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3
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

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

ORDER SHEET

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

56/04

In O.A.

Name of the Applicant(S) Pradip Kalita

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

Advocate for the Applicant U. Bhuyan, S.P. Bhuyan, H. Deba, B.K.D.

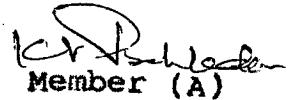
Counsel for the Railway/ C.G.S.C. ✓

OFFICE NOTE | DATE | ORDER OF THE TRIBUNAL

The application is in form is 100-
04.03.2004 List on 05.03.2004 for admiss-
on.

11.G.328257
3.3.04

mb


Member (A)

15.3.2004 Heard Mr.U.Bhuyan, learned coun-
sel for the applicant and also Mr.M.K.
Mazumdar, learned counsel appearing on
behalf of the KVS.

The O.A. is admitted, call for the
records.

pendency of this O.A. will not be
a bar for the respondents to transfer
the applicant to one of the four places
he has mentioned at page 6 of the O.A.
It appears to be a reasonable request.
List the case on 8.4.2004 for
further order.

In the meanwhile, the operation of
the transfer order No.12-8(10)/2003-
KVS(Estt.III) dated 11.12.2003 is kept
in abeyance.

Steps taken with
envelops.


Synopsis be obtained
immediately

33.04
SD (CJ)

Notice & order dt. 5/3/04
sent to D/Section for
issuing to respondent
nos 1 to 5. vide O.No 320 & 324
Hd - 5.3.04

5/3/04

bb


Member (A)

22/3/04

Written statement has been filed by KVS on Respondent I.

NS
22/3/04

8.4.2004 List the matter for hearing
on 22.4.2004.

mb

KV Pachwada
Member (A)

22.4.2004 Heard learned counsel for both the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets.

The O.A. is disposed of in terms of the order. No costs.

bb

KV Pachwada
Member (A)

26.4.04
Copy of the order has been sent to the office for issuing the same to the applicant as well as to the L.R.A. in the Respondents.

K.P.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / ~~Exx~~ No. 111 56 of 2004.

DATE OF DECISION 22.4.2004.

....Shri Pradip Kalita.....APPLICANT(S).

....Mr. U. Bhuyan, Mrs. S. P. Bhuyan, H. Deka & B. K. Das;ADVOCATE FOR THE
APPLICANT(S).

-VERSUS-

....Union of India & Others.....RESPONDENT(S)

....Mr. M. K. Mazumdar, Standing Counsel for the KVS....ADVOCATE FOR THE
RESPONDENT(S).

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

THE HON'BLE

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

Judgment delivered by Hon'ble Member (A).

bwd

4

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.56 of 2004.

Date of Order : This, the 22nd Day of April, 2004.

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

Shri Pradip Kalita
S/o Shri Rabiram Kalita
Upper Division Clerk
Kendriya Vidyalaya, New Bongaigaon
Bongaigaon (Now under order of transfer to
Kendriya Vidyalaya, Haflong). Applicant.

By Advocates Mr.U.Bhuyan, Mrs.S.P.Bhuyan, Mr.H.Deka &
Mr.B.K.Das..

- Versus -

1. Union of India
Through the Secretary to the Government of India
Ministry of Human Resource Development
Central Secretariat
New Delhi - 1.
2. Kendriya Vidyalaya Sangathan
18, Institutional Area
Shaheed Jeet Singh Marg
New Delhi - 110 016.
3. Education Officer
Kendriya Vidyalaya Sangathan
18, Institutional Area
Shaheed Jeet Singh Marg
New Delhi - 110 016.
4. Assistant Commissioner
Kendriya Vidyalaya Sangathan
Guwahati Regional Office
Maligaon
Guwahati - 12.
5. Principal
Kendriya Vidyalaya, New Bongaigaon
Bongaigaon. Respondents.

By Mr.M.K.Mazumdar, Standing Counsel for the KVS.

O R D E R (ORAL)

K.V.PRAHLADAN, MEMBER(A):

This application has been made against the transfer order bearing F.No.12-8(10)/2003-KVS(Estt.III) dated 11.12.2003 issued by the Respondent No.3 transferring the applicant from Kendriya Vidyalaya (hereinafter referred to as KV), New Bongaigaon to KV, Haflong.

2. The applicant is working as Upper Division Clerk in KV, New Bongaigaon. The applicant have earlier been transferred from KV, Maligaon to KV, Nirjuli, Arunachal

Pradesh vide order dated 4.12.2000 which was cancelled later on vide order dated 10.4.2001 and vide order dated 16.4.2001 the applicant was posted at KV, Khanapara. The ^{was} applicant again transferred from KV, Khanapara to KV, New Bongaigaon vide order dated 31.3.2003. The applicant joined the new place of posting and submitted a representation dated 4.7.2003 to the Joint Commissioner (Admn), KVS against the said transfer order. The applicant also applied for annual transfer for the year 2003-04 and 2004-05 which is under consideration of the respondents. By order dated 11.12.2003 the applicant was again transferred from KV, New Bongaigaon to KV, Haflong. The applicant submitted representation dated 18.12.2003 against the aforesaid transfer order. The applicant's wife also submitted a similar representation to the Commissioner, KVS on 22.12.2003. But no reply has been received from the respondents.

3. The respondents have submitted written statement contesting the claims of the applicant. The respondents claimed that the transfer order was passed in the exigency of administrative convenience and the as per the recommendation of the Principal and the Assistant Commissioner. The respondents denied any illegality and irregularity in passing the impugned transfer order.

4. I have heard Mr.U.Bhuyan, learned counsel for the applicant and also Mr.M.K.Mazumdar, learned Standing counsel for the KVS. The respondents as per Para 5.1 of the Transfer Guidelines, may transfer any teacher or staff on administrative ground on the recommendation of the Competent Authority. The decision to transer any employee of the KVS rests entirely with the Administration. However, Administration also need to cater to the welfare of the employees working under them. Therefore, I am of the view

bwp

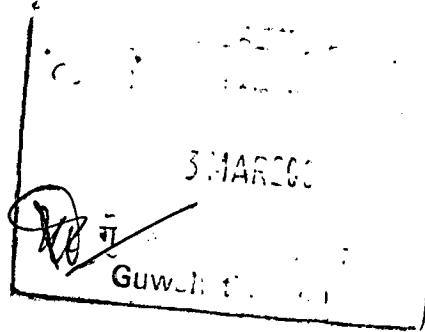
law
that ends of justice will be met, if a direction is issued upon the applicant to file a fresh representation narrating all his grievances before the respondents. Accordingly, the applicant is directed of file a fresh representation ventilating all his grievances to the respondents within seven days from the date of receipt of this order. If such representation is filed within the specified time, the respondents will consider the same sympathetically and as per rules and pass a reasoned order. Till the completion of the exercise, the interim order dated 5.3.2004 keeping the transfer order dated 11.12.2003 in abeyance shall continue.

Subject to the observations made above, the application is disposed of. No order as to costs.

K.V.Prahadan
(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER

bb

DISTRICT : BONGAIGAON



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH ::

GUWAHATI

[An application under Section 19 of the Administrative Tribunals Act, 1985]

O.A. No. 56 of 2004.

Shri Pradip Kalita, - Applicant,

-Versus-

Union of India and Others, - Respondents,

I N D E X

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Filed by -

Pradip Kalita
Advocate 3.3.2004

Pradip Kalita

Filed by :-

Shri Pradip Kalita &
Applicant

Through
Pradip Kalita
Advocate 3.3.2004

DISTRICT : BONGAIGAON

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH ::

GUWAHATI

[An application under Section 19 of the Administrative Tribunals Act, 1985]

O.A. No. 56 of 2004.

I. Particulars of the applicant :-

Shri Pradip Kalita,

Son of Shri Rabiram Kalita,

Upper Division Clerk,

Kendriya Vidyalaya, New Bongaigaon,

Bongaigaon (Now under order of transfer to

Kendriya Vidyalaya, Haflong).

II. Particulars of the Respondents :-

1. Union of India

Through the Secretary to the Government of India,

Ministry of Human Resource Development,

Central Secretariat,

New Delhi – 1

2. Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi – 110 016.

Through its Commissioner.

3. Education Officer,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi – 110 016.

4. Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Guwahati Regional Office,
Maligaon,
Guwahati – 12.

5. Principal,
Kendriya Vidyalaya, New Bongaigaon,
Bongaigaon.

III. **Particulars of the Order against which the application is made :-**

The application is presented against the order bearing F. No.12-8(10)/2003-KVS(Estt.III) dated 11-12-2003 issued by the Respondent No.3 ordering transfer of the applicant from Kendriya Vidyalaya, New Bongaigaon to Kendriya Vidyalaya, Haflong in the same rank.

Pradeep Kalita

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 further declares that the present application is within the limitation prescribed in Section 21 of the Administrative Tribunal Act, 1985.

V.I. Facts of the Case :-

1. The applicant is a citizen of India and is as such entitled to all the rights and privileges guaranteed to the citizens of India by the Constitution of India and the laws framed thereunder.
2. The applicant is an employee of the Kendriya Vidyalaya Sangathan (KVS), presently serving in the rank of Upper Division Clerk. It may be mentioned that the petitioner was serving as Lower Division Clerk in the KVS since 5th May, 1984. He had to file a writ petition before the Hon'ble Gauhati High Court being Civil Rule No.4019/97 for his promotion to the post of Upper Division Clerk (UDC). The Hon'ble Gauhati High Court vide order dated 28-08-97 directed the authorities of the KVS to consider the case of the applicant for promotion to the post of UDC within 4 (four) weeks. Pursuant thereto, the applicant was promoted to the post of UDC vide the order dated 27-10-1997 and posted at Kendriya Vidyalaya, Maligaon.

