfully,

  
(N. Jha)  
PET

K.V.NEHL, Shillong-22

Attested  
as  
Advocate



# KENDRIYA VIDYALAYA SANGATHAN

## केन्द्रीय विद्यालय संगठन

क्षेत्रीय कार्यालय  
मालीगाँव चारियाली  
गुवाहाटी : ७८१ ०१२

Regional Office  
Maligaon Chariali  
Guwahati - 781 012

Phone : 2571799  
: 2571798  
Tele Fax : 2571797

पत्रांक  
No. F.: 2-32/KVS(GR)/2003-04/ 17, 109 -10

दिनांक :  
Dated: 07-01-2004

To  
The Principal,  
Kendriya Vidyalaya,  
NEHU.

Subject : Recovery of licence fee from the salary of Shri  
N. Jha, PET - reg.

Sir,

I am to refer to the letter No.F. KVB/2003-04/852  
dated 12-12-2003 of the Principal, Kendriya Vidyalaya, NTPC,  
Badarpur a copy of which is endorsed to your vidyalaya.

Licence Fee outstanding in respect of Shri N. Jha,  
PET may be recovered and remitted to Kendriya Vidyalaya, NTPC,  
Badarpur under intimation to this office.

Yours faithfully,

*S. S. Sehrawat*

( S. S. SEHRAWAT )

ASSISTANT COMMISSIONER

Copy to :-

The Principal, Kendriya Vidyalaya, NTPC, Badarpur,  
New Delhi-44 - with reference to his letter mentioned  
above.

ASSISTANT COMMISSIONER

F.03  
506  
13/1/04

Attested  
was  
Advocate

(7)

(23)

Annexure-7

To  
The Assistant Commissioner  
Kendriya Vidyalaya Sangathan, Guwahati Region  
Maligaon, Guwahati

Through:- Principal K.V. NTPC, Shillong  
Sub:- Recovery order of license fee of Rs No-61/IV  
B.T.P. Staff Colony Badarpur ND-44

Ref:- (i) Letter No F2-32/KVS(GR)/2003-04/17, 10940 dt 07.01.04  
(ii) Letter No. KVB/03-04/SGU dt 20.12.03

Sir,  
With due respect I have to say in respect of above said letters, Principal K.V NTPC Badarpur New Delhi forwarded my application for consideration for retention of above said accommodation to chairman, VMC K.V NTPC Badarpur ND-44 on dt 20.12.03 which is enclosed here with.

Still I have opportunity to get the retention facilities as per verbal order of chairman VMC K.V NTPC Badarpur ND-44

So, it is my humble request to give me time up to the response from the chairman VMC of K.V. NTPC Badarpur ND-44 to me.

Further it is my request to you, Sir, kindly consider my case sympathetically and issue order not to deduct as per letter of KVS till the order of VMC in my request application dt 20.12.03. F-02KVN/03-04/1062 dt 20/02/04

Thanking you  
Yours faithfully  
(Jha)  
(N JHA)  
P. E. T  
K.V. NTPC, Shillong

Forwarded to the Asst. Commissioner, KVS (GR) for necessary instructions to the undersigned.

20.02.04  
K.V. NTPC, Shillong  
Shillong-22 दिनांक-22

Dt. 18.02.04

Attested  
was  
Advocate

24

CA

418

Annexure-8

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

No.4-14(1)/2001-KVS(Admn.J)

Dated: 22.11.01  
23

The Assistant Commissioner  
Kendriya Vidyalaya Sangathan  
Regional Office  
Patna (Bihar)

Sub:- Retention of Govt. accommodation allotted to teachers of Kendriya Vidyalaya, Varanasi Cantt. by Defence authorities in respect of teachers transferred to N.E. Region - regarding.

Sir,

I am to refer to your letter No.F.6-26/2001-KVS(PR)/19097 dated 12-9-2001 on the subject cited above and to say that Shri R.S. Yadav and Smt. Radha Upadhyaya, both the teachers of Kendriya Vidyalaya, Varanasi Cantt. have been transferred to Kendriya Vidyalayas in N.E. Region.

As per rule 12(7) of Kendriya Vidyalaya Sangathan, (Allotment of Residence Rules-1998) as well as provision envisaged under Appendix-9 of FR/SR, for an employees transferred to N.E. Region, the facility for retention of Govt. accommodation at the last station of posting is admissible for a period of three years beyond normal permissible period.

