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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓
O.A/T.A No. 90/2004

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SECTION OFFICER (Judl.)

Bahis
09.11.17

FORM NO. 4

(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

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

O.A. 90/04

In O.A.

Name of the Applicant(s)

E.J. Beatrice

Name of the Respondent(s)

H.O. I Fou.

Advocate for the Applicant

P.K. Tiwari

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

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

Civil Rule No. 4839/97 22.4.2004
is transferred from
Honble Guwahati High
Court and the same
is registered as O.A.
90/04, listed before the
Honble Court for further
orders.

The matter is transferred from
High Court.

Heard Ms. U. Das, learned counsel
for the applicant and also Mr. M.K.
Mazumdar, learned counsel for the
Respondents.

On the plea of counsel for the
parties, list on 12.5.2004 for orders

Member (A)

mb

17.9.2004 present: The Hon'ble Mr. Justice R.K.
Batta, Vice-Chairman.

The Hon'ble Mr. K.V. Prahlada
Member (A).

Mr. U.K. Nair, learned counsel
on behalf of Mr. P.K. Tiwari, learned
counsel for the applicant was present

Matter be listed for hearing on
27.9.2004.

Member (A)

Vice-Chairman

27.9.04.

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

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

On the request of Mr. P.K. Tiwari,
learned counsel for the applicant
stand over to 30.9.04 for hearing.

K.V. Prahladan
Member

R.
Vice-Chairman

pg

30.9.2004 Present: The Hon'ble Mr. Justice R.K. Batta,
Vice-Chairman.

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

Mr. P.K. Tiwari, learned counsel for the
applicant and also Mr. M.K. Mazumdar, learned
counsel for the respondents are present.

At the request of Mr. P.K. Tiwari, stand
over to 9.11.2004.

K.V. Prahladan
Member (A)

R.
Vice-Chairman

bb

9.11.2004

On the request of Mr. P.K. Tiwari,
learned counsel for the applicant stand
over to 7.1.2005.

K.V. Prahladan
Member

R.
Vice-Chairman

nkm

07.01.2005

List on 16.2.2005 for hearing.

mb

Case is ready for hearing.

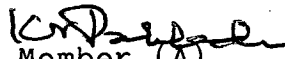
K.V. Prahladan
Member (A)


16.2.2005

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

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

It is stated by Mr J. Purkayastha that the applicant seems to have lost interest in prosecuting the matter. Since he is not the counsel on record, such statement cannot be accepted except who has filed the Vakalatnama. Hence the matter is adjourned to 7.3.05.


Member (A)


Member (J)

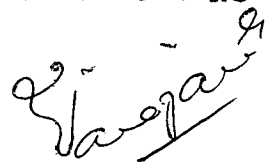
nkm

7-3-05

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

The application is dismissed. No
costs.


Member(A)


Vice-Chairman

pg

16.3.05

Copy of the Judgment
has been sent to the
Office for issuing
the same to the applicant
by post.

HS

CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH.

O.A. No. 90 of 2004

DATE OF DECISION 07.03.2005

E.J.Beatrice

APPLICANT(S)

Mr.U.K.Nair.

ADVOCATE FOR THE
APPLICANT(S)

- VERSUS -

The Union of India & Ors.

RESPONDENT (S)

Mr.M.K.Mazumdar, VS Standing Counsel

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR. JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

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

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

Judgment delivered by Hon'ble Vice-Chairman.

6

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.90 of 2004.

Date of Order : This the 7th Day of March, 2005.

THE HON'BLE MR JUSTICE G.SIVARAJAN, VICE CHAIRMAN

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

E.J.Beatrice,
Wife of Jerald Wincent,
Kendriya Vidyalaya, Aizawl,
Project Pushpak,
C/O 99 APO.

... Applicant

By Advocate Shri U.K.Nair.

- Versus -

1. Union of India,
Through the Secretary to the
Govt. of India,
Ministry of Human Resources Development,
New Delhi.
2. The Commissioner,
Kendriya Vidyalaya Sangathan,
18 Institutional Area,
Shaheed Jeet Singh Marg,

... Respondents

By Advocate Shri M.K.Mazumdar, KVS standing counsel.

ORDER (ORAL)

JUSTICE SIVARAJAN (V.C)


Heard learned counsel for the parties. Learned standing counsel for KVS has placed the relevant records before us.

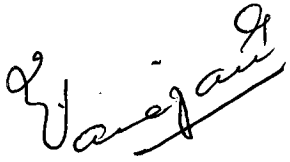
2. The applicant, Mrs. E.J.Beatrice was appointed as a Primary teacher (PRT) with posting at KV Aizawl vide memorandum dated 31.7.1995. Her services were terminated vide order dated 17.9.97 under terms and conditions governing the appointment of the teachers. She then filed Civil Revision No.4839 of 1997 before the Gauhati High Court. An interim order dated 30.9.97 suspending the order of termination was passed. For complying with the said

[Signature]

order the Principal, KV Alzawl vide letter dated 31.10.97 requested the applicant to join duty. However, the applicant informed the Principal that she was leaving for her native place with effect from 23.10.97 and would be away for about 20 days. The Assistant Commissioner, KVS by communication dated 1.10.2004 informed their standing counsel Sri M.K.Mazumdar that the applicant did not thereafter turn-up for joining duty. This position continues from 23.10.97 onwards till date. From this it is clear that applicant is not at all interested in prosecuting this application.

3. In the above circumstances we are of the view that this matter has become infructuous, which is accordingly closed.


(K. V. PRAHLADAN)
ADMINISTRATIVE MEMBER


(G. SIVARAJAN)
VICE- CHAIRMAN

Civil Rule No. 4839
Dist - Aizawl (Mizoram)



Form No 20 A (Civil)
Rule I Chapter-XV H. C. Rules

THE GAUHATI HIGH COURT

G.W.L.

(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura,
Mizoram and Arunachal Pradesh)

(CIVIL EXTRAORDINARY JURISDICTION)

TITLE PAGE

PART-I

'B'

CR. 10054

(This file must be preserved for ever)

The above period shall be calculated from the date of the final decree or order which
incases appealed to the Supreme Court will be that of the decree or order of the
Supreme Court.

Civil Rule No. 4839 of 1997

E. J Beatrice

APPELLANT
PETITIONER

VERSUS

Union of India & ors

RESPONDENT
OPPOSITE-PARTY

Date of Decision of the High Court 22/11/2002

Date of Decision of the Supreme Court

THE GAUHATI HIGH COURT

(High Court of Assam, Nagaland, Maghalaya, Manipur Tripura, Mizoram and Arunachal Pradesh)

CIVIL APPELATE SIDE

Appeal from Civil Rule No. 4839 of 1997
Civil Rule

E. J. Beatrice

Appellant
Petitioner

Versus

Union of India & Ors.

Respondent
Opposite-Party

For Appellant
Petitioner

Mr. B. K. Sharma
Mr. P. K. Tiwari, Advocates,

For Respondent
Opposite-Party

Central Govt. Standing Counsel
Mr. B. P. Zodi

Noting by Office or Advocate	Serial No.	Date	Office notes, reports orders or proceeding with signatures
		30-9-97	<p>BEFORE</p> <p>THE HON'BLE MR JUSTICE DN CHOWDHURY</p> <p>Heard Mr B M Sarma, the learned Counsel for the Petitioner assisted by Mr Tewari, the learned Advocate.</p> <p>Let a Rule issue calling upon the Respondents to show cause as to why a Writ should not be issued as prayed for; and or why such further or other orders should not be passed as to this Court may deem fit and proper.</p>

contd....2

Noting by Office or Advocate	Serial No.	Date	Office notes, report orders or proceedings with signatures
<p><i>Rule is made returnable by 2 months</i></p> <p><i>Pt. Communicate</i></p> <p><i>13/10</i></p> <p><i>dt. 15.11.97</i></p> <p><i>Order dt. 30.9.97</i></p> <p><i>Communicated</i></p> <p><i>15.11.97</i></p> <p><i>16/5/98</i></p> <p><i>Notice sent to Despatch Section for issuance</i></p> <p><i>16/5/98</i></p>			<p>-2-</p> <p>Rule is made returnable by two months</p> <p>Petitioner shall takes steps for service of notice upon the Respondents by registered post.</p> <p>In the meantime the order bearing No.F.No.2-16-97 KBS(SR)/6868 dated 17-9-97 shall remain suspended until further orders.</p> <p>Respondents are at liberty to move for alteration ,modification or vacation of this order so passed today.</p> <p><i>[Signature]</i> JUDGE</p>

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4
			<p>BEFORE THE HON'BLE MR. JUSTICE I.A.ANSARI.</p> <p><u>22-11-2002.</u></p> <p>Heard the learned counsel for the petitioner, who submits that the matter may be transmitted to Central Administrative Tribunal, Guwahati, in accordance with the provision of law.</p> <p>In the interest of justice, this case is directed to be transmitted to the Central Administrative Tribunal, Guwahati.</p> <p><i>This matter shall stand disposed of accordingly.</i></p> <p style="text-align: right;">JUDGE</p> <p>hnp</p>

*Disposed of
with direction,
Pl. communicate
& transmit the
case to C.A.T.
Guwahati.
RKK
25-11-02.*

CR. No. 4839/97

(3)

15

Noting by office or Advocate.

Serial

Date

Office notes, reports, orders, or proceeding with signature.

18/7/98

notices issued
on the respondent
nos. 1 to 4 by regd.
post with A/D,
vide memo. Nos.
7430-33/RM
dt. 19/5/98.

18/7

16.9.2000

A/D cards from
the Respondent nos.
1, 3 and 4 have
been received
back after duly
served.

But, A/D card
on Respondent no. 2 has
not yet received.

16/9.

Noting by Office or Advocate

Serial
No.

Date

Office notes, reports, orders or proceeding
with signature16.09.2000

Notices upon respondents
1, 2, 3 and 4 were issued
vide memo no. 7430-33/RM
dt. 17.5.98, at flag 'A'.

A/D cards from respondents
1, 3 and 4 have been
received back after duly
served.

But A/D card from
respondent no 2, not yet
received.

Since, notice on respon-
dents 2 was issued long
back, service upon the
respondent no. 2
~~same~~ may be treated
sufficient as per order
5 Rule 19(A) of the CPC

Laid for favour of
order.

BB
16/9

23.11.2000

Rule is ready.

get

2.11.2000

Service reports in
respect of report nos 1,
3 & 4 are accepted. The
notice issued to the
report no 2 is also treated
under order 5 Rule 19A of
CPC, as served.