Pradeep Kothiyal

3. Vide Order date 4-12-2000, the applicant was transferred from Kendriya Maligaon to Kendriya Vidyalaya, Nirjuli (NERIEST), Arunachal Pradesh.
4. The applicant challenged the aforesaid transfer order dated 04-12-2000 before this Hon'ble Tribunal in O.A. No.432/2000. This Hon'ble Tribunal vide Order dated 14-12-2000 disposed of the said original application directing the applicant to make an appropriate representation before the concerned authority and on such representation being made, the Respondents were directed to consider the same and to pass a reasoned order thereon. It was further directed that till the completion of the aforesaid exercise the transfer order dated 4-12-2000 shall remain suspended.

A copy of the said order dated 14-12-2000 is enclosed herewith and marked as Annexure - "A".

5. As directed by this Hon'ble Tribunal, the applicant submitted representation. Thereafter, the authority issued an order dated 10-04-2001 cancelling the transfer order dated 04-12-2000. This was followed by another order dated 16-04-2001 whereby the applicant was posted at Kendriya Vidyalaya, Khanapara.

Copies of the orders dated 10-04-2001 and 16-04-2001 are enclosed herewith and marked as Annexures "A-1" and "A-2" respectively.

6. Before completion of the stipulated tenure of 5 (five) years as provided by

Pradeep Kothuri

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the KVS guidelines, the applicant was transferred from Kendriya Vidyalaya, Khanapara to Kendriya Vidyalaya, New Bongaigaon vide the transfer order dated 31-3-2003. It may be mentioned that the applicant's leave period of 174 days from 9-12-2000 to 3-6-2001 which was granted by the authority was not excluded while counting the tenure period at Khanapara.

A copy of the said order dated 31-3-2003 is enclosed herewith and marked as Annexube – “B”.

7. Being a disciplined and obedient employees, the applicant complied with the said transfer order and joined in his transferred post at New Bongaigoan. Thereafter the applicant submitted a representation dated 4-7-2003 to the Joint Commissioner (Admn), KVS through proper channel for modification of the said transfer order. The petitioner stated that his wife is an employee of the Pragytish Gaolia Bank, which is a Regional Rural Bank and serving at its Ganeshguri Branch, Guwahati. The applicant drew the addtnion of the authority to the provisions of the Government of India office Memorandum dated 12-6-1997 which provided for posting of the husband and wife at the same station. The applicant further stated that his minor son is a student of Faculty Higher Secondary School, North Guwahati. The applicant pointed out vacancies in the post of UDC in the Kendriya Vidyalaya, Mangaldoi and also at KVS Regional Office, Guwahati. The applicant's aforesaid application was forwarded to the competent authority vide the forwarding letter dated 16-7-2003.

Copies of the representation dated 4-7-2003 and the forwarding letter dated 16-7-2003 are enclosed herewith and marked as Annexures “C” and C-1 respectively.

Prady Nalik

8. It may be mentioned that the KVS decided to invite fresh applications from teaching and non-teaching staff of Kendriya Vidyalayas (excluding Principals and Vice-Principals) for effecting request transfer during the year 2003-2004. This is contained in the KVS Notification dated 14-8-2002. This scheme has since been extended for the year 2004-2005. The applicant submitted his application for transfer on request for the year 2004-2005 on the ground of joining the spouse (category Code – JSP) and gave the following choice stations –

	<u>Station Code</u>	<u>Place</u>
1.	258	Mangaldoi
2.	253	Jagiroad
3.	251	Guwahati (IOC)
4.	249	Digaru (AFS)

The applicant filled up the said application on 1-10-2003 and the same was forwarded by the Principal, Kendriya Vidyalaya, New Bongaigaon to the competent authority on 09-10-2003.

Relevant portions of the Notification dated 14-8-2002 and the application dated 1-10-2003 are enclosed herewith and marked as **Annexures – D and D-1** respectively.

9. While applicant was expecting a favourable decision on his representation dated 4-7-2003 and on his application for transfer on request, the applicant was shocked and surprised when he was served with a transfer order dated 11-12-2003 ordering his transfer to Kendriya Vidyalaya, Haflong.

Brody Ralok
15

A copy of the said transfer order dated 11-12-2003 is enclosed herewith and marked as Annexure – “E”.

10. The applicant submitted a representation dated 18-12-2003 to the Respondent No.2 through proper channel highlighting his grievances and prayed for modification of the said transfer order from Haflong to Mangaldoi or to the KVS Regional Office at Guwahati. Similar representation dated 22-12-2003 was submitted by the applicant's wife. It may be mentioned that in both the representations it was stated that 2 posts of UDC are presently lying vacant, one in the KVS Regional Office, Guwahati and the other at Kendriya Vidyalaya at Mangaldoi.

Copies of both the representations dated 18-12-2003 and 22-12-2003 are enclosed herewith and marked as Annexures – “F” and “F-1” respectively.

11. The applicant because of his illness submitted a application dated 30-12-2003 to the authority requesting for leave on medical ground, enclosing therewith a medical certificate of the authorised medical attendant.

A copy of the said application dated 30-12-2003 along with the enclosed document are enclosed herewith and collectively marked as Annexure – “G”.

12. The applicant because of his illness has not yet joined in his transferred post.

Pragjyotish
Kaushik
15

13. It may be mentioned that the Government of India in the Ministry of Personnel, Public Grievances & Pensions (Department of Personnel & Training) has framed a scheme for posting of husband and wife together at the same station. This is contained in the Office Memorandum dated 12-06-1997. The said scheme as contained in the office memorandum dated 12-06-1997 is still in force and holds the field.

A copy of the said office memorandum dated 12-6-1997 is enclosed herewith and marked as Annexure – “H”.

14. The applicant's wife is a permanent employee of Pragjyotish Gaonlia Bank and is presently serving in the Ganeshguri Branch, Guwahati as clerk-cum-cashier. The said Bank does not have any branch or office at Haflong or in the entire North Cachar Hills district of which Haflong is the district headquarter. It has been the consistent prayer of the applicant before the authority for posting him at the same station where his wife is serving.

A copy of a certificate dated 27-12-2004 issued by the Branch Manager, Pragjyotish Gaonlia Bank, Ganeshguri Branch is enclosed herewith and marked as Annexure – “I”.

15. It may further be mentioned that the applicant's son Master Bhaskar Deep Kalita is a student of Class – V studying in the Faculty Higher Secondary School, North Guwahati. The annual examinations in the said school for the session 2003-2004 is commencing from 16-3-2004. Further, the applicant's parents are quite old and they are keeping indifferent health. The applicant's presence with his parents has been necessary at this stage of their lives.

Pradeep Scolik

16. The applicant has not been informed anything by the Respondents regarding the representations submitted by him and his wife praying for modification of his transfer order dated 11-12-2003. It appears that no action has been taken on the said representations.

17. The impugned order of transfer dated 11-12-2003 has caused serious prejudice to the applicant. The same would have the effect of jeopardising his family life which in turn would have an adverse impact on his service efficiency. His representation on the subject are also lying unattended. The applicant is aggrieved by the same, hence the present application.

VI. G R O U N D S :-

- (1) For that the impugned order dated 11-12-2003 is bad in law as well as on facts and the same is as such liable to be set aside and quashed.
- (2) For that the impugned order virtually amounts to a punitive transfer. As has been stated above, the applicant had submitted a representation dated 04-07-2003 for modification of his previous transfer order. He had also submitted his application for transfer on request in terms of the KVS guidelines dated 14-08-2002. If the authority had any difficulty in acceding to the request of the applicant, the applicant's representation as well as his application for transfer on request could have been rejected. However, instead of doing that, the authority in a vindictive manner transferred the applicant to Haflong.
- (3) For that the impugned order has not been issued in the public interest. Rather, the same amounts to a punitive transfer.

Pragjyotish Gaonlia Bank

(4) For that as per the Government of India policy contained in the Office Memorandum dated 12-06-1997, the husband and wife should invariably be posted together in order to enable them to lead a normal family life and look after the welfare of the children. It has been the persistent prayer of the applicant before the authority for posting him in the same station with his wife. As has been stated above, the applicant's wife is a permanent employee of Pragjyotish Gaonlia Bank and serving at Ganeshguri Branch at Guwahati. It has branches at Mangaldoi, New Bongaigaon and other places. But there is no branch or office of the said Bank at Haflong as well as in the entire North Cachar Hills District. The Respondents are duty bound to comply with such Government guidelines. The failure to do so has vitiated the impugned order of transfer.

(5) For that the applicant's minor son is in the midst of his academic session. The annual examinations are starting from 16-03-2004. The Hon'ble Supreme Court has held that mid-session transfer orders should be avoided. Being a model employer, the KVS authorities are required to look into the hardships faced by its employees and try to balance the same with the administrative requirements.

(6) For that the applicant's parents are quite aged and are keeping indifferent health. The applicant's presence at his home at Guwahati has become very essential now at the fag end of his parent's lives.

(7) For that there is no necessity or requirement for the applicant's transfer to Haflong. The applicant has pointed out before the authority and as has been stated above, 2 posts of UDC are presently lying vacant, one at

Pradip Raval

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Kendriya Vidyalaya Mangaldoi and the other at the KVS Regional Office at Guwahati. The applicant's posting in the above places would amount to substantial compliance of the above office memorandum and would enable the applicant to lead a normal family life as well as enable him to look after his old and infirm parents.