You are, therefore, advised to take up the matter with the Chairman, V.M.C., Kendriya Vidyalaya, GTC, Varanasi and settle the issue, in the light of Rule position, at your level under intimation to this office at the earliest.

Yours faithfully,

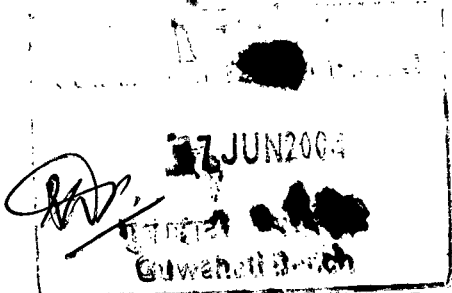
(Rishi Pal Gupta)  
Dy. Commissioner (Pers.)

Copy to :-

1. The Chairman, V.M.C., Kendriya Vidyalaya, GTC, Varanasi, U.P. - for information and necessary action please.
2. The Principal, Kendriya Vidyalaya, GTC, Varanasi, U.P. - for information and necessary action please.

Dy. Commissioner (Pers.)

Attended  
as an  
Advocate



18

Filed by Mr. Respondent  
Through Mr. Majumdar  
Advocate  
Standing Counsel K.V. Sangathan  
1st June '04

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : GUWAHATI.

O.A. NO. 49 / 2004.

Naratam Jha

..... Applicant.

- Vs. -

Union of India & Ors.

..... Respondents.

IN THE MATTER OF :

Written Statement filed by the  
Respondent

- AND -

IN THE MATTER OF :

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

..... Deponent.

The humble written statement on  
behalf of the Respondent as  
follows :-

contd..... p/2.



- 1) That, I Sri Uday Narayan Khawarung the Assistant Commissioner of Guwahati Region, being served with the copy of the Original Application. I have gone through the contents thereof. I am competent to submit this written statement on being supplied with parawise comment from the Head Quarters, on behalf of the Respondents, ~~they~~ they being official Respondents. I am fully acquainted with facts and circumstances of the case.
  
- 2) That the deponent states the allegations/ averments which is not borne out by records are denied and not admitted. Any averments/allegation which is not specifically admitted hereinafter is deemed to be denied.
  
- 3) That the deponent states that before controverting the contents of the paras made in the Original Application it is pertinent to apprise that K.V.S. is a registered society under the Societies Registration Act XXI of 1860 and fully financed by the Govt. of India with the objective of (i) to meet the educational need of children of transferable Central Govt. employees including Defence personnel by providing a common programme of education.

2

- (ii) to develop Vidyalaya as a model school in the context of National goal of Indian Education,
- (iii) to initiate/promote experimentation in the field of education in collaboration with other bodies like C.B.S.C., NCERT etc. and
- (iv) to promote National Integration.

Further, brief facts of the case may be narrated as below :-

3.A) That the Kendriya Vidyalaya Sangathan have framed rules in the code under chapter - XIX (Land and Building) Article 163 in the heading of 'Quarters and Cantoments and Factories areas rent for.'

3.B) The Ministry of Finance have agreed to charged rent under Para 16 of "Quarters and Rent" for surplus accomodation, if any allotted to teachers of Kendriya Vidyalayas, i.e. the rent will be recovered from as entitled persons.

3.C) Article 163 (A), the K.V.S. Staff Quarters :-  
The Principal shall functions as care taker and all the assests etc. to be maintained and in the possession of the Kendriya Vidyalaya Sangathan.

3.D) The authority of Kendriya Vidyalaya Sangathan have introduced the scheme of allotment

- 4 -

of residence as well, and in that regard framed rules under the heading of Kendriya Vidyalaya Sangathan (Allotment of Residence) Rules 1998, vide Appendix 28 of Accounts Code at pages - 455 - 465.

The Rule - 3.1 Defines - Allotment,  
3.2 Defines - Allotment year,  
3.3.1 Defines - Alloting authority,  
3.8 Defines - Licence Fee,  
3.10 Defines - Residence etc.

Rule 6 explains the classification of residence and eligibility.

Rule 7 - Application for allotment,  
Rule 8 - Basis of allotment,  
Rule 9 - Year marking of residences,  
Rule 12 - Period for which allotment subsists and the concessional period for further attention.  
Rule 14 - Personal liability of an employee for payment of licence fee,  
Rule 17 - Consequences of breach of Rules conditions.  
Rule 18 - Recovery of licence fee.  
Rule 19 - Over stayal in Residence after cancellation of allotment.

contd.... p/5.