Laid before the Bench

JAC
REGISTRAR (I&L)
GAUHATI HIGH COURT
GUWAHATI

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceeding with signature
<p><i>List the matter after 10 days.</i></p> <p><i>np and 30.11.2000.</i></p> <p><i>ad - 1/12</i></p> <p><i>20/11/2001</i></p> <p><i>Affidavit in opposition on behalf of respondent no. 2, 3 and 4 has been filed by and the same is placed with record.</i></p> <p><i>WBP 20/11</i></p>	<p><u>28.11.2000.</u></p>	<p>Before :</p> <p>The Hon'ble Mr. Justice PG Agarwal</p> <p>Sri B.P. Todi has appeared for Kendriya Vidyalaya Sangathan. Let his name be shown in the cause list. Sri Todi submits that the matter may be sent back to the Central Administrative Tribunal. Sri T.J. Mahanta, learned counsel for the petitioner on the other hand submits that this Writ Petition is filed in the year 1997 praying for declaration of the result in the selection process which took place in the year 1997. Sri Todi prays for time to obtain instructions.</p> <p>Let this matter be listed after 10 days. In the meantime Mr. Todi may obtain instructions.</p> <p>S.B.</p>	<p>Judge</p>

Central Adalat

18 APR 2006

Guwahati Bench

District : Aizawl

IN THE GAUHATI HIGH COURT AT GUWAHATI

(The High Court of Assam, Nagaland, Meghalaya, Manipur,
Tripura, Mizoram and Arunachal Pradesh)

(CIVIL EXTRA-ORDINARY JURISDICTION)

Civil Rule No. 4839 of 1997

E.J. Beatrice

... Petitioner

- Versus -

Union of India

& Ors. Respondents

BENCH - B
SERVICE MATTER
UNION OF INDIA

Category Code : CR 10054

I N D E X

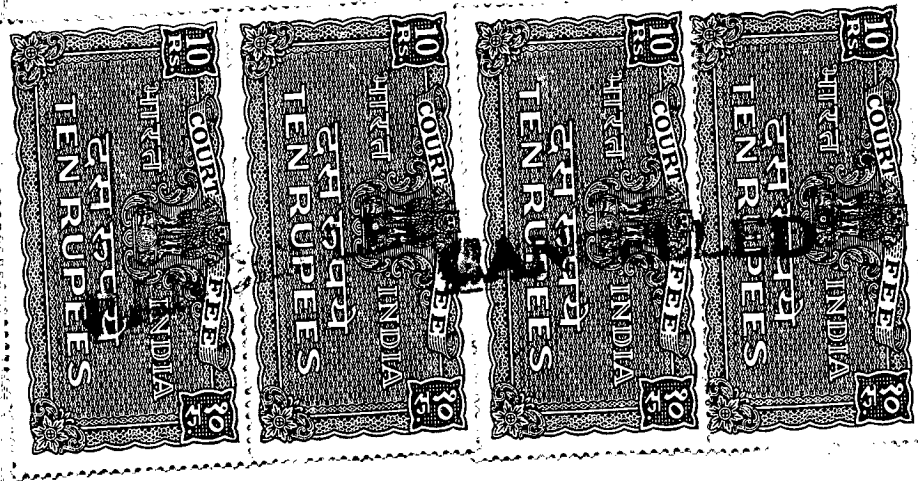
<u>Sl. No.</u>	<u>Particulars of the documents</u>	<u>Page No.</u>
1.	Writ petition ...	1 to 19
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10.	Annexure-H ...	35 - 36
11.	Annexure-I ...	37 - 39
12.	Annexure-J ...	40.

13. Affidavit in opposition.

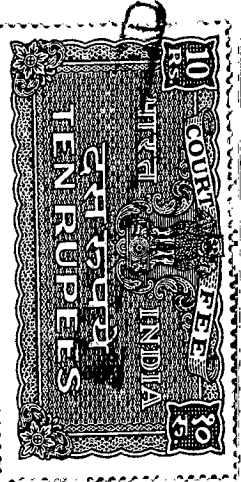
41 - 57
Filed by :

Pavan Tiwari

(PAVAN TIWARI)
Advocate



19
Filed by E.J. Beatrice
Through the advocate
Pavan Tiwari, Advocate
29.9.97.



District : Aizawl

IN THE GAUHATI HIGH COURT AT GUWAHATI

(The High Court of Assam, Nagaland, Meghalaya, Manipur,
Tripura, Mizoram and Arunachal Pradesh)

(CIVIL EXTRA-ORDINARY JURISDICTION)

Civil Rule No. 4839 of 1997

CR. 10054 - MAJOR PUNISHMENT

To

The Hon'ble Shri Muniyalappa Ramakrishna, B.A.B.L.
the Chief Justice of the Gauhati High Court and His
Lordship's Companion Justices of the said Hon'ble
Court.

IN THE MATTER OF :

An application under Article 226 of
the Constitution of India for issue
of a Writ in the nature of
Certiorari and/or Mandamus and/or
any other appropriate Writ, Order or
Direction of like nature.

AND

IN THE MATTER OF :

Violation of Articles 14 and 311 of
the Constitution of India and
infringement of the provisions of
the Central Civil Services
(Temporary Service) Rules, 1965 and
the non-compliance of the provisions
of CCS(CCA) Rules, 1965.

2 9 SEP 1997

AND

IN THE MATTER OF :

✓ Order vide F.No. 2-16/97-
KBS(SR)/6868 dated 17.9.97 passed by
the (offg.) Asstt. Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office, Silchar terminating
the services of the Petitioner in
exercise of power under Rule 5 of
the CCS(TS) Rules, 1965. ✓

AND

IN THE MATTER OF :

E.J. Beatrice, wife of Jerald
Wincent, Kendriya Vidyalaya, Aizawl,
Project Pushpak, C/O 99 APO

...Petitioner

- VERSUS -

1. Union of India, through the
Secretary, Government of India,
Ministry of Human Resources
Development, New Delhi.
2. The Commissioner, Kendriya
Vidyalaya Sangathan, 18
Institutional Area, Shaheed Jeet
Singh Marg, New Delhi-110016.

3. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office, Silchar-1,
Assam.

4. The Principal, Kendriya
Vidyalaya Project Pushpak,
Aizawl, Mizoram.

...Respondents

The Petitioner abovenamed

MOST RESPECTFULLY SHEWETH :

1. That the Petitioner in the instant case is invoking the Certiorari jurisdiction of this Hon'ble Court challenging the legality of the order dated 17.9.97 passed by the (offg.) Assistant Commissioner pursuant to which in exercise of power under Rule 5 of the Central Civil Service (Temporary Service) Rules 1965 (hereinafter alluded as "the Rules"), the Petitioner's service was terminated. Though the aforesaid Rules provide for termination simpliciter without casting any stigma and without assigning any reason but in the instant case, the impugned order has been issued pursuant to the show cause notice and the reference of the same has been made in the impugned order also. In the show cause notice wild and baseless allegations were made against the Petitioner and the Petitioner by filing the representation denied the same. However, the Respondent No. 3 acting arbitrarily in total non-application of mind exercised the power of termination

simpliciter under Rule 5 of the Rules. In the instant case alleged misconduct of the Petitioner is the foundation of the impugned order of termination simpliciter and as such, the impugned order passed under Rule 5 of the Rules is not the order of termination simpliciter inasmuch as it casts stigma on the Petitioner and the same is ex-facie illegal. Though the Kendriya Vidyalaya Education Code provides for compliance of CCS(CCA) Rules, 1965 in a situation like that of the present case, but the competent authority chose to ignore the said provisions. Therefore, the impugned order legality of which is a subject matter of the instant case is unsustainable in law.

2. That the substantial issues involving the question of law and fact in the instant case are as follows :

(A) Whether the order of termination simpliciter passed in exercise of power under Rule 5 of the CCS (Temporary Service) Rules, 1965 can be treated to be an order of termination simpliciter when it ex-facie casts stigma upon the Petitioner and visits him with penal consequences coupled with the fact that the alleged misconduct of the Petitioner is the foundation for passing such an order of termination simpliciter and whether such an order is legally sustainable.

(B) That when the Education Code for Kendriya Vidyalaya provides for initiation of enquiry in

conformity with CCS (CCA) Rules 1965 even in the case of probationer or temporary employees against whom there is an allegation of doubtful integrity and conduct, whether the competent authority was justified in invoking the powers under Rule 5 of the CCS(Temporary Service) Rules, 1965 by passing the order of termination simpliciter though there was no just and sufficient reason for the exercise of such power.

C. Whether in the facts and circumstances of the Petitioner's case constituted just and sufficient reasons for the Respondent No. 3 to form an opinion that the Petitioner deliberately suppressed fact with the intention to mislead the KVS authority for getting the appointment and whether the Respondent No. 3 acted reasonably in forming such opinion.

FACTS OF THE CASE

3. That the Petitioner is a citizen of India. She passed her Secondary School Leaving Certificate Examination in the year 1982 from the Board of Secondary Education, Tamilnadu through the Presidency ^{Girls} ~~English~~ High School, Madras and passed her Higher Secondary Course Certificate Examination in the year 1984 from the Board of Higher Secondary Examination, Tamilnadu. Subsequently, she passed B.Sc. with Zoology (Hons.) from the University of ^{calicut} ~~Malabar~~ in the year 1988. In the year 1990, she joined the University of Mysore for her B.Ed. course and passed the same in 1991.

4. That the Petitioner in B.Sc. Zoology (Hons.) had secured 52.9% of marks though if subsidiary and language papers are taken into consideration the total percentage of marks secured by the Petitioner is 47%. In B.Ed. Course the Petitioner obtained 53% marks in aggregate.

Petitioner's marksheet of B.Sc. (Honours) alongwith her certificate and marksheet of B.Ed. Course are annexed hereto as ANNEXURE-A colly.

5. That after her arrival in the State of Mizoram, the Petitioner in the capacity of contractual and part-time teacher taught in many schools during the period 1991 to 1994. She also worked in an ad-hoc capacity in the Kendriya Vidyalaya, Aizawl from 26.8.93 to 15.12.93.

Certificate dated 7.8.97 issued by the Principal, Kendriya Vidyalaya, Project Pushpak, Aizawl certifying the working of Petitioner on an ad-hoc capacity in the school from 26.8.93 to 15.12.93 is annexed as ANNEXURE-B.

6. That subsequently Petitioner pursuant to an advertisement formally applied for an appointment as Primary Teacher in the Kendriya Vidyalaya Sangathan. The minimum eligibility criteria for appointment to the post of Primary Teacher in the Kendriya Vidyalaya is Higher Secondary with Junior Basic Training. The aforesaid qualification has been laid down in para 44

under Chapter 5 of the Education Code for Kendriya Vidyalaya.

7. That in pursuance of the Petitioner's application, she was invited for an interview vide Memorandum No. F.2-60/94-KVS(SR) dated 23.5.95.

Copy of the memorandum dated 23.5.95 inviting the Petitioner for interview to the post of Primary Teacher, Kendriya Vidyalaya Sangathan is annexed as ANNEXURE-C

8. That subsequently vide Memo No.F.2-16/95/KVS-SR dated 31.7.95, the Petitioner was selected for appointment to the post of Primary Teacher in Kendriya Vidyalaya Sangathan. Pursuant to the order of appointment, the Petitioner was put on probation for a period of two years from the date of her joining.

The order of appointment dated 31.7.95 is annexed as ANNEXURE-D.

9. That pursuant to the order of appointment dated 31.7.95, the Petitioner joined on 11.8.95 as Primary Teacher in the Kendriya Vidyalaya, Project Pushpak, Aizawl.

10. That after her joining to the aforesaid post, the Petitioner continued working as Primary Teacher. However, the Respondent No. 3 (Assistant Commissioner) vide memorandum No. 3-4/97-KVS(SR) dated 24.7.97 made an allegation against the Petitioner that she had submitted false information in her application for the post regarding percentage of marks at Graduation level

and experience. In this connection, the Petitioner was directed to give her clarification.