(8) For that the applicant has been subjected to frequent transfer. Earlier, he was transferred vide order dated 4-12-2000 from Kendriya Vidyalaya, Maligaon to Kendriya Vidyalaya, Nirjuli (Arunachal Pradesh). That order was cancelled vide order dated 10-04-2001 when the applicant approached this Hon'ble Tribunal. However, by a subsequent order dated 16-04-2001, the transfer order dated 04-12-2000 which was cancelled by order dated 10-04-2001 was again modified by order dated 16-04-2001 whereby the applicant was posted at Kendriya Vidyalaya, Khanapara. Against the normal tenure of 5 years, the applicant was again transferred from Kendriya Vidyalaya, Khanapara to Kendriya Vidyalaya, New Bongaigaon vide order dated 31-03-2003 i.e. less than 2 years. The applicant has not yet completed 1 year at New Bongaigaon when by the impugned order dated 11-12-2003 he is being transferred from New Bongaigaon to Haflong. It is thus clear that the applicant has been subjected to frequent transfer, each time much ahead of the normal tenure of posting. The jurisdictional High Court has held such frequent transfers to be mala fide.

(9) For that the impugned order is vitiated by arbitrariness and unreasonableness. There is arbitrary exercise of power by the authority in the present case. The Respondents have acted illegally in issuing the impugned order and the same is violative of Article 14 and 16 of the Constitution of

Roshan

India. There has been total non-application of mind by the Respondents to the relevant factors while issuing the impugned order. There is malice in law as well as on fact and the same has vitiated the impugned order. The applicant has been subjected to an unfair treatment and the same has prejudicially effected him.

(10) For that in any view of the matter the impugned order is wholly untenable and the applicant is entitled to the reliefs as prayed for in this application.

VIII. Details of the remedies exhausted :-

The applicant had submitted representation before the authority but nothing has been done on the said representation.

IX. Matter not previously filed or pending with any other Court :-

The applicant has not filed any other case/application in any other court/Tribunal regarding the present subject matter.

X. Reliefs sought :-

Under the facts and circumstances, the applicant prays for the following reliefs –

- (1) To set aside and quash the order bearing F.No.12-8(10)/2003-KVS(Estt.III) dated 11-12-2003 issued by the Education Officer, Kendriya Vidyalaya Sangathan (Annexure – E);

Pradyo Ralch 20

- (2) To direct the Respondents to consider the representation of the applicant dated 4-7-2003 (Annexure - "C") as well as the applicant's application for transfer on request dated 1-10-2003 (annexure- "D-1");
- (3) To pass such further order or orders as this Hon'ble Tribunal may deem fit and proper;
- (4) Cost of the proceeding.

XI. Interim order prayed for :-

Pending disposal of the present application, the applicant prays for stay/suspension of the transfer order bearing F.No.12-8(10)/2003-KVS(Estt.III) dated 11-12-2003 issued by the Education Officer, Kendriya Vidyalaya Sangathan (Annexure - "E").

XII. Particulars of the Postal Order :-

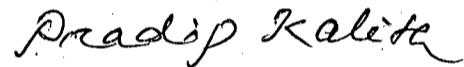
Postal Order No.	-	11 : G : 378257
Date	-	01-03-2004
Issuing Office	-	Guwahati GPO
Payable at	-	Guwahati GPO

XIII. List of enclosures :-

An Index showing the particulars of documents enclosed.

VERIFICATION

I, Shri Pradip Kalita, Son of Shri Rabi Ram Kalita, aged about 42 years, by profession service, resident of ^{Quarter No. 216/A} Central Gotanagar, Maligaon, Guwahati - 781009. I 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 I to XIII are true to my knowledge and that I have not suppressed any material fact.



Guwahati, the 3rd day of March, 2004

Applicant

Annexure - A

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:GUWAHATI:5

ORIGINAL APPLICATION NO. 432-1200

Versus

Union of India & Ors

Respondents.

For the applicant(s) No. B. 15. 83 name

" U.S. C

For the Respondents

Dr. B. P. Tadi...
Adr. L KV

NOTES OF THE REGISTRY

DATE

—O_R_D_E_R—

14.12.0b Present: The Hon'ble Mr D.N.Chowdhury, Vice-Chairman.

The Hon'ble Mr M.P.Singh,
Administrative Member.

One more familiar issue relating to transfer and posting of the applicant who is now working as UDC in Kendriya Vidyalaya, Maligaon under the respondents has been transferred to Nirjuli at Arunachal Pradesh. The applicant has raised numerous grounds challenging the transfer order. One such grounds is relating to his right to be considered for posting under the scheme of posting husband and wife at the same station. Mr S. Sarma, learned counsel appearing for the applicant referred to the Office Memorandum No. 28034/7/86-Estt(A) dated 3.4.86, which is subsequently amended in 12th June, 1997. Also heard Mr B.P.Todi, learned counsel for KVS.

Since the matter relates to the area of administration, we are of the view that ends of justice will be met if a direction is issued to the applicant to make an appropriate representation before the concerned authority narrating his grievances within a week from today. If such represen-

Certified to be true COPY

Minist. Dr. Sars

14.12.00 -tation is made, the respondents shall consider the same as per the departmental guidelines and pass ^{necessary} ~~necessary~~ orders thereon, as expeditiously as possible. Till the aforementioned exercise is completed, the impugned order of transfer dated 4.12.2000 pertaining to the applicant transferring him from Maligaon to Nirjuli shall remain suspended.

With the above direction the application is disposed of. There shall however, be no order as to costs.

Sd/- VICECHAIRMAN
Sd/- MEMBER (A)

Certified to be true Copy
प्राप्ति प्रदिलिपि

W/No. 14/12/2000

Section Officer (J)
Central Administrative Tribunal
Central Administrative Tribunal
Guwahati Bench, Guwahati-8
प्राप्ति प्राप्ति प्राप्ति

W/No. 14/12/2000

Certified to be true Copy

Prinuwar Das
Advocate

Kendriya Vidyalaya Sangathan
(Esstt.-IV Section)
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi-110016.

F.No.12-1(DT)/2000-KVS(E-IV)

Dated: 10/11/2001

Transfer Cancellation Order

With reference to the representation dt./-2-10/ of Smt. Mira Kalita w/o Sh. Pradip Kalita, UDC, transfer order of Sh. Pradip Kalita, UDC issued vide order of even no. dated 04-12-2000 as per provisions contained in para 10(1) of Kendriya Vidyalaya Sangathan's Guidline from Kendriya Vidyalaya, Maligaon to Kendriya Vidyalaya Nirjuli(NERIEST) is hereby cancelled.

This issues with the approval of Commissioner, KVS.

M.K.Rao

(M.K.Rao)
Dy. Commissioner(Admn.)

Copy to:

1. Sh. Pradip Kalita, UDC, KV Maligaon.
2. Smt. Mira Kalita w/o Sh. Pradip Kalita, Railway qr. no. 285/A, West Gotanagar, Maligaon, Guwahati-781011.
3. The Principal, Kendriya Vidyalaya, Maligaon/Nirjuli(NERIEST).
4. The Asstt. Commissioner, (RO) Guwahati. As Sh. Pardip Kalita has filed O.A. No. 23/2001 in the CAT Guwahati bench, against his transfer order, hence he is requested to inform the Hon'ble CAT, accordingly under intimation to this office.
5. The S.O. L&C Section alongwith file bearing No. 19-171(4)/2001-KVS(L&C).
6. Guard file.

post

Received by Post
16/11/2001

verified to be true copy
Minal Kr. Das
Editor

9Q
Kendriya Vidyalaya Sangathan
(Estt. IV Section)
18, Institutional Area,
Shaheed Jeet Singh Marg,
NEW DELHI - 110 016.

No. F.12-1(DT)/2000-KVS(E.IV)/561

DATED: 16.6.2001

MODIFICATION ORDER

In partial modification, the transfer of following employee ordered on public interest vide this office transfer order of even number dated 4.12.2000; is hereby modified in KV as shown in col. 5 against his name as under:-

Sl. No.	Name of UDC	Transferred		Modified to KV
		From KV	To KV	
1	2	3	4	5
1	Sh. Pradeep Kalita, UDC	Maligaon	✓ Nirjuli	Khanapara

The other terms and conditions of above said transfer order dated 4.12.2000 will remain the same.

This issues with the approval of Commissioner, KVS.

M.K.Rao

(M.K.Rao)
Dy. Commissioner(Admn.)

Copy to:

- 1- Individual concerned.
- 2- The Principal, KVs concerned.
- 3- The Asstt. Commissioner, KVS, ROs concerned.
- 4- Guard file.

A.Harish
D.Venkateswary

Principal

Registrar, Vidyalaya
Deputy Commissioner
Master Control Room
Telecommunications

Received
14/5/2001

certified to be true COPY
Amrit Lal. S. S. S.
Advocate

Annexure - B

18, INSTITUTE ZONAL AREA
SHAHEED JEET SINGH MARG
NEW DELHI - 110 001.

No.12-1(D)/UDCL/20003/KVS(Estt.III)

Dated 31-03-2003

TRANSFER ORDER

In terms of clause 10(1)&(3) of the transfer guidelines which inter alia provides to create a vacancy so as to accommodate the persons who are figuring in priority list II, as per their priority position, transfer of the following is hereby ordered on request/in public Interest. The lady employees getting displaced out of the Notional zone have been adjusted against the vacancy within the Notional Zone subject to its availability. Otherwise, the seniormost male teacher in the Notional Zone has been displaced out of Notional Zone to restrict female employees displacement within the Notional Zone. In case both the above options were not possible, the female employees have been displaced out of Notional Zone. This is as per amended clause 10(2) of the said guidelines circulated vide 1-1/2002-2003/KVS(E.II) dated 8-1-03.

The employees transferred in public interest is entitled for all transfer benefits as per KVS Rules. The transfers are with effect from 1/4/2003.