✓ Rule 20 - Applicability of rules framed by,  
the Govt.

✓ Rule 21 - Applicability of rules of sponsoring  
agencies.

3.E) In this way the allotment of residence of employees of K.V.S. are controlled and regulated for the benefit of the employees as mentioned above Rule 3.10 includes residences, meaning there by any building under control of the Kendriya Vidyalaya, Regional Office and authorised to be used as residence belonging to the sponsoring agencies and handed over to the Sangathan for allotment to the employees and as per Rule 21 - the orders and rules of the sponsoring authority shall mutatis - mutandis apply where as the terms and conditions of allotment so provide.

4) That in the instant case the applicant while serving at Kendriya Vidyalaya N.T.P.C. Badarpur as P.E.T. was relieved on 20.4.2002 ✓ due to his transfer to Kendriya Vidyalaya E.S.E. Upper Shillong vide K.V.S. (H.Q.) Letter No. - F.3 - 19 (SUR)/2002-KVS (E-iv) dated 17.4.2002. Accordingly the applicant to his duty on 6.6.2002. Thereafter he was again transfer from K.V. Upper

Shillong to K.V. Nehu on surplus ground and he complied the order on 11.4.2003.

That while he was posted at K.V. N.T.P.C. Badarpur, he was allotted Qrs. No. 6-A/IV at Badarpur by the N.T.P.C. (Project) Kendriya Vidyalaya which has not been vacated by his family till date.

It is to mentioned here that the N.T.P.C. Kendriya Vidyalaya Badarpur is a Project Vidyalaya fully financed by the N.T.P.C.

5) That as per the Rule 18 of Kendriya Vidyalaya Sangathan (Allotment of Residence) Rules 1998 -

18 - Recovery of Licence Fee.

18(I) - The House Rent Allowance if any admissible to the employee shall not be paid to the allottee of a residence and the allottee of the residence shall pay flat rate of licence fees as fixed for the residence by the Sangathan or the Sponsoring authority from time to time, for the period during which the allotment subsists.

Further Rule 21 deals with applicability of the Rules of Sponsoring Agencies.

Rule 21 - Notwithstanding anything contained in this rules, the orders and rules

of the sponsoring agencies shall mutatis- mutandis apply where the terms and conditions of allotment so provide.

And as such the action of the respondent on the basis of the decision taken by the sponsoring authority for recovery of House Rent from K.V. personnel vide communication dated 2/4.7.2003, and issuance of letter to the applicant for recovery of arrear dated 29.8.2003 which is annexed as Annexure - III of the O.A. is not in any way against law or in violation of the Accounts Code.

6) That in the instant case there appears to be two different cause of action, viz. the applicant is aggrieved for asking him to vacate the quarter at B.T.P.S. Coloney before 30.6.2002 after which panel rate @ rate fixed by N.T.P.C. was proposed to be deducted (from July, 2002) till vacation August, 2003 as communicated vide letter dated 29.8.2003 and the applicant is aggrieved for recovery of arrear licence fee for the period 1.6.98 to June 2002 being the difference amount ~~xxx~~ recoverable from the K.V. Personnel.

But the petitioner have clubbed the matter which twisted the clear fact to a clumsy one.

contd.... p/8.

PARAWISE COMMENT :

7) That with regard to statements made in para 4 (1) relating to particulars of orders it is not correct to state that by the letter dated 29.8.2003 it was proposed to recover the Market rate rather it was the difference of rent amount as fixed by the N.T.P.C. the sponsoring Agency.

Sh. N. Jha was relieved from ~~his~~ this Vidyalaya in the afternoon of 20.4.2002 vide letter No. KVB/Transfer/2002/52 on his transfer to K.V. EAC Upper Shillong. As per allotment rules of the sponsoring agency he was entitled to retain the quarter on payment of normal license fee for a period of two months only from the date of his relieve and this period he is to be charged as per rules.

8) That with regard to statements made in para 2 and 3, the Respondents states that these are law points and does not forward any comment.

9) That with regard to statements made in para 4.1 and 4.2, the Respondents states that these are matter of records and does not forward any comments. However, with regard to the application for retaintion of quarter as per the existing rule of the sponsoring authority which

is for two months and on 14.6.2002, he was asked to vacate the quarter in any case by 30.6.2002, thereafter the penal rent will be imposed as N.T.P.C. rate and to that extent the statement is denied.

Copy of the letter dated 14.6.2002  
is annexed as ANNEXURE - I.