Copy of the memorandum dated 24.7.97 is annexed hereto as ANNEXURE-E.

11. That on the same date i.e. 24.7.97 through yet another memorandum of the even date, the Respondent No. 3 extended the period of probation of the Petitioner as Primary Teacher at Kendriya Vidyalaya Project Pushpak, Aizawl for one year with effect from 10.8.97. It is pertinent to mention that in view of the fact that the Petitioner had joined as Primary Teacher on 11.8.95, she was on a period of probation for two years. This period of probation was to be over on 11.8.97, but pursuant to the order of extension, the period of probation was extended as stated above from 10.8.97 to 10.8.98.

The order dated 24.7.97 extending the period of Petitioner's probation for one year is annexed as ANNEXURE-F.

12. That in pursuance of the order dated 24.7.97 (Annexure-E) wherein the Petitioner was called upon to explain the percentage of her marks in Graduation and her teaching experience in different schools from June 1991 to May 1994, the Petitioner submitted her clarification dated 12.8.97. In her clarification, Petitioner explained as to on what basis, she had shown the percentage of her marks in B.Sc. (Hons.) as 53. It was also explained by the Petitioner that in the B.Ed. Course too, she secured 53%. In regard to her teaching

experience in different schools during the period June 1991 to May 1994 it was stated by the Petitioner that she worked on contractual and on part time basis in different schools during this period. Since she continuously did not teach in any school for a longer duration because her appointment was purely contractual and/or part time basis, there was nothing extraordinary in her teaching in different schools during the same period.

Copy of the clarification dated 12.8.97 submitted by the Petitioner is annexed hereto as ANNEXURE- G.

13. That subsequently vide memorandum dated 29.8.97 the Respondent No. 3 Assistant Commissioner intimated the Petitioner that on consideration of the clarification submitted by her the charges levelled against her have been proved. In the memorandum the Respondent No. 3 also gave reasons for his such satisfaction. However, it is stated that the reasons given in the memorandum are absolutely wild and baseless and show total non-application of mind on the part of the Respondent No. 3. In this memorandum, the Respondent No. 3 stated in categorical terms that the Petitioner is not suitable to be retained in service and it is proposed to terminate her service under Temporary Service Rules. Be that as it may, pursuant to this memorandum, Respondent No. 3 called upon the Petitioner to submit her representation against this memorandum within 15 days

from the receipt of the memorandum failing which appropriate action will be taken against her.

Copy of the memorandum dated 29.8.97 is annexed as ANNEXURE-H.

14. That in reply to the memorandum dated 29.8.97 the Petitioner submitted her reply dated 11.9.97 wherein once again she explained in detail as to how the allegations made against her are not correct and the same are wild and baseless.

Copy of the Petitioner's reply dated 11.9.79 is annexed as ANNEXURE-I.

15. That however, the Respondent No. 3 vide order dated 17.9.97 in exercise of powers under Rule 5 of the CCS (Temporary Service) Rules, 1965 terminated the service of the Petitioner. In the said order, the Respondent No. 3 also gave a reference to the show cause notice dated 29.8.97. It was also stated that as the Petitioner has failed to substantiate the reason of not taking proposed action against her as mentioned in the show cause notice dated 29.8.97, therefore, the present order is being passed against her terminating her service.

Copy of the impugned order dated 17.9.97 which was received on 22.9.97 is annexed as ANNEXURE-J.

16. That para 80 under Chapter 8 of the Education Code for Kendriya Vidyalaya provides that all the employees of Kendriya Vidyalaya, Regional Offices and the

Headquarters of the Kendriya Vidyalaya Sangathan are subject to the disciplinary control of the Sangathan and that the Central Civil Services (Classification, Control and Appeals) Rule, 1965, will apply mutatis mutandis to all members of the staff of the Sangathan. However, para 81 of the Code provides two exceptions to this Rule viz. :

(i) In the case of a purely temporary employee who is known to be of doubtful integrity or conduct but where it is difficult to bring forth sufficient documentary and other evidence to establish the charges and whose retention in the Vidyalaya etc. will be prejudicial to the interest of the Institution.

(ii) In the case of a temporary employee suspected of grave misconduct, where the initiation of regular proceedings against him in accordance with the provisions of the CCS (CCA) Rule, 1965 is likely to result in embarrassment to a class of employees and/or is likely to endanger the reputation of the institution.

It is stated in the para 81 of the Code that in the aforesaid two types of cases, the appointing authority may record the reasons for termination of the services of the employees in its own record and thereafter terminate the services of the employee under the terms of appointment without assigning any reason.

17. That it is stated that the case of the Petitioner does not fall in any of the two categories provided in

para 81 of the Education Code and since the foundation of the impugned order of termination lies in the belief of the competent authority that the Petitioner is of doubtful integrity and has committed misconduct by stating incorrect facts, therefore, it was incumbent upon the competent authority to initiate an enquiry against the Petitioner in conformity with the provisions of the CCS (CCA) Rules, 1965 as provided by the Court. Thus the impugned order purportedly under Rule 5 of the CCS (Temporary Service) Rules, 1965 is unsustainable in law.

18. That the explanation given by the Petitioner in regard to her teaching experience in different schools during the period 1991 to 1994 and her scoring 53% marks in B.Sc. (Hons.) and the scoring of similar percentage of marks in B.Ed. Course is absolutely satisfactory and no reasonable person could have come to any other finding other than that of Petitioner not being guilty of suppression of any material fact. The competent authority by arriving at a contrary finding and holding the Petitioner guilty of the suppression of material fact and misleading the Kendriya Vidyalaya Sangathan authority acted unreasonably and arbitrarily.

19. That the memorandum dated 24.7.97 issued by the Asstt. Commissioner followed by the show cause notice dated 29.8.97 wherein allegations were made against the Petitioner for suppressing material fact and of misleading the Kendriya Vidyalaya Sangathan authority

bears testimony to the fact that the competent authority took the decision of terminating the services of the Petitioner under Rule 5 of the CCS (Temporary Service) Rules primarily on the aforesaid reasons. In fact in the memorandum dated 29.8.97 it was specifically stated by the Asstt. Commissioner that he has come to the conclusion that the Petitioner is not suitable to be retained in service. The aforesaid conclusion of the Respondent No. 3 was based upon the issuance of the earlier memorandum dated 24.7.97. Therefore, the foundation of the order of termination dated 17.9.97 lies in the memorandum dated 24.7.97 and the show cause dated 29.8.97 issued by the Respondent No. 3. Thus the order of termination dated 17.9.97 is not the order of termination simpliciter inasmuch as the same has been passed as a measure of punishment against the Petitioner.

20. That being thus aggrieved by the impugned order of termination simpliciter dated 17.9.97, the Petitioner prefers the instant Writ petition on the following amongst other

GROUNDS

A. That as per para 80 of Chapter VIII of the Education Code for Kendriya Vidyalaya, the services of the Petitioner are subject to the disciplinary control of the Sangathan and the provisions of Central Civil Services (Classification, Control and Appeals) Rules, 1965 are to apply to the members of the Sangathan. Only two types of cases the competent authority without

taking the course of CCS(CCA) rule,s 1965 can terminate the service of the members of the Sangathan viz. :

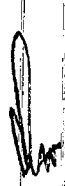
(i) In the case of a purely temporary employee who is known to be of doubtful integrity or conduct but where it is difficult to bring forth sufficient documentary and other evidence to establish the charges and whose retention in the Vidyalaya etc. will be prejudicial to the interest of the Institution.

(ii) In the case of a temporary employee suspected of grave misconduct, where the initiation of regular proceedings against him in accordance with the provisions of the CCS (CCA) Rule,s 1965 is likely to result in embarrassment to a class of employees and/or is likely to endanger the reputation of the institution.

It is submitted that the case of the Petitioner does not fall in any of the two categories provided in para 81 of the Education Code and since the foundation of the impugned order of termination lies in the belief of the competent authority that the Petitioner is of doubtful integrity and has committed misconduct by stating incorrect facts, therefore, it was incumbent upon the competent authority to initiate an enquiry against the Petitioner in conformity with the provisions of the CCS (CCA) Rules, 1965 as provided by the Court. Thus the impugned order purportedly under Rule 5 of the CCS (Temporary Service) Rules, 1965 is unsustainable in law.

B. That the impugned order of termination dated 17.9.97 is not the order of termination simpliciter inasmuch as the foundation of the impugned order lies in the memorandum dated 24.7.97 and the show cause notice dated 29.8.97 issued by the Asstt. Commissioner, Kendriya Vidyalaya Sangathan wherein serious allegations of suppressing material fact and misleading competent authority of the Kendriya Vidyalaya Sangathan were made against the Petitioner. Since the impugned order of termination was passed pursuant to the aforesaid memorandums, therefore, the impugned order of termination was passed as a measure of punishment and as such, cannot be treated to be that of termination simpliciter under Rule 5 of the CCS (Temporary Service) Rules, 1965 and the same is not sustainable in law.

C. That in the case of State of Maharashtra Vs. Veerappa R. Saboji (AIR 1980 SC 42), it was held by the Supreme Court that where the services of a temporary Government servant or a probationer are terminated by an order which ex-facie discloses stigma or penal consequences against the Government servant then such an order of termination cannot be treated to be an order of termination simpliciter and such an order cannot be passed without fulfilling the requirement of Article 311(2) and without acting in conformity with the provisions of Service Rules governing the said Government servant. In the instant case provisions of CCS(CCA) Rules, 1965 have been made applicable to the



members of the Sangathan. Since the order of termination was passed against the Petitioner as a measure of punishment, the same ought to have been passed in compliance of the provisions of CCS(CCA) Rules, 1965 and the competent authority gravely erred in law by invoking Rule 5 of the CCS (Temporary Service) Rules, 1965.


D. That the explanation given by the Petitioner in regard to her teaching experience in different schools during the period 1991 to 1994 and her scoring 53% marks in B.Sc. (Hons.) and the scoring of similar percentage of marks in B.Ed. Course is absolutely satisfactory and no reasonable person could have come to any other finding other than that of Petitioner not being guilty of suppression of any material fact. The competent authority by arriving at a contrary finding and holding the Petitioner guilty of the suppression of material fact and misleading the Kendriya Vidyalaya Sangathan authority acted unreasonably and arbitrarily.

E. That the Respondent No. 3 gravely erred in invoking Rule 5 of the CCS (Temporary Services) Rules, 1965 and thus committed a serious error of jurisdiction inasmuch as in the instant case such a power could not have been exercised, more so, when two show cause notices were issued to the Petitioner making serious allegations against her and it was as a result of the show cause notices that her service was terminated.

F. That the impugned order of termination simpliciter has been passed in gross violation of Article 14, 16 and 311 of the Constitution of India. There has also been non-compliance of the provisions of CCS (CCA) Rules, 1965, in the instant case. Therefore, the impugned order of termination is liable to be quashed and set aside.

G. That the facts and circumstances of the Petitioner's case did not constitute just and sufficient reason for the Respondent No. 3 to form an opinion that the Petitioner deliberately suppressed facts with the intention to mislead the KVS authority for getting the appointment in her favour. It is submitted that the Respondent No. 3 in the facts and circumstances did not act reasonably and arrived at the finding to which no reasonable person could have arrived at.