POST : NIS SUBJECT : UDCL

P.No. R.No.	Employees Name UAN/SSN	Sex	TRANSFERRED						Female Disp. I-Z	Nature of Transfer For
			From			To				
KV	STN	RGN	NZ	KV	STN	RGN	NZ			
1 22	Narayan Chandra Kalita 6023 (BY DISPLACING)	M	1435	224	10	1442	227	10		
	Pradip Kalita 6024	M	New Bongaigaon			Guwahati	Khanapara			On request
			1442	227	10	1435	224	10		
			Guwahati	Khanapara		New Bongaigaon				U/c 10(2)

This issues with the approval of the competent Authority of KVS

Sd/- xxx xxx

31-3-03

JOINT COMMISSIONER(Assam)

NZ = Notional Zone

*certified to be true copy
Prinu W. Deka
2003-03-31*

DISTRIBUTION :-

1. The individual concerned.
2. The Principal concerned with the direction to relieve the employee immediately. They are also directed to intimate this office/RO concerned about relieving/joining of the employee.
3. Asstt. Commissioner, KVS, RO concerned for information and necessary action.
4. Audit and Accounts Officer of the Region concerned for necessary action.
5. General Secretaries of the recognised associations of KVS.
6. Office copy.

*Confidential to be given copy
Anil Kumar
Editor*

From :- Mr. P. Kalita
Upper Division Clerk
Kendriya Vidyalaya,
N. F. Railway,
New Bongaigaon.

To,

The Joint Commissioner (Admn.)
Kendriya Vidyalaya Sangathan,
10, Tansen Marg,
Shahidjeet Singh Marg,
New Delhi - 16.

(Through Proper Channel)

Dated, 4th July, 2003.

Sub :- Modification of transfer order from K.V. New Bongaigaon to
K.V. Mangaldoi or nearby Guwahati in respect of myself.

Respected Sir,

With due respect and profound submission, I beg to state that
the few following lines before your honour for favour of your kind
consideration and necessary action please.

1. That Sir, since, recently I have been transferred from K.V. Khanapara, Guwahati to K.V. New Bongaigaon in compliance in your KVS (H.Q.) New Delhi letter No. F Accordingly, I had reported for my duties as UDC on 24/5/03 at K.V. New Bongaigaon. dt. 31/3/03.
2. That Sir, my wife is a Regional Rural Bank employee under Pragjyotish Gaonlia Bank, Ganeshguri Branch, Dispur, Guwahati (A copy of the Service Certificate from the employer is enclosed herewith for your kind perusal as Annexure-A) about 20 k.m. distance from my residence of Maligaon to duty place where my whole family are residing alongwith my minor child as well as my ailing poor health father who is residing with me and wholly dependent upon me.
3. That Sir, my minor child is studying in Private School in Faculty Higher Secondary School, Amingaon, North Guwahati to the standard of class-7 about 15 k.m.. distance from my residence of Maligaon, Guwahati. So it is not possible to look after my child is far from the away of the education/welfare without helping of father for proper guidance of the daily school routine works and thereis no any member to look after my family in the present station.
4. That Sir, I am the low-paid earning member of our family, only bread earner of my family as well as my ailing father more than 65 years old has been suffering from Asthma with hypotension is still under treatment at the consulting Doctor's so they are helpless in my absent at the residence of Maligaon, Guwahati (A copy of the Treatment Certificate from the A.M.A. is enclosed herewith for your kind perusal as Annexure-B).
5. That Sir, I came to know from reliable source that there is a new Kendriya Vidyalaya has opened at Mangaldoi, Dist. Darrang, from the academic year 2003-04. Hence one post of UDC is lying vacant in K.V. Mangaldoi which place is a convenient for me to and fro journey daily from Maligaon to Mangaldoi Bus services is available and allow me to continue best services to the K.V.S.

Confded to be true COPY
Anil Kumar Das
1/2/2003

Contd..... 2.

6. That Sir, I would like to draw your kind attention in provision contained in Govt. of India, Ministry of personal, public Grievances & pensions O.M. No. 28034/2/97/ESTT (A) dt. 12th June, 1997 and emphasising the need for posting husband and wife in a single station and also there being a stamp of approved by the 5th Central Pay Commission recommendation regarding the need to post husband and wife may invariably be posted together in order to enable them to lead a normal family life and look after the welfare of the children.

moment which is not safe at all for a lady alongwith my minor child without helping of the attendant as because as a lady she can not residing alone at the present law and order situation prevailing in Guwahati as disturbed area still danger to the human life. Besides, I am also facing certain problems which are beyond my control to solve and thus I am mentally disturbed here.

In view of the aforesaid facts and circumstances, I pray your honour to modify the transfer order from K.V. New Bongaigaon to K.V. Mangaldoi, District Darrang or nearby Guwahati on compensation ground. Moreover your small favour will be great blessing to me and help me render my best services to the K.V.S. being free from big worries of domestic life to avoid any untowards incidents.

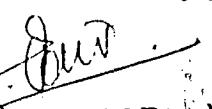
Therefore, I earnestly request your good office kindly to look into the matter personally to modify the transfer order from K.V., New Bongaigaon to K.V. Mangaldoi. And hence I may kindly be posted at K.V. Mangaldoi (Dist. Darrang) on compensation ground for your kind favour is solicited.

Hoping your early action is eagerly awaited.

Thanking you in anticipation.

Yours faithfully,

Enclo. : As above.


(PRADIP KALITA)

Advance in Copy to :-

The Joint Commissioner (Admn.)
K.V.S. (H.Q.), New Delhi for kind information and
favourable action please.

Conveyed to Dr. Mr. A.C.M.
Pradip Kalita
S.D.C.C.W.



- 23 - 110. 5/2003
KENDRIYA VIDYALAYA SANGATHAN

केन्द्रीय विद्यालय संगठन

धर्मीय कार्यालय
मातीगांव चारिआली
गुवाहाटी ৭৮১ ০১২

Regional Office
Maligaon Chanali
Guwahati - 781 012

Phone : 2571799
2571798
Tele Fax : 2571787

Annexure C-1

पत्राक

No. F. : 10-3/2002-KVS(GR)/ 6881 - 82

दिनांक :
Dated 16-07-2003

To

The Joint Commissioner (Admn.)
Kendriya Vidyalaya Sangathan (Hqrs),
New Delhi : 16.

Subject : Forwarding of application of Mr. P. Kalita, UDC,
Kendriya Vidyalaya, New Bongaigaon for transfer
to Kendriya Vidyalaya, Mangaldoi - regarding.

Sir,

I am forwarding herewith the copy of application
dated 04th July, 2003 of Mr. Pradip Kalita, UDC, Kendriya
Vidyalaya, New Bongaigaon requesting for modification of
his transfer from Kendriya Vidyalaya, New Bongaigaon to
Kendriya Vidyalaya, Mangaldoi for necessary action at your
end.

Yours faithfully,

Enclo : As above.

(S. S. SEHRAWAT)
ASSISTANT COMMISSIONER

Copy to :-

1. Principal, Kendriya Vidyalaya, New Bongaigaon for information.

✓. ✓. ✓. ✓. ✓.

✓. ✓. ✓. ✓.

Pradip Kalita, UDC

Staff Grandkum

KENDRIYA VIDYALAYA SANGATHAN
18, INSTITUTIONAL AREA
SHAHEED JEET SINGH MARG
NEW DELHI -110016.
ESTABLISHMENT SECTION

ANNEXURE - D

F.1-1/2003-2004/KVS(Estt-III)

Dated: 14.08.2002

The Principal,
All Kendriya Vidyalayas

Sub : Annual request transfer in respect of teaching and non-teaching staff of Kendriya Vidyalayas for the year 2003-2004 - applications regarding.

Sir/Madam,

It has been decided to invite fresh applications from teaching and non-teaching staff of Vidyalayas (excluding Principals and Vice-Principals) for effecting request transfers during the year 2003-2004. All are eligible to apply except those covered by clause 18(d) of the existing transfer guidelines. Application format has been modified now and accordingly instructions have been revised to that extent. Hence those employees who preferred applications for their request transfer in response to KVS(HQ) circular No. F. 1-1/2002-KVS (E.III) dated 14.8.2001 are also directed to apply afresh in the new format for request transfers for 2003-04, as the earlier application does not conform to the present requirements and they will not be considered strictly. Principals are requested to ensure this.

2. PUBLICITY

There have been general complaints that the instructions accompanying application form are not made available to the applicants. It is made clear that the awareness of the instructions in proper perspective is necessary to fill up the application form without mistakes and with the correct code (s) wherever necessary. Therefore, a set of three copies of this application is being sent alongwith instructions. One copy is meant for official use, another for reference in the library, and the rest for display on the Vidyalaya Notice Board.

3. HOW TO APPLY

- (i) Eligible employees desirous of seeking transfer can prefer only one application (in quadruplicate) in the enclosed format (either for intra-station or for inter-station).
- (ii) The applications must conform to the given format both in form and content.
- (iii) No enclosure is allowed with the application.
- (iv) Medical Certificate in support of request on medical grounds and/ or declaration regarding employment of spouse are part of the application. They should be obtained/recorded on the body of the form itself to avoid detachment.
- (v) Over-writing must be avoided.
- (vi) Utmost care should be taken to fill up correct GPF/CPF No., KV code and Station codes after careful reading of all the instructions in the prescribed columns, respectively. Wrong codes, even if filled inadvertently, may lead to wrong transfer/posting, which cannot be changed later on.

constituted to be true copy
Anil Kumar, A.O.S.
Date: 14.08.2002

4. CODE OF CONDUCT REGARDING CANVASSING OF NON-OFFICIAL /OUTSIDE INFLUENCE

Attention of all concerned is drawn to the provision of Article 55 (27) of Education code and Rule 20 of CCS (Conduct) Rules. The employee concerned be informed that any violation thereof shall render them liable for disciplinary action. Canvassing in any form, Overt or Covert, direct or indirect will automatically disqualify teacher/staff from being considered for transfer and his/her name will be removed from the priority list of transfer and disciplinary action will be taken against the teacher as per CCS (CCA) Rules, 1965.