10) That with regard to the statements made in para 4.3 and 4.4 the respondent vehemently denies the correctness of the statement and put the applicant for strictest proof thereof. Further, it is to be stated that respondent No. 4 started communication with the head quarter seeking clarification regarding payment of ~~tax~~ license fee much prior of the transfer of the applicant and as such the action of the respondent can not be blamed for his any vested interest.

Further, the letter dated 1.8.2003  
is strictly in compliance with rules and instructions received from N.T.P.C. Badarpur, vide their letter dated 4.7.2003.

Copy of the letter dated 4.7.2003  
is annexed herewith as ANNEXURE-II.



11) That with regard to the statements made in para 4.5 and 4.6 it is denied and further stated that his representation was duly disposed of by the authority of K.V.S. and the N.T.P.C. as well.

Copy of the letter dated  $\frac{17}{19}/8/2002$   
from Manager H.R. - (E.S) B.T.P.S.  
and letter dated 9.12.2003 and  
letter dated 12.11.2003 are annexed  
herewith as ANNEXURE - III, III-A  
and IV respectively.

12) That with regard to the statement made in para 4.7, 4.8, 4.9 and 4.10 the respondent does not admit any thing which are not based on record. Further states that the representation were disposed of with clear observation and inconfarmity with the law.

And the law to retenting Quarter is clear in sofar the project schools are concerned, as such, there is no violation of law and the O.A. is liable to be dismissed.

13) That with regard to the statement made in para 4.11 and 4.13, it is denied and stated

that, vide letter dated  $\frac{22}{23}$  /11/2001 K.V.S.

(H.Q.) has not granted any permission but it is only a direction to the Assistant Commissioner to take up the matter with concerned authorities.

Further, the K.V. Varahasd is a defence sector Vidyalaya where as KV N.T.P.C. Badarpur is project KV. The Rule 12(7) of K.V.S. is not applicable in case of project K.V.S.

14) That with regards to grounds set forth it is stated that there are no valid ground to merit the case for any relief and states that ~~and~~ in view of the above the petition may be dismissed with costs.

VERIFICATION/AFFIDAVIT

36  
= 12 =

**AFFIDAVIT**

Verification

I, Uday Narayan Khawarey age about 44 years, son of Shri Jagat Narayan Khawarey, presently working as Assistant Commissioner, in the Regional Office of Kendriya Vidyalaya Sangathan, Maligaon, Guwahati, do hereby solemnly affirm and ~~Verify~~ 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 paragraphs 1, 2, 3, 3A-3E, 6 & 12 are true to my knowledge, those made in paragraphs 4, 5, 7, 9, 10, 11 & 13 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 ~~verification~~ on this the 24 th day of May 2004.

Identified by me

Uday Narayan Khawarey

DEPONENT

Advocate's Clerk

केन्द्रीय विद्यालय

एन.टी.पी.सी. बदरपुर,

नई दिल्ली-११००४४



KENDRIYA VIDYALAYA

N.T.P.C. BADARPUR

New Delhi - 110044

☎: 6949189

संदर्भ संख्या

Ref.: No. :

KVB/02-03/186, 187, 188, 189

दिनांक

Dated... 14/6/02

Ch MR Goswamy, 10 A Type-IV

Sh RV Singh, 6A/III

Sh Dhirender, 19 Type III

Sh N. Jha, 6A Type IV

SUB: Vacation of quarter at BIPs Colony

Sir,

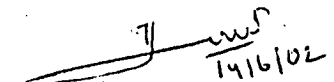
I am to state that NTPC authorities have clarified that on your posting to another region special facilities granted by Govt. of India to its employees for retention of quarter at old station cannot be granted to employees of Kendriya Vidyalaya, NTPC, Badarpur, New Delhi, this being a project Kendriya Vidyalaya financed by NTPC.

In respect of Kendriya Vidyalaya NTPC employees only normal retention period is allowed on transfer as per rules of NTPC i.e. for two months.

In view of above you are directed to vacate/surrender the quarter in your possession in any case by 30.6.2002. ~~after that you will have to pay penalty at NTPC rates.~~

Thanking You,

Yours faithfully,

  
(1.10.02)  
Principal

Kendriya Vidyalaya  
N.T.P.C. Badarpur  
New Delhi-110044

✓ Copy to Principal, K.V.

inf. please.