21. That in pursuance of the Petitioner's appointment as Primary Teacher in the Kendriya Vidyalaya Project Pushpak, Aizawl, she was provided with the residential accommodation by the Kendriya Vidyalaya Sangathan authority. As a result of the impugned order of termination there is a strong likelihood of the Kendriya Vidyalaya Sangathan authority immediately taking action against the Petitioner for her eviction from the said quarter. Therefore in the instant case immediately stay is necessary on any such action of the Kendriya Vidyalaya Sangathan authority because if the Petitioner is evicted from the quarter, she would suffer irreparable loss and injury. In view of the fact



that the impugned order of termination is ex-facie illegal and in all likelihood would be quashed and set aside by this Hon'ble Court, this Hon'ble Court may be pleased to protect the Petitioner from her likely eviction from the quarter allotted to her by the Kendriya Vidyalaya Sangathan during the pendency of the case. Moreover, in the instant case, as the impugned order of termination is ex-facie illegal having been passed in violation of the provisions of the CCS(CCA) Rules, 1965 and the same cannot be treated to be that of termination simpliciter under Rule 5 of the CCS (Temporary Service) Rules, 1965 therefore in the instant case, this Hon'ble Court may be pleased to stay the operation of the aforesaid order of termination.

22. That the Petitioner has no other appropriate remedy than the one sought for herein. The remedy sought for herein when granted would be adequate, just, proper and effective.

23. That the Petitioner had demanded justice, but the same was denied to her. Hence the Petitioner files this petition bonafide for securing the ends of justice.

PRAYER :

(a) issue a Writ of Certiorari quashing the impugned order of termination dated 17.9.97 passed by the (offg.) Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Silchar

(b) direct the reinstatement of the Petitioner to her post of Primary Teacher in the Kendriya Vidyalaya,

Project Pushpak, Aizawl with all consequential benefits.

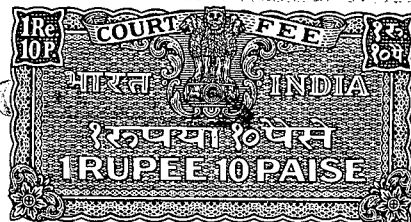
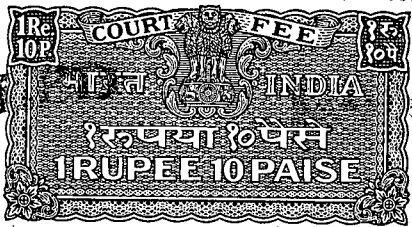
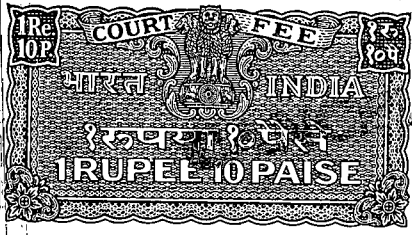
(c) pass such other order/orders as may be deemed fit and proper in the facts and circumstances of the instant case.

- AND -

Pending disposal of the Petition, be further pleased to direct the Respondents not to evict the Petitioner from the quarter allotted to her as Primary Teacher and be further pleased to stay the operation of the impugned order dated 17.9.97.

And for this, your humble Petitioner as in duty bound shall ever pray.

Affidavit....



28

AFFIDAVIT

I, Mrs. E.J. Beatrice, aged about 32 years, Wife of Mr. Jerald Wincent, resident of Kendriya Vidyalaya, Aizawl, Project Pushpak, C/O 99 APD, do hereby solemnly affirm and declare as follows :

1. That I am the Petitioner in the instant case and as such well conversant with the facts and circumstances of the case and therefore competent to swear this affidavit.

2. That the statements made in this affidavit and in paragraphs paragraphs 1,3,6,9,16,17,18,19,21,22,23 of the Writ petition are true to my knowledge ; those made in paragraphs 4,5,7,8,10 to 15 being matters of records are true to my information derived therefrom. The Annexures are the true copies of the originals which I believe to be true and the legal grounds taken in the Writ petition are as per the legal advice.

And I sign this affidavit on this the 29th day of September 1997 at Guwahati.

Identified by me :

Satga Nath Boruah

Advocate's Clerk 29/9/97

Smt. E.J. Beatrice

Deponent

29/9/97
The deponent is identified by me
personally known to me
I certify that I read over and explained the contents
to the deponent and that the deponent seemed
sufficiently to understand them.

[Signature]
Commissioner
Garhwal High Court
Guwahati

29-9-97

UNIVERSITY OF CALICUT



(Reg. No. 133112)

Calicut University P. O.
673 635

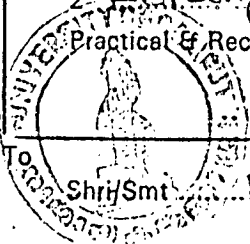
Dated.....7 SEP 1988

Sl. No 07625

MEMORANDUM

The following marks are awarded to him/her at the Final year B. Sc. Degree Examination of April/September 1988.

Subjects	Marks awarded	Minimum marks required for a pass	Maximum marks
PART III OPTIONAL SUBJECTS			
Zoology (Main), Chemistry and			
<u>Botany</u> subsidiaries			
(a) MAIN SUBJECTS			
Paper I Chordata Non-Chordata	26		70
Paper II Non-Chordata Chordata	22		70
Paper III Economic Zoology	19		65
Paper IV Cytology & Genetics	23		65
Paper V Embryology and Physiology	25		65
Paper VI Ecology, Evolution and Zoo-geography	29		65
Total for theory	144	120/140	400
Practical & Records	174	60	200
Total	318	210	600
(b) SUBSIDIARY SUBJECTS			
1 Chemistry Paper I } BF.	82	70	200
Practical & Records Paper II }			
2 <u>Botany</u> Paper I } BF	129	70	200
Practical & Records Paper II }			
Grand Total	529	350	1000



Shri/Smt. Beatrice E. J.

(five, two, nine)

Marks entered by.....

CONTROLLER OF EXAMINATIONS

Marks checked by.....

S. O.

A/R./D. R. (Exams.)

- Note:-
- 1 The candidates who have secured not less than 35% marks in theory or in practicals, but have not passed the main subject as a whole, will have the option to retain the marks in the Unit in which they have secured not less than 35%, provided that this benefit shall not be available to those who apply for registration for both the Units again.
 - 2 Candidates securing less than 35% marks in both the Units will not be eligible for Unit wise appearance.
 - 3 Pass minimum for Theory/Practical will be 35% for candidates taking the Units separately.

CUP 571e/84 Ex. 3000

UNIVERSITY OF CALICUT

Calicut University P. O.
673 635

Dated.....14 MAR 1990



MEMORANDUM

The following marks were awarded to him/her at the Second Year B. Sc. Degree Examination of March/September 1989. (Reg. No. 71728)

Name of Subjects		Marks awarded	Minimum marks required for a pass	Maximum marks
PART I—ENGLISH	Paper I	B/F	35	100
	Paper II	B/F	35	100
	Paper III		35	100
	Total		105	300
PART II— ADDITIONAL LANGUAGE	Paper I	B/F		100
	Paper II			100
	Paper III			100
Total			105	300
PART III—OPTIONAL SUBJECTS				
Main	Paper I	B/F		
	Paper II			
SUBSIDIARY SUBJECTS				
I Compulsory Subsidiary	Paper I	B/F		
	Paper II			
	Total for Theory			
Practical & Records				
Total for Sub I			70	200
II Optional Subsidiary	Paper I	B/F		
	Paper II			
	Total for Theory			
	Practical & Records			
Total for Sub. II			70	200

Sri/Smt. H. J. Beatrice

Marks entered by.....am

Marks checked by.....V

S. O.

A. R./D. R.

Controller of Examinations.

Results of Part I, Part II Part III Subsidiaries are finalised at the Second Year Examinations.

P.T.O.

No. Annex-A.

UNIVERSITY OF CALICUT

Folio No 01943

Calicut University P. O.
673 635

Dated 4 JAN 1988

MEMORANDUM

The following marks are awarded to Liya at the Second Year B. Sc. Degree Examination of March/September 1987. Register Number 13312

Subjects			Marks awarded In figures	Minimum marks required for a Pass	Maximum marks
PART I—ENGLISH	Paper I	B/F	22	105	100
	Paper II	B/F	36		100
	Paper III		30		100
	Total		88		300
PART II ADDITIONAL LANGUAGE <u>Malayalam</u>	Paper I	B/F	37	105	100
	Paper II		29		100
	Paper III		54		100
	Total		120		300
PART III—OPTIONAL SUBJECTS					
<u>Zoology</u> Main	Paper I	B/F	26		
	Paper II		22		
SUBSIDIARY SUBJECTS					
I Compulsory Subsidiary <u>Chemistry</u>	Paper I	B/F	15	36/42	
	Paper II		-7-		
	Total for Theory		22		
	Practical & Records		9/19½		
	Total for Sub I		/		70 200
II Optional Subsidiary <u>Botany</u>	Paper I	B/F	-6-	36/42	
	Paper II		22		
	Total for Theory		28		
	Practical & Records		32/18		
	Total for Sub. II		/		70 200

To Sp/Smt Beatrice. E. J.Marks entered by : lMarks compared by : S. O.

A. R. D. R.

Controller of Examinations

The results of Part I, Part II and Part III Subsidiaries are finalised at the Second Year Examinations

P. T. O.

- 24 -

Roll No. 15

Sl. No. 1456

Annex B

UNIVERSITY

OF MYSORE

OFFICE OF THE
UNIVERSITY OF MYSORE
MYSORE-570 005

Dated 4 JUL 1991

STATEMENT OF MARKS
B.Ed. Degree Examination May 1991
(Revised Regulations)

Name Beatrice E. J.

Reg. No. 17480

Code No.	Subject/Course	Examination		Sessional		Total			Result
		Max. Marks	Marks Obtained	Max. Marks	Marks Obtained	Max. Marks	Min. Marks	Marks Obtained	
ED-1	Education in India	80	34	20	11	100	40	45	Second Class
ED-2	Educational Psychology	80	36	20	11	100	40	47	
ED-3	Teacher Functions and School Organisations	80	47	20	11	100	40	58	
ED-4	C.C.M-I Chemistry	80	48	20	11	100	40	59	
ED-5	C.C.M-II Biology	80	36	20	11	100	40	47	
ED-6	Practicum I Chemistry	50	26	100	57	150	60	83	
ED-7	Practicum II Biology	50	27	100	58	150	60	85	
Total		500		300		800	320	424	

Total (in words) Four hundred and twenty four only.

Minor Practicum : (Internal Assessment only)	GRADES A,B,C,D,E		
(i) Working with the Community/ Socially Useful Productive Work	A	Content Course-I	-
(ii) Physical Education/ Co-curricular Activities	B	Content Course-II	-
(iii) Minor Specialisation (a project)	B		

Minima for a pass : 40% in each subject/course (Examination and Sessional Marks put together) with the provision that shortage upto 5% marks may be over looked in each of a maximum of two courses of study, if the candidate has got 40% on the aggregate.