5. ENDORSEMENT:

- (i) The application and declaration wherever necessary must be signed by the employee himself/herself. Applications endorsed by spouse, parents etc for and on behalf of the employee is not acceptable and hence should not be forwarded. Medical Certificates must have the signature of Civil Surgeon/Chief Medical Officer.
- (ii) The forwarding note must be endorsed by the Principal after satisfying himself/herself personally of the correctness of the entries made by the applicant. It has been observed that the details furnished by the applicants are not subjected to proper verification before endorsing the forwarding note. Therefore, the Principals are requested to pay their personal attention to ensure correctness of the entries, so that wrong information does not affect prioritization. Any wrong information filled in by the applicants and duly counter signed by the Principal will attract disciplinary action against the individual as well as the counter signing authority.

6. SUBMISSION OF APPLICATION

Last date for submission of applications to the Principals of the concerned Vidyalaya, in quadruplicate, is 1.10.2002. These may be arranged as intra-station and inter-station requests and forwarded in duplicate (in two lots with separate lists) to the Assistant Commissioner of the Region concerned not later than 10.10.2002 and one copy of the application may be retained in the Vidyalaya and the remaining copy containing Principal's endorsement be returned to the employee for his/her reference & record. Application of the employees who are not eligible to be considered for transfer in terms of Clause 18 (d) of the Transfer Guidelines should not be forwarded to the ROs. Advance copy of application(s) forwarded directly by the Principals will not be entertained by the Head Quarters. Principal should forward the applications to ROs as (preferably once in a week) and when received, after completing the formalities, instead of waiting for the last date. Once the transfers are effected, request for cancellations of transfer will not be entertained.

7. LATE APPLICATION:

Applications received after the stipulated dates mentioned above, will not be considered. The applicants and the Principals should, therefore, strictly adhere to the target dates specified in para 6 above. In order to avoid any rejection of application for want of correct information from the applicant and subsequent rectification at RO level, the applicants are requested to submit their forms well in time.

Yours faithfully,

(D.S. Bist)
Jt. Commissioner(Admn.)

Copy to: L. D. S. Bist
Anil Kumar Das
22-2-2002

Copy forwarded for information and necessary action to :-

1. Asstt. Commissioner, All Regional Offices, Kendriya Vidyalaya Sangathan.

(a) He/She is requested to go through each set of application carefully before submission. May send one set to KVS (Hqrs) duly completed in all respects as under, so as to reach by 31.10.2002.

A. PGT, TGT & HM: As one bundle to Estt.III Section

B. PRT, Misc. Categories & Non-Teaching Staff:
(Except Group-D) As one bundle to Estt.IV Section

Instructions given vide KVS (HQ) circular No. F.11/95-KVS(Estt.III) dated 6.9.95 may also be followed, wherever required. The instructions available at clause 2(ii)(b) of transfer guidelines may be followed scrupulously in the case of non-availability of ACR for any of the year indicated at serial No. 9 of application form.

(b) May indicate entitlement points of performance as well as total/grand total there at Sl. No. 9.

(c) Verify the application submitted by the applicant thoroughly.

(d) Shall feed in the application form as per instructions given in the training programme organized in the first week of August 2002, for the purposes of enabling on line transfer. The booklet distributed during the training programme may be utilized for the purpose. A copy of the same is enclosed for ready reference. For further inquiry may contact the EDP Cell of KVS (Hqrs).

(e) In case of receipt of application on medical grounds, the same may be forwarded/verified by the Medical Board constituted at the Regional level, before adopting the procedure at (d) above. After feeding in the data, one set of application along with Medical Certificate in original should be sent to the Headquarters for final verification and one to be retained by the Regional Office

2. All Officers and Sections of KVS(HQ)



Joint Commissioner (Admn.)

Copy forwarded
Anup Kumar
Admn.

F. 7/KKV/NBQ / 2003-04/799 / -27- 07. 09/10/03

35

Annexure D-1

UNIQUE APPLICATION NO.
(FOR OFFICE USE ONLY)

GPF/CPF No. 13880
(Strike out whichever is not applicable)

KENDRIYA VIDYALAYA SANGATHAN

APPLICATION FOR TRANSFER ON REQUEST 2004-2005

Note 1: Read instructions carefully before filling up.
2: Submit only ONE application in **QUADRUPLE**

1 C
PRESENT REGION PRESENT STATION
CODE CODE

1462
PRESENT K.V. CODE/
OFFICE CODE

175 402
POST HELD & SUBJECT
(ALPHABETS)

1. Name

SHRI PRADEEP KALITA
1(a) Title : Shri/Smt./Miss: SHRI

2. Whether Male/Female (M/F)

M

3. Date of birth (DD/MM/YYYY)

01 06 1958

4 (i) Date of appointment in the present post

27 10 1997

(ii) Date of joining in the Present Post:

a.) In the present vidyalaya

24 05 2003

b.) In the present station

24 05 2003

5. Details of last transfer/posting

Reason

Year

From

Stn. Code

KV Code

02

2003

251 1468

6. Grounds for seeking Transfer

a) (i) Death of Spouse within a period of 2 years preceding the date of preferring this Application (Y/N)

Y

NA

(ii) If Yes, Date of Demise (DD/MM/YYYY)

N

b) Medical Grounds (See Instructions) (Y/N)

N

c) Less than three years to retire (LTR) ground (Y/N)
(due to retire on or before 31.3.2007)

N

(i) Date of retirement

—

Minal K. Das
LSD

d) Others (See instructions for following Codes):

Category Code	Division Code	Entitlement Points	Applicable (Y/N)												
(i) <table border="1" style="display: inline-table; vertical-align: middle;"><tr><td>V</td><td>H</td><td>S</td></tr></table>	V	H	S	<table border="1" style="display: inline-table; vertical-align: middle;"><tr><td>0</td><td>3</td></tr></table>	0	3	<table border="1" style="display: inline-table; vertical-align: middle;"><tr><td>4</td><td>0</td></tr></table>	4	0	<table border="1" style="display: inline-table; vertical-align: middle;"><tr><td>N</td></tr></table>	N				
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J	S	P													
—	9	23													
15	12	12													
—	—	—													

(Please fill-up if applicable)

(Please fill-up if applicable)

Total : A

1	2
---	---

 15

7. Completion of 2 years of continuous stay in Very hard station or 3 years of continuous stay in NE & hard Stations OR 5 years elsewhere as on 31-3-2004 excluding the period of absence (Y/N)

Y

8. Only for those who are at their present place and as a result of posting on deployment of surplus adjustment or closure of Vidyalaya or closure of stream.(PLEASE READ THE INSTRUCTIONS VERY CAREFULLY)

(a) Details of present posting

KV	Station	From	To	Period of absence in days																					
<table border="1" style="display: inline-table; vertical-align: middle;"><tr><td> </td><td> </td><td> </td><td> </td></tr></table>					<table border="1" style="display: inline-table; vertical-align: middle;"><tr><td> </td><td> </td><td> </td></tr></table>				<table border="1" style="display: inline-table; vertical-align: middle;"><tr><td> </td><td> </td><td> </td></tr></table>				<table border="1" style="display: inline-table; vertical-align: middle;"><tr><td> </td><td> </td><td> </td></tr></table>				<table border="1" style="display: inline-table; vertical-align: middle;"><tr><td>3</td><td>1</td><td>0</td><td>3</td><td>2</td><td>0</td><td>0</td><td>4</td></tr></table>	3	1	0	3	2	0	0	4
3	1	0	3	2	0	0	4																		

(b) Earlier transfer(s) within the last five years (To be filled in only if (a) above is applicable), (in descending order)

KV	Station	From	To	Period of absence in days	Reasons for transfer																								
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Completed to be filled CEPD
Anil K. D.

9 (a) For Office Use Only (Confidential) To be filled in by Regional Office
Entitlement Points of Performance during the last 3 years

<input type="checkbox"/>	<input type="checkbox"/>	2000-2001
<input type="checkbox"/>	<input type="checkbox"/>	2001-2002
<input type="checkbox"/>	<input type="checkbox"/>	2002-2003
Grand total of Entitlement Points 'A' & 'B' (Total of 6 (d) + above)	Total 'B'	<input type="checkbox"/>
	Grand Total (A+B)	<input type="checkbox"/>

b) Whether 'MDG' grounds accepted by Regional Medical Board (Y/N)

c) Case of DSP verification done (Y/N)

d) Case of LTR verification done (Y/N)

Date

Signature of Assistant Commissioner

10. Choice Vidyalaya(s) or Station(s).

Instructions : Employees are eligible to apply either for intra-station transfer (Sl.No. 10.1) OR Inter Station Transfers (Sl.No. 10.2). Applications filled in for both types of transfers i.e. Sl.No. 10.1 and 10.2 will be summarily rejected.

10.1 For Intra Station transfer - Choice Vidyalayas
(with in the same station)
(Please see instructions)

K.V./Office
Code

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

10.2 For Inter Station transfer - Choice Stations
(from one station to another)
(Please see instructions)

STATION Code

2	5	8
2	5	3
2	5	1
2	4	9
—	—	—
0	1	

11. Category of place where spouse is working

certified to be true copy.
Amrit K. Jain
Advocate

12. Have you given the declaration regarding the Employment and place of posting of spouse (Y/N) **Y**

13. Have you obtained a MC on the form (Y/N) **N**

14. Type of disease certified in the MC overleaf **N** **II** Please fill up code

15. Relationship of the patient with the applicant **N** **II** Please fill up code

I, Shri/Smt./Kum. Pradeep Kalita S/o ~~W/o~~ Shri R.R. Kalita do hereby affirm that the information given in Sl.No. 01 to 15 excepting Sl.No.9 of this application are correct and that the medical certificate (M.C.)/declaration given is/are bona-fide and I understand that wrong/suppressed information shall render me liable for disciplinary action.