8-5-02 (38)  
= 14-60

No.F.12-6/97-KVS(Admn.I)  
KENDRIYA VIDYALAYA SANGA

To

The Assistant Commissioner  
Kendriya Vidyalaya Sangathan  
Regional Office  
DELHI

Sub: Payment of Licence Fee - Clarification regarding  
...

Sir,

I am to refer to the Principal, Kendriya Vidyalaya NTPC, Badarpur, New Delhi's letter No.KVS/2002-2003/40 dated 12.3.2002 on the subject noted above and to say that in accordance with the prescribed norms for opening of new Kendriya Vidyalayas in the campus of Public Sector Undertaking Institutions of Higher Learning (copy enclosed) and also as per Rule 21 of KVS (Allotment of Residence) Rules, 1998 KVS employees who are allotted staff quarters by the sponsoring agencies have to abide by the rules as applicable to employee of the sponsoring agencies as per the agreed terms and considtions.

Yours faithfully,

(P.K.Aggarwal)  
Dy.Commissioner(Finance)

Cnclo: As above.

Copy to:

The Principal, Kendriya Vidyalaya, NTPC Badarpur, New Delhi, w.r.t. his letter referred to above with the advice to route his all correspondence through Regional office in future.

Dy.Commissioner(Finance)

(39) A-VII-15-61  
Ann-II  
31

NATIONAL THERMAL POWER CORPORATION  
BADARPUR DIVISION: NEW DELHI: 44.  
TOWNSHIP ADMINISTRATION

Ref.No. : 04/BTPS/TA/Ltr/03 342

Dated: 02/07/03

To

Sh. R.K. Gautam,  
Principal,  
Kendriya Vidyalaya,  
Badarpur, New Delhi - 44.

AS.  
for recovery of  
Rs.  
4/7/03

SUB:- House rent recovery of K. V. personnel.

This has reference to your letter on the subject mentioned above. In this context, it is pertinent to mention that the recovery of HRR electricity and water charges being recovered from NTPC employees of different cadres and different types of quarter are mentioned below:-

SL. NO.	TYPES OF QUARTER	EFFECTIVE DATE OF RECOVERY	Plv.P.	Plt. Scale	W/Man.	REMARKS
			EXE. CADRE	SUPV. CADRE	W/MAN CADRE	
1.	TYPE - C&V	01/06/98	Rs.350/-	----	----	
2.	TYPE - C&V	01/08/99 ✓	Rs.870/-	----	----	
3.	Type - A/III	01/06/98	----	Rs. 80/-	Rs. 80/-	
4.	Type -A /II/II	01/08/99 ✓	----	Rs. 220/-	Rs.160/-	
5.	Type -B/III/IV	01/06/98	----	Rs. 225/-	Rs. 110/-	
6.	Type -B/III/IV	01/08/99 ✓	----	Rs. 570/-	Rs. 220/-	

Accordingly recovery of K.V personnel would be made in accordance with the type of quarter allotted to concerned staff. Recovery of HRR in the same type of quarter differs for Supervisor and Workman cadre. You are requested to kindly decide the level of staff whether they are covered under Workman cadre or Supervisory cadre.

(2)

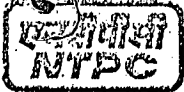
penal rent chargeable in respect of different Types of quarter are mentioned below for ready reference. Electricity would be charged as per actual. However, till actual electricity charges are communicated, the same may be charged as quoted against each type of quarter.

Type of Qtrs.	Revised Rent	Electricity Charges Rs.	Water Charges Rs.
Type -I	Rs. 844/-	10	01
Type -I (TC)	Rs. 844/-	10	01
Type -II	Rs. 2780/-	14	02
Type -II (TC)	Rs. 2780/-	14	02
Type -III	Rs. 3794/-	14	02
Type -IV	Rs. 4344/-	24	04
Type -V	Rs. 6306/-	36	08
Type -VI	Rs. 8742/-	36	08
Type -A	Rs. 1566/-	10	01
Type -B	Rs. 3214/-	14	02
Type -C	Rs. 5508/-	24	04
Type -D	Rs. 8640/-	36	08

As regards recovery of Gyser, it is stated that the flat rate for using Gyser is Rs.09.20 p.m. for the period from 15<sup>th</sup> November to 15<sup>th</sup> February. For using Air Conditioner the flat chargeable rate is Rs.350/- p.m. for the period from 15<sup>th</sup> March to 15<sup>th</sup> July.