Signature.....
Entered by Dr. S. N. HEGDE
Name.....Signature.....
Verified by
Name.....Signature.....
Scrutinised by
Name.....Signature of the Head of the Institution
(with office seal)

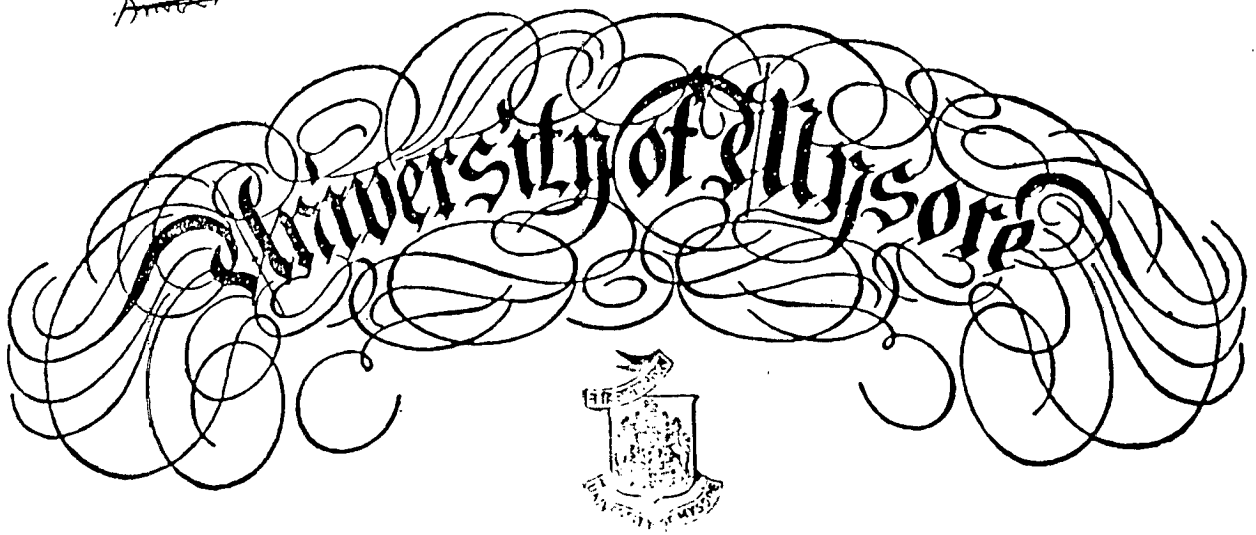
Registrar (Evaluation)

Vivakananda College of Education
Mysore

wo 29456-MUPM-50 books of 100 leaves each-2-7-88

Annex - B

~~Annex - A~~



We, the Chancellor, the Vice-Chancellor and the Senate
of the University of Mysore, do hereby certify that

Beatrice, ET

has been admitted to the Degree of

BACHELOR OF EDUCATION

having been duly certified to have passed the
prescribed examination held in the year 1901, and
placed in the second class.

Given under the seal of the University.



Mysore 23.03.1992

Place and Date of Convocation

Vice-Chancellor

No.

1373

Month/Year

May-91

Reg. No.

17420

Written by

(S)

Verified by

310493

28/3/7



केन्द्रीय विद्यालय
पुष्पक, C/o 99 ए० पी० ओ०
KENDRIYA VIDYALAYA
PROJECT-PUSHPAK, C/o 99 A. P. O.

Ref. No. F.13/R&A/KV-AIZ/97-98/

Dated...7-8-97.....

CERTIFICATE

(TO WHOM IT MAY CONCERN)

Certified that Smt. E.J. Beatrice was working in this Vidyalaya as PRT on Adhoc basis in the pay scale of Rs 1200/= - 2040/= w. e. f. from 28-6-93 to 15-12-93.

[Signature]
R.N. SHUKLA
OFFIC. PRINCIPAL
Principal,

Kendriya Vidyalaya
Project Pushpak
C/o 99 APO

KENDRIYA VIDYALAYA SANGATHAN
REGIONAL OFFICE::: SILCHAR-1.

No.F.2-16/94-KVS(SR)/

Dated:-

23/5/95

M E M O R A N D U M

SUBJECT: RECRUITMENT TO THE POST OF P.R.T.

With reference to his/her application for the post as mentioned above, the person addressed below is hereby requested to appear for an interview at the Venue, Date and Time noted hereunder:-

VENUE: KENDRIYA VIDYALAYA, SRIKONA (NEAR SILCHAR)

TIME: 9-00 A.M. TO 4-30 P.M. DATE:- 20-06-1995.

Following points may please be noted carefully.

- 1) Candidates are eligible for reimbursement of second Class ordinary railway/bus fare both ways provided the fare incurred is more than Rupees Twenty only each way by the shortest route. They have to produce ticket No. to claim for reimbursement.
- 2) All Original certificates, Marksheets and testimonials in support of Age, Qualifications, Achievement, Experience, Caste/relaxation in age etc. as detailed in the application must be produced at the time of interview.
- 3) In case of honours students only required percentage in honours marks will not decide the eligibility. As such pass marksheet as well as Honours marksheet in original should be produced at the time of interview for verification.
- 4) All the teaching experience certificates should be got countersigned by the District Education authority for determining the institute as recognised one. In the absence of countersignature as above no weightage for experience will be awarded and the candidature is liable to be rejected.
- 5) Recent Passport size photograph should be submitted if not affixed with the application form.
- 6) Physically handicapped certificate for disability of less than 40% will not be considered. Physically handicapped certificate if issued by any authority other than Chief Medical Officer, should be got countersigned by the Chief Medical Officer.
- 7) Current Employment Exchange Registration Card for fresh and No Objection Certificate for employed candidates (other than KVS employees already in service in an organisation/department should be produced in Original at the time of interview, if application is not routed through proper channel.
- 8) Adhoc experience certificate should specifically bear (1) period of adhoc service (II) scale of pay and (III) post held. Failure to produce above mentioned documents or discrepancy found on certification of entries in application form with original will entail cancellation of candidature and forfeiture of travelling reimbursement bill claim and that in the event of the candidate having furnished any information not in conformity with the prescribed conditions as per advertisement, he/she will not be interviewed and his/her claim for payment of T.A. will not be entertained.
- 9) SC/ST/OBC Certificate should be from the District Magistrate/authorised competent authority.
- 10) Candidates should come prepared to stay for subsequent date(s) of interview if the interviews are not conducted on notified date for extraneous reasons.
- 11) Please bring this letter and produce at the time of interview.

Deparner

Kendriya Vidyalaya Sangathan
(Regional Office)
SILCHAR-1

(S.B. CHATURVEDI)

ASSISTANT COMMISSIONER.

737 02775

Beatrice E.J.

E.J. Beatrice

Lat Tyre Works, Aizawl,

Zomabawk, Mizoram. Pin, 796017

23-02-66

KENDRIYA VIDYALAYA SANGATHAN
REGIONAL OFFICE::: SILCHAR-1

No. F.2-16/95/KVS-SR/

7808-7808

DATE:- 31-07-1995

MEMORANDUM

SUB: OFFER OF APPOINTMENT TO THE POST OF PRIMARY TEACHER///ith reference to his/her application dated 23-06-94

Shri/Smt E.J. Beatrice is hereby informed that he/she has been selected for appointment against temporary Post of P.R.T. in Kendriya Vidyalaya Sangathan on an initial pay of Rs. 1200/- in the scale of Pay Rs. 1200-30-1380-EB-30-1560-40-1800-EB-2040 as per terms and conditions indicated below:

1. He/She will draw allowances and other benefits in addition pay at rates as admissible to the Kendriya Vidyalaya Employee.
2. This offer of appointment is subject to the candidate being declared fit for the post of P.R.T. by a Civil Surgeon.
If the candidate is a women, she should certify that she is not in the family way at the time of acceptance of the appointment. If, however, she is pregnant of twelve weeks standing or over at time of acceptance of appointment as a result of medical test, she will be declared temporarily unfit and the offer would be treated as withheld for the present. She would be re-examined for a fitness certificate six weeks after the date of confinement and her appointment would be subject to production of medical certificate from a Civil Surgeon. In case, the candidate fails to comply with these instructions her selection will stand cancelled and no further correspondence will be entertained from her. On production of medical fitness certificate she will be appointed to the same post.
4. T.A. on first appointment in case of journeys for taking up initial appointment to a post in the North Eastern Region limited to ordinary bus fare/Second Class rail fare for road/rail journey for himself/herself and his/her family will be admissible.
5. He/She will be on probation for a period of 2 years which may be extended by one year by competent authority. Upon successful completion of probation he/she will be considered for confirmation in his/her turn as per KVS rules, provided nothing adverse is found against his/her upon verification of his/her character and antecedents by the competent authority. Adverse report on his/her character/antecedent submitted by the competent authority will render his/her liable to be terminated from the services under Kendriya Vidyalaya Sangathan.
6. During the probation and thereafter, until he/she is confirmed, the services of the appointee are terminable by one month's notice on either side without any reason being assigned thereof. The appointing authority, however, reserves to itself the right to terminate the services of the appointee before expiry of the stipulated period of notice by making payment of sum equivalent to the pay and allowances for the stipulated period of notice or the unexpired portion thereof.
7. If at any time after the appointment any statement/declaration furnished/made, whether before or after his/her selection, is found false, his/her services shall be terminable forthwith without giving prior notice.
8. Other terms and conditions of service governing the appointment as laid down in the Education Code for Kendriya Vidyalayas as amended from time to time. Since Kendriya Vidyalaya Sangathan Group Insurance Scheme has been introduced with effect from 1-1-83 joining to above scheme is compulsory.

Contd...P/2....

9. He/She will be liable to be transferred any where in India in the interest of Kendriya Vidyalaya Sangathan. Initially he/she is posted as P.R.T. at Kendriya Vidyalaya PROJECT PUSHPAK, AIZWAL (MIZORAM)

10. A person already in service will be allowed to join Kendriya Vidyalaya Sangathan when he/she produces relieving order of his/her parent department at the time of joining. He/She will not request for transfer outside Silchar Region within three years of initial posting.

11. In case of any dispute or claim against the Kendriya Vidyalaya Sangathan in respect of service or any contact arising out of or flowing from this offer of appointment, the courts at Delhi alone shall have jurisdiction.

12. If he/She accepts the offer under the terms and conditions stipulated above, She/he should send his/her acceptance immediately on receipt of this Memorandum in the form attached to the Principal and the undersigned and join Kendriya Vidyalaya mentioned above. Necessary proforma for purpose mentioned in forms VII A/B, VIII to XI and XIII are enclosed herewith which should be submitted to the Principal concerned after getting the same duly completed in all respects. This acceptance should reach the undersigned in any case by 14-08-95. If the offer is not accepted by the said date or after acceptance if the appointee does not report for duty at the above named Kendriya Vidyalaya latest by 17-08-1995, this offer of appointment will be treated as automatically cancelled and no further correspondence will be entertained from his/her in this regard.

Encls:-As above.

To Mrs E.J. Beatrice

C/O Jerald Vincent

Star Tyre Works

Zemabawk-796017, Mizoram, Aizwal

ASSISTANT COMMISSIONER

Copy forwarded to:-

1. The Principal, Kendriya Vidyalaya Project Pushpak, Aizwal (Mizoram) The date of joining of the candidate may be intimated to this office telegraphically after the candidate reports for duties. In case he/She does not join by the stipulated date, this office should be informed telegraphically. This appointment is further subject to production of certificates etc. as per articles 49(I) of the Education Code for Kendriya Vidyalaya. The original application form alongwith its enclosures of the said candidate is enclosed herewith which should be kept in the personal file of the official. The candidate be allowed to join his/her duties only after verification of original certificates and on submission of requisite forms/statements vide appendices VII (A)/B, VIII, IX, X, XI (if necessary) and XIII duly completed in all respects. In case there is no vacancy at the K.V. mentioned above, he/she should not be allowed to join and may please be directed to report back to the KVS Regional Office Silchar to obtain the modified orders.