Place: K. V. Vello Bozagaoon

Signature: John

Date: 01-10-03

Name :- Pradip Kalita

DECLARATION

(Kindly fill the Information in bold letters. Strike out whichever is not applicable)

SMT. MIRAH KALITA (BHARALI)

SHRI PRA.DIP KALITA solemnly declare that my spouse _____ is presently Employed at/under orders of
 transfer to Pragya Yatra Gramika Bank (Place) as clerk - Cum - Cashier (Designation) in -----
Ganeshguri, Dispur (Deptt/unit/branch) since January, 2002

(Date). His/her full office address with Name and Designation of immediate superior/detail of self-employment is/are as follows:

Name and Office/Registered Business
Or Professional Address of SpouseName and Address of Immediate Superior Officer
or Registration No. of Business/Profession

Pragya Yatra Gramika Bank
Ganeshguri, Dispur
Guwahati-781006

General Manager
P. G. Bank, Head office
Narbari, Assam

Signature of the Employee

Name

Designation

Pradip KalitaPradipFor Office use only in Kendriya Vidyalaya
(Strike out whichever is not applicable)1. *Disciplinary case is pending/contemplated/ not pending/not contemplated against
Shri/Smt/~~him~~ Pradip Kalita

2. *The Medical Certificate/Declaration given in the application itself is from the competent authority:

3. *Certified that the details including entitlement points furnished by the applicant have been verified from the service records and found correct.

4. *She/he was on leave/absent/absent without pay during 17-4-03 to 23-5-03 (37 days EL) and is still away/not away from duties.

(Period)

Signature

Name of the Principal
Office SealR.S. RamanujamPrincipal
Kendriya Vidyalaya
New Bongaigaon - 783381

Note: 1. Sl.No. 1 to 8 and 10 to 15 have to be checked and verified by the Principal from the service records. They should take personal interest/care and ensure that the entries made by the applicant are correct before countersigning. Any wrong information filled in by the applicant and duly countersigned by the Principal will attract disciplinary action against the individual as well as countersigning authority.

2. Assistant Commissioners have to ensure that the correct required points are given in Sl. No. 9 and implement note 1 above in letter and spirit with respect to entries to be checked by the respective Principals within their Region

3. GPF/CPF Account Number also to be checked.

Pradip Kalita

From :-

Mr. Pradip Kalita
Upper Division Clerk
Central Gotanagar
Rly. Qr. No. 216 / A.
Maligaon, Guwahati - 11.

Annexure - F.

To,

The Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shahidjeet Singh Marg,
New Delhi - 16

(Through The Asstt. Commissioner, K.V.S., Guwahati)

Sub :- Modification of Transfer order from K. V. Halflong to K. V. Mangaldoi or K. V.S. Regional Office, Guwahati in respect of myself.

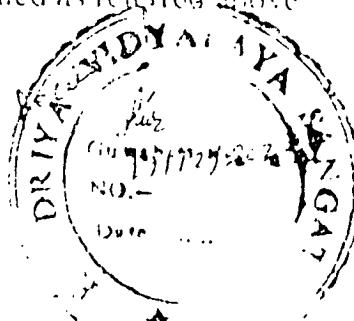
Respected Sir,

With due respect and profound submission, I beg to state that the few following lines before your honour for favour of your kind consideration and necessary action please.

1) That Sir, just six month I have been completed at K. V. New Bongaigaon as UDC, transferred from K. V. Khanapara, in compliance of your transfer letter order No. E. 12 - 1(D) / NTS / UDCL / 2003 / K V S (ESTI-III) dtd 31st March' 2003 (Copy enclosed as Annexure - A) Accordingly I had reported for my duties as UDC on 24 - 05 - 2003 at K. V. New Bongaigaon.

2) That Sir, I was not completed of 5 years service in the present post in the earlier station of Guwahati during my tenure service. I worked at K. V. Khanapara w.e.f 04 - 06 - 2001 to 06 - 04 - 2003. Consequently I was on leave w.e.f 09 - 12 - 2000 to 02 - 06 - 2001. The period of leave should be excluded from absent period in terms of clause U.S 10 (2) and (3) of the K. V. S transfer guidelines were displaced to me to accommodate the request employees (Copy enclosed for your kind perusal and ready reference as Annexure - B) vide K. V. S letter No. 2 - 1 / 2001 / 02 / K. V. S / GR / 15007 dtd. 13 - 08 - 2001 and Principal K. V. Khanapara letter No. E - 51 / K. V. G. 2002 - 2003 / 1050 dtd 07 - 10 - 2002 (Copy enclosed for your ready reference as Annexure - C) Hence the said transfer order dtd 31 - 03 - 2003 should not have been issued as referred above.

Contd. Pg 2



APRIL 2003
Pradip Kalita

3) That Sir, since I have been transferred from K. V. New Bongaigaon to K. V. Halflong N.C. Hills in the same capacity without completing of my tenure at K. V. New Bongaigaon vide transfer letter order No. F - 12 - 8 (10) / 2003 / K.V.S. (ESTT. - III) dtd. 11 - 12 - 2003 (Copy enclosed for your ready reference as Annexure - D).

4) That Sir, my wife is a Regional Rural Bank Employee under Pragjyotish Gaonli Bank, Gainesguri Branch, Dispur, Guwahati (A copy of the service certificate from the Employer is enclosed herewith as Annexure - E). About 20 Km distance from my residence at Maligaon to duty place where my whole family are residing along with my minor child as well as my ailing poor health parents who is wholly dependent upon me.

5) That Sir, my minor child is studying in Faculty Higher Secondary School at Amingaon, North Guwahati to the standard of Class - V about 15 Km distance from my residence of Maligaon, so it is not possible to look after my child is far from the away of the education / welfare without helping of father for proper guidance of the daily routine works and there is no any member to look after my family in the present station.

6) That Sir, I am the low paid earning member of our family, only bread earner of my family as well my ailing father more than 65 years old has been suffering from Asthma with Hypotension is still under treatment at the consulting doctors, so they are helpless in my absent at the residence of Maligaon, Guwahati (A copy of the treatment certificate from the A.M.A. is enclosed herewith as Annexure - F).

7) That Sir, there are two post of UDC are lying vacant, One in K. V. Mangaldoi and another at K. V. S. Regional Office, Guwahati.

8) That Sir, apprehending my transfer, I myself as well as my wife in the month of July 2003 made representation praying for modification of transfer from K. V. New Bongaigaon to K. V. Mangaldoi has been forwarded by the Ass'tt Commissioner, K. V. S. Guwahati vide his letter No. F - 10 - 3 / 2002 - K.V.S. / GR / 6881 - 82 dtd. 16 - 07 - 2003 (Copy enclosed for your ready reference as Annexure - G). Rather, I could come to know about my order of transfer has been issued not in the public interest but for some other employees ignoring my claim.

9) That Sir, I would like to draw your kind attention in provision contained in Govt. of India, Ministry of Personnel, Public Grievances & Pensions O.M. No. 28034 / 2 / 97 / ESTT. - A dtd. 12 - 06 - 1997 as applicable to K. V. S.

Contd... P 3

Anil Kumar Das

Employees. An emphasizing the need for posting husband and wife in a single station and also there being a stamp of approved by the 5th Central Pay Commission Recommendation regarding the need to post husband and wife may invariably be posted together in order to unable them to lead a normal family life and look after the welfare of the children.

10) That Sir, in the present situation is not safe at all for a lady along with my minor child without helping of the attendant as because as a lady she cannot reside alone at the present Law and Order situation. Besides I am also facing certain problems which are beyond my control to solve and thus I am mentally disturbed here.

In view of the aforesaid fact and circumstances, I pray your honour to modify the transfer order from K. V. Hailong to K. V. Mangaldoi or K. V.S. Regional Office, Guwahati on compensationate ground. Moreover your small favour will be great blessing to me and help me render my best services to the K. V. S. being free from big worries for domestic life to avoid any untoward incidence.

Therefore, I earnestly request your good office, kindly to look into the matter personally to modify the transfer order from K. V. Hailong to K. V. Mangaldoi or K. V.S. Regional Office, Guwahati for your favour is solicited.

Hoping your early action is eagerly awaited.

Thanking you in anticipation.

Enclo :- As above.

Yours faithfully,

8/10/03
(PRADIP KALITA)

Contra
Pradip Kalita

From : Mrs. Mira Kalita (Bharali)
Wife of Shri Pradip Kalita
Pragjyotish Gaonlia Bank
Ganeshguri Branch
Dispur, Guwahati - 781006.

Annexure F

To,

1. The Hon'ble Minister of State
Water Resource Development
Shastri Bhawan
New Delhi - 110001.
2. The Commissioner
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shahidjeet Singh Marg,
New Delhi - 16.

Dated, 22nd Dec, 2003

Sub :- Prayer for modification of transfer order from K.V. Halflong to KVS Regional Office, Guwahati or K.V. Mangaldoi (Darrang Dist.) in respect of Shri P. Kalita (Husband).

Respected Madam/Sir,

With due respect, and profound submission, I beg to state the the following few lines before your honour for kind consideration and necessary action, please.

1. That Sir, I, Mrs. Mira Kalita (Bharali) wife of Shri Pradip Kalita has been serving in Regional Rural Bank under Pragjyotish Gaonlia Bank, Ganeshguri Branch, Guwahati-6 (A copy of the service certificate from the employer is enclosed herewith for your kind perusal as Annexure-A) which is 20 k.m. distance from my residence of Maligaon, Guwahati where I am residing with my family alongwith my minor child as well as my ailing poor health parents-in-law who are residing and wholly dependent upon me.
2. That Sir, my minor child is styding in Faculty Higher Secondary School, Aminiaon, North Guwahati to the standard of class fifth, about 15 k.m. distance from my residence of Maligaon, so it is not possible to look after my child is far from the away of the education/welfare without helping of father for proper guidance of the daily school routine works. Moreover, Annual examination in respect of my child scheduled to be held in the month of March, 2004. Since there is no any member to look after my child during the days in the present station.