Yours faithfully,

*T.K. Sinha Ray*  
(T.K. SINHA RAY)  
MANAGER (HR-ES)



बदरपुर थर्मल पावर स्टेशन  
**Badarpur Thermal Power Station**

उर्जा मंत्रालय (विद्युत विभाग)  
Ministry of Energy (Deptt. of Power)  
बदरपुर, नई दिल्ली - 110044  
Badarpur, New Delhi-110044

संदर्भ संख्या/Ref. No.:

दिनांक/Date:

04/BTPS/TA/Lttr/02/243

17/08/02

The Principal,  
Kendriya Vidyalaya,  
NTPC, Badarpur,  
New Delhi - 44.

**SUB :- Application of Sh. N.Jha, P.E.T for permission for retention of quarter on transfer.**

Sir,

This has reference to your letter no. KVB/2002-03/247 dated 10/07/02 forwarding therewith an application of Sh. N.Jha, P.E.T of KV, BTPS for retention of Qtr.No. 06A, Type - IV, BTPS T/Ship for indefinite period consequent upon his transfer from KV, BTPS to KB, Upper Shillong.

As you are aware that rules and regulations are applicable to KV staff as per NTPC rules. NTPC rules provide retention for 2 months or up to the end of the current academic session of school going children on transfer cases. No further retention is permissible even if a single employee figures in the waiting list for that particular type of quarter and also the employee concerned is allowed only bachelor accommodation at the new place of posting.

Since waiting list exists in Type - IV quarter. In these circumstances, Rules do not allow for granting permission for retention of quarter in respect of Sh.Jha.

(T.K.SINHA RAY)  
MANAGER (HR-ES)

Rs.   
Pl. info - as employee  
& ask for Market price  
for ATAS available  
19/8



RIYA VIDYALAYA N.T.P.C. BADARPUR  
NEW DELHI 110044 PH.26949189

ANN- (11) -A

(42)

KVB/2003 /839

Dated: 9.12.2003

=18=

64

Principal,  
Indriya Vidyalaya,  
Rewari.

Subject: Forwarding of application in respect of Sh.N.Jha,PET,KV Nehu ,  
Shillong.

Sir,

I am to refer to letter No. F.5-75/Fbd/2003/KVS(DR)/IA/2616 dated 13.11.2003  
(copy enclosed) on the subject alongwith the copy of letter of Sh.N.Jha,PET  
and forwarding letter of Principal,K.V. Nehu,Shillong with request to kindly give your  
comments on the representation of Sh. N.Jha,PET for onward transmission to KVS(DR)  
for further necessary action.

It is also informed that an amount of Rs.1605/- in r/o Sh. Jha,on account of  
recovery of penal interest has been received from Principal,K.V. Nehu,Shillong.

Thanking you,

Yours faithfully,

*R.K. Gaillard*  
(R.K. GAILLARD)  
PRINCIPAL

Encl: As above. & copy of Audit objection.

KENDRIYA VIDYALAYA NTPC BADARPUR  
NEW DELHI-110044

To

Ref No KVS/2003/Allo/med.1/169

Dt. 12.11.2003

Principal  
K.V NEHU  
Shillong- 793022

Sub:- Recovery of House Rent at market rate.

Sir,

Please find enclosed herewith the DD No. 518771 dated 31.10.2003 sent by you towards the license fee for the house being retained by Sh. N. Jha P.E.T at NTPC Badarpur. You are requested to deduct license fee at the rates which has been communicated vide our letters earlier.

As regards his representation of Sh. N. Jha P.E.T. may please be informed that his request cannot be acceded to as per the provision of Accounts Code since the house occupied by him belongs to NTPC (Project authorities) and not to KVS or Gen. Govt. The letters he has referred to regarding retention of Govt. Qtr. on posting to NE Region but not to project accommodation. ~~Mr. Jha also annexed dated 28/08/04, not addressed to AC. Bama also does not apply in the case as it is a request to be taken up with the chairman and not the permission to retain the house.~~

~~Mr. Jha may be informed that the case of Mr. A. V. Singh, RGT (Gen) of Jharkhand who is also posted at KVS NTPC cannot be already been disposed of by DCO and DCO clearly asking him to vacate the house at NTPC or market rate be charged. (copies enclosed).~~

It is therefore requested that appropriate rent be deducted from his salary as per rules. You are also requested not to send reduced license fee. Mr. Jha cannot be allowed to avoid deduction on the basis of his representation.

Thanking You

Yours Faithfully

*R.K. Gautam*  
(R.K. GAUTAM)  
PRINCIPAL

Enc:- D.D. No 518771 dt 31.10.03