The receipt of this application form should be acknowledged.

2. THE ASSISTANT COMMISSIONER (PERG.)

KENDRIYA VIDYALAYA SANGATHAN,

18, INSTITUTIONAL AREA,

SHARDEE JEET SINGH MARG, NEW DELHI-16.

ASSISTANT COMMISSIONER.



- 30 -

दूरभाष- 34339 (AC) Resi
Phone- 34154 (AO)
21250 (EO)

केन्द्रीय विद्यालय संगठन KENDRIYA VIDYALAYA SANGATHAN

ANNEXURE- E

क्षेत्रीय कार्यालय Regional Office
हॉस्पिटल रोड Hospital Road
सिलचर-788001 Silchar-788001

दिनांक:

Dated: 24.7.97

3-4/97-KVS(SR)/4579-80

MEMORANDUM

It has been brought to the notice of the undersigned that Mrs. E.J. Beatrice, appointed as Primary Teacher in KVS and posted at KV, Project Pushpak, Aizwal has submitted false information in her application for the post regarding percentage of marks at graduation level and experience. She mentioned 53% marks in graduation instead of 47%. She mentioned her experience from June, 1991 to May 94 as per entries made in her application for the post of PRT whereas she was working in another institution also during the same period.

She is therefore directed to clarify the following:-

- (a) How did she serve more than one institutions during the common period. i.e. (i) Cee Tee Academy (June, 1991 to May, 94)
 - (ii) J.J. School, Bawn Kaur, Aizwal (earlier to 28.6.93)
 - (iii) K.V. Aizwal (28-6-93 to 15-12-93 on Adhoc basis)
 - (iv) St. Paul School (24.1.94 to 25.3.94) Calicut, Kerala.
- (b) Salary drawn (pay scale/consolidated) in each institution. Documentary evidence should be submitted.
- (c) Specific date of service in each institution w.e.f. June 1991 to May 94. Copy of the experience certificate duly sealed and signed from each of the institution should be submitted.
- (d) Why the teaching experience was not mentioned by her in the Bio-data sheet while filling at the time of contractual appointment.

Her clarification along with all the documentary evidence must reach this Office latest by 18.8.97 through her Principal.

18.8.97

To
Mrs. E.J. Beatrice,
Primary Teacher
K.V. Project Pushpak.
Aizwal.

(DR. M.M. SWAMY)
OFFG. ASSTT. COMMISSIONER

Copy to:-

The Principal, Kendriya Vidyalaya, Aizwal. He is requested to handover the enclosed Memorandum to the teacher concerned and to send her clarification along with all required document latest by 18.8.97 to the undersigned.

OFFG. ASSTT. COMMISSIONER.

दुरभाष—
Phone—34009 (AC) with Fax
24339 (AC) Resi
34154 (AO)
21250 (EO)केन्द्रीय विद्यालय संगठन
KENDRIYA VIDYALAYA SANGATHANक्षेत्रीय कार्यालय
अस्पताल रोड
सिलचर—788001Regional Office
Hospital Road
Silchar-788001

पत्रांक

F. No.

3-4/97-KVS(SR)/1581-82

दिनांक

Dated :

24.7.97

MEMORANDUM

The period of probation of Mrs. E.J. Beatrice, as Primary teacher at K.V. Project Pushpak, Aizwal is hereby extended for another one year w.e.f. 10th August, 1997.

To
Mrs. E.J. Beatrice,
Primary Teacher,
Kendriya Vidyalaya,
Project Pushpak,
Aizwal.

(DR. M.M. SWAMY)
OFFG. ASSTT. COMMISSIONER

Copy to the Principal, K.V. Project Pushpak, Aizwal with the instruction to handover the enclosed Memorandum to the teacher concerned and necessary entries may be made in her service book.

OFFG. ASSTT. COMMISSIONER

To

The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office,
Hospital Road, Silchar - 788001.

Subject: CLARIFICATION TO THE MEMORANDUM - REGARDING.

(Through proper channel)

Respected Sir,

In reply to the Memorandum issued vide No.3-4/97-KVS(SR)/4579-80 Dated 24.7.1997 and received by me on 2nd August 1997, I have the honour to submit the following few lines as my clarification to the queries made in the said Memorandum for your kind consideration and favourable action.

1. I categorically deny the allegation that I had submitted false information in my application for the post of Primary Teacher.

2. Before I write the clarification sought for, I feel it would be appropriate to mention my entire academic qualification for your information.

3. I passed my Secondary School Leaving Certificate Examination in the year 1982 from the Board of Secondary Education, Tamil Nadu through the Presidency Girls High School at Madras and I passed my Higher Secondary Course Certificate Examination in the year 1984 from the Board of Higher Secondary Examination, Tamil Nadu. After passing the HSCC Examination I joined the University of Calicut for my Degree Course. I passed my B.Sc. Degree Examination in the year 1988. In the year 1990 I joined the University of Mysore for doing the B.Ed. I passed the B.Ed examination in the year 1991.

4. In the Degree Course for Part III I had taken Zoology as my main subject and Chemistry and Botany as my subsidiaries. I was awarded 529 marks out of the maximum marks of 1000 for the Part III Optional Subjects. When the said marks are converted into percentage it works out to 52.9% to say 53%. In this connection I would like to state that in the Degree certificate issued by the University of Calicut what class I obtained in each part is mentioned separately and it is a practice to mention the percentage of marks obtained in the main subjects and languages separately. Accordingly, in good faith I, in my application submitted to your Institution had mentioned that I had obtained 53% in graduation. (meaning that it denotes only the part III i.e. the main subjects.) It would not be out of place to mention that during the interview I had produced all my original Certificates including marks obtained by me in my Degree Course to the members of the interview board. The Board members at that time had also verified my marks and accepted my application

Contd.p.2.

and they also took it for granted that the percentage I mentioned in my application pointed out the percentage of marks I obtained for Part III only.(ie. Main Subjects.) This fact was explained by me and the board also accepted my explanation and selected me and appointed me to the present post. Further, I obtained 424 marks out of 800 marks in my B.Ed. Examination. When you convert the marks in to percentage it works out to be 53%.
(Copies of mark lists are annexed herewith as ANNEXURES 'A' & 'B')

5. That soon after I passed the B.Ed. Examination, I Joined the CEE TEE Academy at Zemabawk and I served the said school for the period from 3.6.1991 to 28.5.1994. Accordingly I submitted a Certificate issued by the Principal of the said CEE TEE Academy alongwith my application for the permanent post in K.V. Aizawl. However, while I was working in the said Academy I was looking for better prospects in Government and other agencies as the employment with the CEE TEE Academy was not a secured one. While I was working in the said academy, I took leave and with the permission of the Principal I worked in different places for the sake of experience and better prospects.

6. While I was working with the CEE TEE Academy, the Principal of the J.J. School, Bawngkawn requested me to assist the children of his school during my free time, accordingly with the permission of the Principal of the CEE TEE Academy I assisted the children of the J.J. School during the period from 15th March 1993 to 28th June, 1993 for which I was paid honararium. In this connection the Principal of the J.J.School was kind enough to issue a certificate. (Copy of the said certificate is annexed herewith as Annexure 'C' .)

7. While I was still working with the CEE TEE Academy, I came to know from the local News Paper that there was an Adhoc PRT post at the scale of Rs.1200/- -- Rs.2040/- was vacant in the K.V.School, Aizawl and I applied for the said post and after I was interviewed I was appointed to the said post on Adhoc basis for the period from 28.6.93 to 15.12.93. As the post was purely Adhoc in nature I did not feel it necessary to get another certificate from the Principal of the CEE TEE Academy and submit to the authorities alongwith the application to the K.V. Aizawl. During the interview I had mentioned about my contract with the Principal CEE TEE Academy, but the persons interviewing me at that time did not insist on any certificate, hence I did not submit any certificate issued by the Principal CEE TEE Academy at that time. However, the Principal of the CEE TEE Academy was kind enough not to remove my name from their roll but he said that he would not give any salary during the said period and allowed me to go on leave without pay. (Copies of the leave granted by the Principal CEE TEE Academy and the Pay Certificate issued by the Officiating Principal of the Kendrya Vidyalaya are annexed herewith as Annexures 'D' & 'F')

8. During the middle part of January 1994 I went to my native place ie. Calicut, Kerala on leave. While I was in Calicut, a vacancy arose in the St. Pauls School due to the leave taken by one of the teachers. As I was doing nothing at Calicut I approached the authorities of the said school for appointment for the said post. After I was interviewed I was appointed by the authorities as teacher in the said School for the period from 24.1.1994 to 25.3.1994. (A copy of the Appointment Order is annexed herewith as Annexure 'G')

9. After I came back from Calicut, I resumed my work with the CEE TEE Academy upto 28.5.1994. As I had worked with different institutions with due permission from the Principal of the CEE TEE Academy, he did not remove my name from the roll of teachers of his School. Eventhough, I had worked in different institutions in temporary/ Adhoc/ officiating capacities, I continued to hold my lien with the CEE TEE Academy till I finally left the said School on 28.5.1994. Hence I did not feel it wrong to submit the experience certificate from the Principal of the CEE TEE Academy. I had submitted the said certificate in good faith and without any malafide intention. (Copies of the certificates issued by the Principal, CEE TEE Academy are annexed herewith as Annexures 'H' to 'J')

In the circumstances stated above, I humbly request you to kindly accept the clarifications given above and close the matter from your end for good and regularise/ confirm me in the post I am holding at present at the earliest opportunity.

And for this act of kindness I shall be ever grateful.

Date : 12.8.1997.

Yours faithfully,

(Mrs.E.J.Beatrice)
Primary Teacher,
K.V. Project Pushpak,
Aizawl.

Copy to :-

The Principal, Kendriya Vidyalaya, Aizawl for information and necessary action.