Original to be true copy
Pranjul M. Deka
CC.00.00

3. That Sir, I am the low paid earning member, since my ailing father-in-law more than 65 years old who has been suffering from Asthma with Hypotension is still under treatment at the consulting doctor's, so they are can not stay without helping of attendant and proper care (A copy of the treatment certificate from the A.M.A. is enclosed herewith for your kind perusal) ^{Q3} —

Annexure-13

4. That Sir, few months back my husband Shri P. Kalita (UDC) was transferred from K.V., Khanapara, Guwahati to K.V., New Bongaigaon in public interest and he was reported for duties at K.V., New Bongaigaon on 24-05-2003 in compliance of KVS (H.Q.) New Delhi vide order No. F.12-1(D)/NTS-UDCL/2003-KVS(Estt-III) dated 31-3-03 (Copy enclosed as Annexure-4 for your ready reference).

5. That Sir, since my husband just 6 months has been completed in KV, New Bongaigaon transferred to K.V. Halflong (N.C. Hills) vide transfer order No. F.12-8/(10)/2003-KVS (Estt-III) dated 11-12-03 (Copy enclosed herewith for your ready reference as Annexure-5) hence the said transferred order dated 11-12-03 should not have been issued as my husband has not yet been completed in tenure period of service as per KVS rules. In the mean while my husband made a representation addressed to the commissioner, KVS (H.Q.) New Delhi praying for modification of transfer order from K.V./New Bongaigaon to KVS, Regional Office, Guwahati or K.V. Mangaldoi through the Assistant Commissioner, KVS, Regional Office, Guwahati vide his letter dated 19-12-2003 (Copy enclosed herewith for your ready reference as Annexure-5) (12.2)

6. That Sir, the apprehensions as reflected in the aforesaid representation dated 18-12-03, ^{16.7.03} were of certain request transfer where ~~my husband~~ ^{my} I expressed my problems narrated in the application therein that my interest may be jeopardised.

7. That Sir, needless to mention here that it is manifestly clear that the then principal is harrassing my husband for reason not difficult to ~~know~~ seek although stated ^{to} to the issued of transfer order in the interest of public but in fact the same has been issued in the behest of some vested interest circle.

8. That Sir, I came to know from reliable source that there are 2 (Two) posts of UDC's are still lying vacant, one in KVS Regional office, Guwahati and another post of UDC at K.V. Mangaldoi (Darrang Dist.) which are convenient for us if you consider my prayer at your kind disposal.

Minal Kalita

Contd....3.

9. That Sir, since I had done Qal Bladder surgical operation in few months back (Copy enclosed for your kind perusal as Annexure -E) and also I have been suffering from Heart diseased problem so I have not yet been fully recovered as a poor health lady.

10. That Sir, I would like to draw your kind attention in provision contained in Govt. of India, Ministry of Personnel, Public Grievances and Pensions O.M. No. 28034/2/97/Estt. (A) dated 12-6-1997 as applicable to KVS and emphasising need for posting husband and wife in a single station and also there being a approved by the fifth Central Pay Commission recommendation regarding the need to post husband and wife may in variaoly be posted together in order to unable them to lead a normal family life and look after the welfare of the children.

11. That Sir, since as a lady, I can not reside alone at the present law and order situation ~~exist~~ prevailing in Guwahati as disturbed area still danger to the human life. Besides, I am also facing certain problems which are beyond my control to solve and thus I am mentally disturbed here.

In view of the aforesaid facts and circumstances I pray your honour to modify the transfer order from K.V. Halflong to KVS Regional Office, Guwahati or K.V. Mangaldoi (Darrang Dist.) on compensation ground which place is convenient for us being free from bigorrries of domestic life to avoid any untowards incidence.

Therefore, I earnestly request you as a lady employee kindly to look into the matter personally as the legal entitlements may not be deprived. Needless to mention that if my prayer is not granted by your good office the applicant will suffer irreparable loss and injury as well as I will be put to lots of inconvenience and numerous domestic problems your kind favour is solicited for which that act of your kindness, I shall be ever reamin grateful to you.

Hoping your early action is eagerly awaited.

Thanking you,

Enclo. :- As above.

Yours faithfully,

(Mrs. Mira Kalita
(Bharali)

Certified to be true Copy.

Printed by Star

Speed post w/R A/D.

-39-

10

From :- Mr. P. Kalita
216/A, Central Ghatanagar,
Maligaon, Guwahati-11.

Annexure - G

To,

The Principal
Kendriya Vidyalaya
Hailong N. C. Hills
S.S.B. Training Centre.

Dated 30th December, 2003.

Sub :- Request for sanction of leave in conjunction with joining time on medical ground.

Sir,

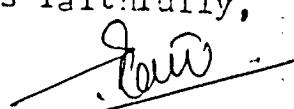
I am to inform you that, I am not in position to report for my duties due to self sickness as per recommendation of the Authorised Medical Attendent, has advised me to take in completely rest till my recovery of the ailments.

Therefore, I request you to kindly grant me the leave in conjunction with joining time on Medical Ground. Necessary sick and fitness certificate will have to be produced as and when resuming my normal duties.

This is for your kind information and necessary action please.

Thanking you,

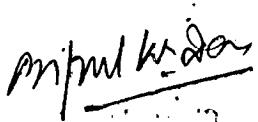
Yours faithfully,


(PRADIP KALITA)

Copy to :-

1. The Asstt. Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Silchar Region for his kind information.
2. The Asstt. Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Guwahati, Maligaon Chariali, Guwahati-12 for his kind information.


(PRADIP KALITA)



. 40 .

GOVT. AYURVEDIC COLLEGE. HOSPITAL
GUWAHATI-14

MEDICAL CERTIFICATE

This is to certify that Sri/Smt. Pradeep Kalita

Regd. No. 5166 O. P. D./I. P./D./Casualty

26/7/03 date

bed No. A

was treated as an out-door/Indoor patient, of Government Ayurvedic College

Hospital from 26/7/03 to fit date

He/She is/was suffering from Sandhi-gata Vata (Arthritis)

He/She advised rest 3 (three) days/months

with effect from 26/7/03 to 25/8/04

He/She expired on _____ time _____

due to _____

He/She is fit/not fit to resume his/her duties.

Signature of Physician

Date
(Seal)

Deputy Govt. Physician
26/7/03
Govt. Ayurvedic College
Guwahati - 14

A.G.P. #176/99 Health - 5,000 dt.

*certified to be true copy
Anupam Baruah
Writer*

No.28034/7/97-Estt.(A)
Government of India
Ministry of Personnel, Public Grievances & Pensions
(Department of Personnel & Training)
New Delhi, the 12th June, 1997.

OFFICE MEMORANDUM

Sub: Posting of husband and wife at the same station.

The undersigned is directed to say that on the subject mentioned above, Govt. had issued detailed guidelines vide OM No.28034/7/86-Estt.(A) dated 3.4.86. The Fifth Central Pay Commission has now recommended that not only the existing instructions regarding the need to post husband and wife at the same station need to be reiterated, it has also recommended that the scope of these instructions should be widened to include the provision that where posts at the appropriate level exist in the organisation at the same station, the husband and wife may invariably be posted together in order to enable them to lead a normal family life and look after the welfare of the children, especially till the children are 10 years of age.

2. The Government, after considering the matter, has decided to accept this recommendation of the Fifth Central Pay Commission. Accordingly, it is reiterated that all Ministries/ departments should strictly adhere to the guidelines laid down in OM No. 28034/7/86-Estt.(A) dated 3.4.86 while deciding on the requests for posting of husband and wife at the same station should ensure that such posting is invariably done, especially till their Children are 10 years of age, if posts at the appropriate level exist in the organisation at the same station and if no administrative problems are expected to result as a consequence.

3. It is further clarifies that even in cases where only the wife is a government servant, the concession elaborated in para 2 of this OM would be admissible to the Govt. Servant.

4. These instructions would be applicable only to posts within the same department and would not apply on appointment under the Central Staffing Scheme.

5. A copy of this Department's OM No.28034/7/86-Estt.(A) dated 3.4.86 is enclosed for ready reference and guidance.

6. Hindi version of the OM is enclosed.

Sd/-

(Harinder Singh)

Joint Secretary to the Govt. of India

Tel.No.301 1276.

To

1. All Ministries / Departments of the Govt. of India.
2. Department of Women & Child Development.
3. The National Commission for Women,
4. Deendayal Upadhy Marg,
ITO, New Delhi.

100%
In full W/SDM



প্ৰাগ্যুতিষ গাঁৱলীয়া বেঙ্ক
[এটি চৰকাৰী সংস্থা]
PRAGJYOTISH GAONLIA BANK
[A Govt. Undertaking]

Annexure - I

A

.....GANESHGUNJI.....Branch/শাখা

Ref. No.

Date... 27/2/04...

To whom it may concern

Pragjyotish Gaonlia Bank, a leading
Regional General Bank of North eastern region.
The Bank is render services to the rural masses
through 164 branches in 10 district of Lower
Assam since 1976.

Mrs. Mera Kalita Bhattacharjee w/o Mr. Pradeep
Kaccha is working in our Ganeshguri branch
of Morigaon (u) district since last two years
as Clerk Cum Cashier.

I wish her success in life.

For & on behalf of
PRAGJYOTISH GAONLIA BANK
Ganeshguri Branch

Branch Manager

H. Q. : College Road, Nalbari-781335 : Phone -220348, 220276 : Fax-03624-220276 : Email : pgbho@vsnl.net
Code No. : 0602/01/03

Certified to be true copy
Anup Kumar
3/2/04

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Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

O.A. NO. 56 /2004.

Sri P. Kalita

.... Applicant.

- Versus -

Union of India & Ors.

.... Respondents.

IN THE MATTER OF :

Written Statement filed by
The Respondents.

- AND -

IN THE MATTER OF :

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

.... Deponent.