(Mrs.E.J.Beatrice)

केन्द्रीय विद्यालय संगठन

KENDRIYA VIDYALAYA SANGATHAN

CONFIDENTIAL

क्षेत्रीय कार्यालय

अस्पताल रोड

सिलचर—788001

Regional Office

Hospital Road

Silchar-788001

CAUTION NOTICE

3-4/97-KVS(SR)/5968-70

दिनांक

Dated: 29/08/97

M E M O R A N D U M

On a careful consideration of the clarification submitted by Ms.E.J. Beatrice, PRT, KV, Project Pushpak, Aizwal vide her representation dated 16.08.97 in reply to the Memorandum No.3-4/97-KVS(SR)4579-80 dated 24.7.97 issued by this office, the undersigned finds that the charge levelled against Ms.E.J.Beatrice, PRT has been proved for the reasons mentioned below:-

- (a) While issuing call letter to Ms.E.J.Beatrice, for the interview she was duly instructed that total marks obtained in Graduation Part-I, Part-II, & III Exam. will decide the eligibility. In spite of receiving the instructions she has mentioned the marks obtained in B.A.Part-III only showing the % of marks as 53% instead of 47% and thus suppressed the facts. Similarly she has not mentioned the correct % of marks while filling up the bio data sheet at the time of contractual appointment.
- (b). Smt.E.J.Beatrice, PRT (on probation), KV, Aizwal has admitted the fact that she served in (i) J.J.School w.e.f. 15.03.93 to 28.06.93 (ii) 28.06.93 to 15.12.93 in KV, Aizwal on Adhoc basis (iii) 24.01.94 to 25.03.94 in St.Pauls School Calicut while she was on the strength of Cee Tee Academy, Zemabwak, Aizwal. In order to have the benefit of experience in KVS service she obtained an Experience Certificate from the Cee Tee Academy covering the period from 1991 to 1994. Which is illegal and malafide. Her employment in more than one institutions simultaneously is a gross violation of rules.
- (c) While working on Adhoc basis at KV, Aizwal she took leave for six months from Cee Tee Academy. This fact she did not disclose either at the time of adhoc appointment or during the interview of her regular appointment in spite of having a permission letter dated 27.06.93 with her and thus allowed herself to be on the strength of two institutions simultaneously by hiding the facts.
- (d). She has failed to submit records in her favour to the fact that she had duly obtained permission from Cee Tee Academy for taking employment in various institution during the period of her leave and it is clear that she was in the habit of suppressing the fact even before her regular service in the KVS.
- (e) With the submission of false information as above she deliberately did it to derive more scores in evaluation to become eligible for interview. Had she given the correct information about % of marks in B.Sc, Experience and CCA. She would have got 7.10 marks less in evaluation and accordingly was not eligible for interview. As such she was not eligible for interview/appointment.

Contd.....P.No.2

-36-

दुरभाष—
Phone—

34009 (AC) with Fax
34339 (AC) Resl
34154 (AO)
21250 (BO)

केन्द्रीय विद्यालय संगठन
KENDRIYA VIDYALAYA SANGATHAN

क्षेत्रीय कार्यालय
बस्पताल रोड
सिलचर—788001

Regional Office
Hospital Road
Silchar-788001

पत्रांक
F. No.

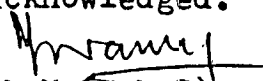
P.No.2

दिनांक
Dated :

3. The undersigned has therefore come to the conclusion that Smt.E.J.Beatrice,PRT(on probation) is not suitable to be retained in service and so the undersigned proposes to terminate the service of Ms.E.J.Beatrice,PRT(on probation) under temporary service Rules.

4. Smt.E.J.Beatrice,PRT is hereby given an opportunity of making representation on the action proposed above but only on the documentary evidence submitted by her. If she wishes to make representation she should send her representation within 15 days from the receipt of this letter to the undersigned. If no representation is received within 15 days, the action proposed will be taken accordingly.

5. The receipt of this Memorandum should be acknowledged.



(DR.M.M.SWAMMI),
OFFG. ASSISTANT COMMISSIONER

To

✓
MRS.E.J.BEATRICE,PRT(ON PROBATION)
KENDRIYA VIDYALAYA, PROJECT PUSHPAK,
AIZWAL, C/O 99 APO

Copy to:

1. The Principal, Kendriya Vidyalaya, Project Pushpak, Aizwal, C/o 99 APO for information and necessary action. He is directed to handover the enclosed show cause notice to Mrs.E.J.Beatrice, PRT(on probation) and to obtain acknowledgement from her which should be sent to this office for record.
2. The Deputy Commissioner(iers), KV, New Delhi for information please.


OFFG. ASSISTANT COMMISSIONER

Received on 11/9/97

CONFIDENTIAL

From

Mrs. E.J. Beatrice
P.R.T (On Probation)
Kendriya Vidyalaya,
Project Pushpak,
Zemabawk,
Aizawl.

To

The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office,
Hospital Road,
Silchar-788001.

Through

The Proper Channel

Subject:- Reply to SHOW CAUSE NOTICE.

Sir,

With reference to your memorandum No.3-4/97-KVS(SR)/5968-70 dated 29/8/97 on the above noted subject, I have the honour to submit the following para-wise reply for favour of your kind consideration and necessary action:-

1. That first of all, I deny that any formal charge as such has been framed against me for any alleged act of commission or omission. Your letter dated 24/7/97 only directed me to clarify certain points. Such points or the clarification offered by me can by no stretch of imagination, be termed as " framing of charge " or written statement of defence as contemplated under the law.

a. That the reason for and the circumstances under which the percentage of marks was furnished as 53% has already been explained by me in my letter dated 16/8/97. As already stated, this was not done with any malafied intention as the position was sufficiently clarified by me to the members of the interview board during my personal interview also.

b. That there is nothing illegal and malafide in obtaining an Experience Certificate from the Institution where I had served for three years. I still stick to my statement and clarification made in my letter dated 16/8/97

Conti....

- in this regard. It was after taking leave of absence that I worked in the other schools during the same period and I don't think there is anything wrong with such an arrangement. It is also not understood as to how it is related to my appointment or service under the Kendriya Vidyalaya Sangathan.
- c. As already stated above, it was after taking leave that I worked in Kendriya Vidyalaya, Project Pushpak, Zemabawk, Aizawl on ad-hoc basis for six months. I had drawn my salary only from one Institution during the said period. i.e., from Kendriya Vidyalaya Sangathan. I only retained my lien in Cee Tee Academy so that after my release from Kendriya Vidyalaya, Project Pushpak, Zemabawk, Aizawl. I could resume my work in Cee Tee Academy. If the authorities of Cee Tee Academy didn't have any objection to such an arrangement, I don't know why it should cause my anxiety to the Kendriya Vidyalaya Sangathan now, i.e., after more than two years. It is clear that the motive behind the present exercise is not guided by bonafide intention and is calculated to harass and humiliate a poor and helpless lady employee for no rhyme and reason.
 - d. The whole allegation in this para is strongly denied and resented. I have never suppressed any information that will be of any use to the Kendriya Vidyalaya Sangathan nor I am in the habit of doing so. The allegation is absolutely wild and baseless and is also defamatory in character. Hence, I would request you to please withdraw the same as it amounts to casting serious aspersions about my character and integrity which is not at all warranted in the facts and circumstances of my case.
 - e. That I have neither submitted any false information nor tried to derive any benefit or advantage out of it. The interview Board had examined all my certificates, marks sheets and other relevant documents/ testimonials meticulously and thoroughly and it was only after satisfying about the correctness of every information furnished by me in my application that I was finally selected for the post of P.R.T in Kendriya Vidyalaya Sangathan. It is beyond my comprehension as to why these issues are being raked up now unless it is done with the sole intention of harassing and victimising me for no fault of mine.

Conti...

3. That with regard to the contents of para 3 of your letter dated 29/8/97. It is submitted that my service is not liable to be terminated under the provision of rule 5 of C.C.S (Temporary Service) Rules. This rule can be invoked for terminating the service of a temporary employee in a matter of "termination simpliciter." After extending the period of my probation by another year vide order dated 24/7/97 and after making certain allegation and imputations of misconduct against me and after obtaining my explanation therefore, my appointment as P.R.T under the Kendriya Vidyalaya Sangathan cannot be terminated simpliciter by invoking the provision of Temporary Service Rules as it will amount to denial of reasonable opportunity as contemplated under article 311 (2) of the Constitution of India as well as the rule 14 of the C.C.S. (C.C.A.) Rules, 1965. In this connection, I invite your attention to clause 6 of the offer of appointment issued to me vide your OM No. F.2-16/95 KVS-SR/7806-7808 dated 31/7/1995. In view of this, the action proposed to be taken against me would be highly illegal, arbitrary, discriminatory, malafide, whimsical, unjust and unfair. It will offend my fundamental rights as guaranteed under Article 14 and 16 of the Constitution of India as well as my legal rights under Article 311 (2) of the said Constitution read with rule 14 of the C.C.S (C.C.A.) Rules, 1965. It will also amount to violation of the principles of Natural Justice thereby leading to failure / miscarriage of justice which would not be warranted under the law and would be a fit case for judicial review by the competent authority.

Under the circumstances stated above, I would request your honour to kindly consider all the points highlighted in the aforesaid paragraphs of this reply and drop the action contemplated against me in the interest of justice, equity and good conscience.

And for this act of kindness, I shall always remain grateful to your goodself.

Your's faithfully

(Mrs. E.J. Beatrice)

Dated :- 11-09-97

Copy to :-

- 1) The Principal,
Kendriya Vidyalaya,
Project Pushpak,
Zemabawk,
Aizawl. For information
- 2) The Deputy Commissioner (Pers). Kendriya Vidyalaya Sangathan, New Delhi
for favour of information and necessary action.

22.9.97

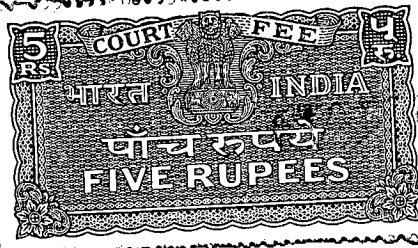
78 REGD.

Confidential.

Page No. 51/2008-09

District

Alzau



Smt. E. J. Beatrice
(Plaintiff)

IN THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA, MIZORAM & ARUNACHAL PRADESH)

~~IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH~~
~~IN THE COURT OF~~ AT THE GUWAHATI

Rule NO. 4839 OF 1997

E. J. Beatrice

Applicant / Appellant

Plaintiff / Petitioner

Union of India & or

VERSUS

Respondent

Defendant / Opposite Party

Know all men by these presents that the above named Petitioner

do hereby nominate, constitute and appoint Sri B. K. Sharma, Pavan Tiwari

Advocate and such of the undermentioned Advocates as shall accept this Vakalatnama to be my/our true and lawful Advocate to appear and act for me/us in the matter noted above and in connection there with and for that purpose to do all act whatsoever in that connection including depositing or drawing money, filling in or taking out papers, deeds of composition etc, for me/us and on my/our behalf and I/we agree to ratify and confirm all acts so done by the said Advocate as mine/ours to all intents and purposes. In case of non-payment of the stipulated fee in full no Advocate will be bound to appear or act on my/our behalf.