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

- 1) That I, Sri S.S. Sehrawat, the Assistant Commissioner of Guwahati Region being served with the copy of the Original Application. I have gone through the contents thereof.

File by /No Respondent
Through M.K. Majumdar
S.C. K.V. Sangathan
22.10.31.04

I am competent to submit this Written Statement
as 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 (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 CBSC, NCERT etc. and (iv) to promote National Integration.

Further brief facts of the case may narrated as ablow :-

3.A) Kendriya Vidyalaya Sangathan invites request transfer applications from the candidates every year. In response to that every eligible candidates may apply in the prescribed proforma through the Principal and Regional Officer. All these applications are processed and prioritized as per the entitlements points through computer. The priority position so prepared is displayed in the web-site to make the transfer system transparent. The transfers are effected based on the priority position and vacancies available at the time of effecting transfer as per KVS transfer guidelines in force.

3.B) As per Para 5(I) of KVS Transfer Guidelines a teacher/staff is liable to be transferred on administrative ground/exigency on the recommendation of the Principal and Chairman of the Vidyalaya Management Committee of the Vidyalaya and teacher/staff transferred so will not be considered for transfer without completing five years stay at the station to which he/she was so posted. Moreso, they can not seek transfer to the same station from

where he was transferred on administrative ground as per amended clause 18(d)(ii) of KVS transfer guidelines.

3.C) In the instant case the applicant while serving at Maligaon first transferred to Nirjuli, Arunachal Pradesh on 4.12.2000 and the same order was partially modified to Khana-para vide order dated 16.4.2001. Thereafter on 31.3.2003 the applicant was transferred to New Bongaigaon in terms of clause 10(1) & (3) of the Transfer Guidelines circulated on 30.12.99 and amended from time to time on displacement.

3.d) That during his stay at Bongaigaon, the authority invited for Annual request transfer for the year 2004-05 on 14.8.2003 stipulating the last date of submission of application to be 10.10.2003. The applicant on the strength of the provision of Transfer Guidelines as classified vide Office Memorandum dated 19.9.02 which is under process.

It is to be mentioned here that before circulation of the invitation for Annual request transfer the applicant made a representation for transferring him to Mangaldoi on 4.7.2003 just

completing three months, which was duly forwarded by the answering deponent on 16.7.2003. However, his request for transfer to Mangaldoi is under consideration since the result of Annual request transfer for the year 2004-05 is under process.

In the meanwhile the applicant is transferred to Halflong on public interest on account of Administrative exigency/Administrative ground as per KVS Transfer guide line /Rules.

3.E) That while issuing the transfer order the Education Officer, Respondent No. 3 conveyed the decision of the competent authority to transfer to Sri P. Kalita from KV Bongaigaon to KV Halflong with the direction to prepare the draft charge sheet against P. Kalita,

4) That on receipt of the order dated - 11.12.2003 the Principal KV New Bongaigaon delivered the same through peon, book serial No. 99 dated 16.12.03 and the reliving order under serial No. 100 alongwith Transfer T.A. cheque in Advance amounting to Rs. 10,000/- which was duly encashed by him on the same day.

5) That since his release from the service and payment of Advance T.A. the applicant

did not join K.V. Halflong instead, from his residence at Guwahati i.e. Central Gotanagar Rly. Qrs. No. 216/A, Maligaon, Guwahati - 11 filed an application for modification of transfer to the Commissioner through proper channel and on 22.12.2003 another representation was filed by the wife of the applicant for modification of the transfer.

6) That thereafter as it appears from the Annexure of the O.A. the applicant posted a letter on 30.12.2003 from Guwahati Addressing to the Principal K.V. Halflong seeking sanction of leave in conjunction with joining time on Medical ground. On receipt of the same the Principal K.V. Halflong conveyed the same to the Assistant Commissioner for decision. In the meantime the draft charge-sheet was prepar..... was sent to Silchar for service but as he did not join the K.V. Halflong till 19.1.2004 it could not be served on him, and as informed by the Education Officer, Silchar Region it was informed to the applicant that the leave applied for can not be sanctioned since he was not on the Roll of K.V. Halflong and it was decided to take action against

1 Kalita under provision of Article 81(d) of
2 Education Code for his un-authorised absence.

3 7) That the deponent states that as
4 evident from the Medical Certificate 26.2.2004,
5 Annexure - G Part, the applicant was suffering
6 from disease and was under treatment of Ayurvedic
7 Medical College Hospital Guwahati since 26.12.2003.
8 He was advised rest for three months w.e.f.
9 26.2.2003 to 25.3.2004. It was certified that
10 he was not fit to resume his duty. Accordingly
11 the order of issuing notice under Article 81(d)(3)
12 was communicated under registered cover at his
13 Guwahati residential address. But the registered
14 cover, returned un-delivered with report of "left"
15 on the envelope. The Assistant Commissioner,
16 Guwahati Region till 24th February, 2004 was
17 not reported of the cause of absence of duty
18 by the applicant and accordingly the Principal
19 K.V. Bongaigaon was asked to deliver the same
20 at the last known address/his permanent address.

21 That the applicant was served with
22 the transfer order on 16.12.2003 which was
23 given immediate effect to be carried out, the
24 applicant instead of reporting for his duty
25 and resuming charges at K.V. Halflong has approached
26 this Hon'ble Tribunal through this present
27 application.

8) Parawise comment :-

That with regard to the statement made in para 1,2,3,4,5,6,7,8 the respondent reiterate ~~reiterate~~ the facts stated above and further states that these are matter pertaining to service record of the applicant nothing is admitted which are not supported by such record.

9) That with regard to the statement made in para 8,9 and 10 it is stated that the transfer order was passed on administrative ground, on the recommendation of the Principal and the Assistant Commissioner and as such the respondent states that as explained herein and above the transfer order can not be termed in any manner irregular and un-reasonable. Therefore the application being filed with ulterior motive to defeat the public interest of the department and to serve the private interest of the applicant and the same liable to be dismissed with costs.

10) That with regard to the statements made in para 11,12,13,14 and 15 it is stated that the applicant on receipt of the order of

transfer, availing the transfer T.A. from Bongaigaon left for the place of posting but, due to his illness from 26.12.2003 as conveyed vide letter dated 30.12.2003 he could not joined which otherwise mean that accepting the transfer order he intended to join irrespective of the fact that the applicant and his wife tried to draw a little sympathy^{on} personal/family ground earlier by letter dated 18.12.2003 and 22.12.03.

11) That with regard to the statement made in para 16 it is vehemently denied that the applicant was not informed anything till 3.3.2004 the date of filing this O.A. and the respondent re-iterate the above facts stated in paras regarding his absence from his residence without information to authorities which led to issue notice under Article 81(d)(3) for un-authorised absence since 16.12.2003 as such there is nothing mala fide in further action after being issued with the transfer order and being released from K.V. Bongaigaon.

12) That the respondent begs to make it clear that the applicant was transferred on Administrative ground and as per the direction of the Head Quarter the draft charge-sheet is

also being prepared which otherwise requires his regional transfer as on earlier occasions while he was posted at K.V. Khanapara there was such instance so he was transferred out of the region on the Administrative exigency. Law is also well settled that the employer who pays the employee has the authority to utilize his services in the manner as decided by them and as when such services are to be taken. The Hon'ble Supreme Court in a plethora of decisions has laid down the law relating to transfer of an employee from ~~the~~ one station to another or from one office to another office. According to the Hon'ble Supreme Court, no Court or Tribunal should interfere in the matter of Transfer unless :

- a. When such order is made malafide; or
- b. When such order is made in violation of any statutory rules; or
- c. When such order is passed by an incompetent authority.

Moreover, mere allegation of malafide arbitrariness and unreasonableness will not sustain in law. Such allegation must be proved by adducing cogent and irrefutable evidence. In this application, the applicant has failed to show anything as such to challenge the order of transfer to be

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illegal or arbitrary in the x eye of law. Hence, the application is liable to be dismissed as being devoid of any merit.

It is also needless to state here that the Hon'ble Supreme Court has repeatedly emphasized that when an employee is transferred from one place to another and if there are some personal difficulties arising out of that cause of transfer, such personal and family difficulties and inconveniences are to be taken up by the employee with the competent authority of the administration for redressal by way of representation, because, administration is the best judge to know about the genuineness and truth of such difficulties of an employee and as to whether such difficulties are to be considered or not. It is not for the Courts to go into such finding of facts and court should not interfere in such matter.

13) That the deponent submits that the para comment on the Head Quarter is yet to be received and craves leave of this Hon'ble Tribunal to submit further reply in addition to this reply.

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14) That with regard to the statements made in para X, XI of the application, the respondents state in any view of the facts and circumstances of the case and the provisions of law the applicant is not entitled to any relief whatsoever as prayed for and the application is liable to be dismissed with cost. The interim order dated 5.3.04 passed by the Hon'ble Tribunal thereby directing the respondents to keep the order of transfer of the applicant in abeyance is also liable to be vacated in the interest of service.

In the premises aforesaid it is therefore prayed that Your Lordships would be pleased to hear the parties, peruse the records and after hearing the parties and perusing the records may also be pleased to dismiss the application with cost.

... Verification.

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A B

VERIFICATION

I, Shri Sunder Singh Sehrawat age about 52 years, son of Shri Harish Chander, Presently working as Assistant Commissioner, Kendriya Vidyalaya Sangathan, Guwahati Region, Maligaon Chariali, Guwahati-12, do hereby verify that the statement made in paragraphs 1-3B, 6, 8, 9, 11, 12 & 14 are true to my knowledge and those made in paragraphs 3C, -3E, 4, 5, 7 & 10 are based on records.

• And I sign this verification on this the 22nd day of March, November/2004 at Guwahati.

Place : Guwahati
Date : 22/03/04

Sunder Singh Sehrawat

DEPONENT