In witness whereof I/we hereunto set my/our hand this 25th

Sept Day of 1997

- (1) Mr. P. K. Goswami
- (2) Mr. P. C. Deka
- (3) Mr. J. M. Choudhury
- (4) Mr. A. K. Bhattacharyya
- ✓ (5) Mr. B. K. Sharma
- (6) Mr. L. Talukdar
- ✓ (7) Mr. P. K. Tiwari
- (8) Mr. T. N. Srinivasan
- (9) Mr. M. K. Choudhury
- (10) Mr. B. M. Sarma
- (11) Mr. G. K. Thakuria
- (12) Mr. M. Chanda

- (13) Mr. Satyajeet Sarma
- (14) Mr. B. K. Baishya
- (15) Mr. Ashok Kumar Roy
- (16) Mr. Rupjyoti Bardaloi
- (17) Mr. D. S. Bhattacharyya
- (18) Mr. B. K. Chetri
- (19) Mrs. S. D. Baruah
- (20) Mr. Bishnu Mehta
- (21) Mr. Siddhartha Sarma
- (22) Mr. P. Kalita
- (23) Mr. K. Paul

Sri Senior Advocate, leads me / us in this case

Received from the executant
Satisfied and Accepted

Advocate

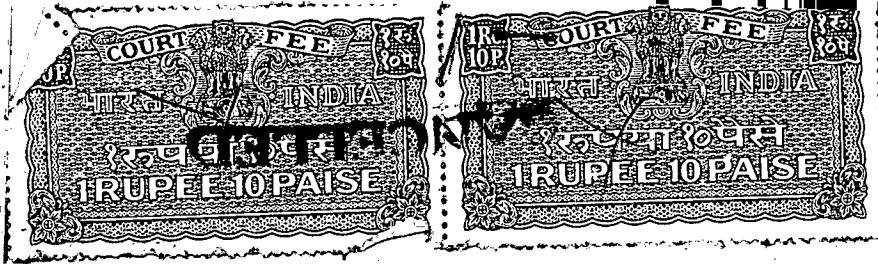
Accepted

Advocate

Accepted

Advocate

B. K. Sharma
(B.K. Sharma)



Filed by:
16/12/97
4/59

District : Aizawl

IN THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA
MIZORAM AND ARUNACHAL PRADESH)

(Civil Extra ordinary Jurisdiction)



In the matter of :

Civil Rule No.4839 of 1997

-And-

In the matter of :

An affidavit-in-opposition filed
on behalf of the Respondent Nos.
2, 3 and 4.

-And-

In the matter of :

Mr E.J. Beatrica ... Petitioner

-Versus-

Union of India & Ors ... Respondents.



14075112

I, Shri Pratap Ram Purbey, presently
working as Principal, Kendriya Vidyalaya, Project
Puspak, Aizawl, Mizoram, aged about 52 years, do
hearby solemnly affirm and declare as follows :

1. That I am the respondent No.4 in the instant
writ petition. I am competent to file this affidavit
on my personal behalf and on behalf of the answering
respondents No.2 and 3 as authorised and I swear the
same. I am also fully acquainted with the facts and

GAUHATI HIGH COURT
Aizawl

2.

circumstances of the case. Copies of the writ petition having been served upon the respondents, I have gone through the same and understood the contents thereof. Save what has been specifically admitted in this affidavit, all the averments and submissions made in the writ petition may be taken to have been denied by the deponent.

2. That before adverting to the facts of the case and the parawise reply, the deponent begs to raise a preliminary objection about the maintainability of the writ petition itself. Admittedly, the present petition has been preferred without exhausting the alternative equally efficacious remedy available to the petitioner under the relevant rules. Therefore, on this ground alone the writ petition is liable to be dismissed.

3. That with regard to the statements made in paragraph 1 of the writ petition the deponent states that the same being legally misconceived and based on misinterpretation of the Rule 5 of the CCS (Temporary Services) Rules, 1965, hereinafter referred to as the Rules, are hereby denied and disputed. In this connection the deponent states that the services of the petitioner (on probation) was termi-

3.

43 61

nated as per the terms and condition laid down in her offer of appointment as PRT. The Respondent No.3 being the appointing authority , is empowered to exercise the power of termination under Rule 5(1) of the Rules. Accordingly, the impugned order dated 17.9.97 was issued in exercise of power conferred by Rule 5 of the Rules terminating the services of the petitioner who was on probation. It may also be pointed out herein that before issuing the impugned order and Memorandum dated 24.7.97 and 29.8.97 were served upon the petitioner seeking certain clarifications. Therefore the said impugned order dated 17.9.97 cannot be construed as illegal and/or arbitrary.

The further contention of the petitioner that the impugned order is not an order of termination simplicitor, inasmuch as it casts stigma on the petitioner is absolutely misconceived and legally not tenable. It is an admitted position that the petitioner ~~is~~ ~~ax~~ ~~is~~ a probationer and, therefore, in accordance with the terms and conditions as contained in para 6 and 7 of the appointment letter, the services of the petitioner has been terminated by now. The Respondent No.3 was justified in terminating the services of the petitioner during the period of her probation. It is not necessary that there should be a charge and enquiry on her conduct since the petitioner was admittedly on probation. Therefore, the petitioner's services were rightly terminated by the impugned order in terms of Rule 5 of the Rules.

Commissioner of Affidavit
GASMAN 10/11/2000
GASMAN 11/11/2000

4.

4. That with regard to the statements made in paragraph 2A of the writ petition the deponent states that the temporary services of the petitioner who was admittedly on probation has been rightly terminated by the Respondent No.3 in exercise of power conferred under Rule 5 of the Rules. Such exercise of power does not involve casting of stigma in respect of the petitioner as has been alleged in the said paragraph. Para 6 and 7 of the appointment order also empowers the appointing authority to terminate the services of the petitioner as has been done in the instant case. The entire allegation itself appears to be misconceived and legally untenable.

5. That the statements made in paragraph 2B of the writ petition being equally misconceived, the same are hereby denied. The Education Code has nowhere made it mandatory to initiate an enquiry in conformity with the CCS(CCA) Rules, 1965, in case of temporary employee on probation. The said provision of the Education Code on the other hand makes it clear that the provisions of CCS(CCA) Rules 1965 is not applicable to temporary employees as provided for in Article 81(i). It would thus appear that there is an enabling provision under Article 81(i) of the Code to terminate the services of the petitioner. In addition, Rule 12 of the Appointment, Promotion Seniority etc Rules, 1971 also empowers the appointing authority to discharge the services of probationers giving 1 months notice or pay in lieu thereof.


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6. That with regard to the statements made in paragraph 2 C of the writ petition the deponent states that the petitioner had deliberately suppressed the material fact with the intention to mislead the Kendriya Vidyalaya Santhan authority for getting the appointment in question. ~~At~~ the first instance the petitioner mentioned her percentage of marks as 53% instead of 47 % in her application form inspite of knowing the fact that the percentage of marks in graduation is calculated taking into account the total marks she obtained out of the total maximum marks of all subjects in Part I, II and III. Instead the petitioner has only mentioned the percentage of marks obtained by her in honours subject with an intention to get the same weightage than the actual marks obtained. The same practice was being adopted by the petitioner since her appointment on contractual basis in the Kendriya Vidyalaya, Aizawl.

The Bio-data sheet submitted by the petitioner and the application Form submitted for appointment to the post of PRT are annexed hereto and marked Annexure-I.

The petitioner has already admitted the fact that she has served for more than one institution during the period from 1991 to 1994. These facts


OFFICE OF THE
DEPUTY COMMISSIONER
AIZAWL

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she never disclosed either at the time of her appointment or thereafter and as such the adverse report of her antecedent has rendered her unsuitable to retained in the service of the Santhan and accordingly the Respondent No.3 terminated the services of the petitioner in accordance with the legal provisions indicated above.

7. That save and except those which are matters of record of the case all the averments made in para 3 and 4 of the writ petition are denied by the deponent. In this connection it would pertinent to state that the percentage of marks in graduation level is not only relevant in the present case and not the percentage of marks obtained by the petitioner in B.Ed. It may also be pointed out herein that the percentage of marks obtained in honours subject is alone not relevant for deciding the eligibility. What relevant is the percentage of marks in aggregate based on total marks.

8. That with regard to the statements made in paragraph 5 of the writ petition the deponent states that the petitioner was on the strength of Cee Tee Academy, Aizawl covering the period from 1991 to 1994. During the same period she worked in other institutions viz (i) J.J.School w.e.f. 15.3.93 to 28.6.93, (ii) 28.6.93 to 15.12.93 in KV Aizawl on adhoc basis (iii) 24.1.94 to 25.3.94 in St.Pauls School Calicut. She worked in various

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institutions even more than 3000K.M. away from Aizawl while she was on the strength of Cee Tee Academy, Aizawl as revealed from her clarifications supported by certificates which is not permissible and feasible too. Had she brought this fact earlier either at the time of submitting application or at the time of interview she would have got the less weightage for experience making her ineligible for the post. She had deliberately suppressed the fact with malafide intention to have the benefit of experience at the time of her selection.

9. That with regard to the statements made in paragraph 6 of the writ petition the deponent states that possessing the eligibility criteria alone per se does not entitle the petitioner any legally vested right to be selected to the post for which she applied for. Before inviting candidates for interview, applications are short-listed by applying the evaluation criteria and candidates in the ratio of 8 : 1 are called for interview.

10. That the statements made in paragraph 7 of the writ petition being matters of records of the case the deponent does not admit anything which are contrary to and inconsistent with what appears from the records of the case. It is a fact that the petitioner was called for interview. But the petitioner ~~xxx~~ by not submitting the correct percentage of marks obtained in graduation and by suppressing the fact of experience had derived the undue benefit

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of more weightage for consideration of her case for selection for which the petitioner was not actually eligible.

11. That save and except those which are matters of record of the case, all the statements made in paragraphs 8 and 9 of the writ petition are denied by the deponent.

12. That save and except those which are matters of record of the case all the averments made in paragraph 10 of the writ petition are denied by the deponent. In this connection it is asserted that the Memo dated 24.7.97 was rightly issued, inasmuch as, the Respondents have every right to call for explanation from the petitioner. This action, therefore, cannot be construed as arbitrary.

13. That with regard to the statements made in paragraph 11 of the writ petition the deponent states that the appointing authority has a right to extend the period of probation. The period of probation was extended for one year with effect from 10.8.97.

14. That save and except those those which are matters of record of the case all the averments made in paragraph 12 of the writ petition are denied by the deponent. Be it stated herein that by the aforesaid communication dated 24.7.97 the petitioner was called upon to clarify the percentage of marks obtained by her in graduation

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and with regard to her services in more than one institution during the period from 1991 to 1994. The clarification/explanation submitted by the petitioner pursuant thereof was not found to be satisfactory by the authority.

15. That the statements made in paragraphs 13,14 and 15 of the writ petition being matters of record the deponent does not admit anything which are contrary to and inconsistent with what appears from the record of the case. In this connection it would be pertinent to state that the show cause notice dated 29.8.97 was issued to the petitioner with a view to give reasonable opportunity to the petitioner to present her case although there is no legal requirement of framing charge, holding enquiry etc in respect of a probationer. It is a settled law that it is not necessary that there should be a charge and an enquiry in respect of conduct of a probationer during the period of probation. The reply submitted by the petitioner was not at all satisfactory. Eventually, the competent authority vide the order dated 17.9.97 exercised power conferred by Rule 5 of the Rules terminated the services of the petitioner. Although, in the impugned order of termination, the respondent No.3

made reference to the show cause notice etc., that by itself would not render the impugned order a nullity. As stated above, the legal position in this regard is no more res integra and that it is not necessary that there should be a charge and an enquiry in respect of the candidate of a probationer during the period of probation.

16. That with regard to the statements made in paragraph 16 of the writ petition the deponent states that the impugned ~~xxxxx~~ action was taken having regard to the provisions contained in Rule 12 of the Appointment, Promotion, Seniority etc Rules, 1971 and Article 81(a) of the Education Code. It is needless to point out that the office memo dated 24.7.97 and the show cause notice dated 29.8.97 were issued with a view to provide reasonable opportunity to the petitioner to defend his case.

17. That the deponent denies the correctness of the statements made in paragraph 17 of the writ petition. In this connection the deponent states that the action taken by the petitioner in the instant case falls very much within the scope of Article 81(a) and Rule 12 of the aforesaid Rules. Moreover the Respondent No.3 being the appointing authority ~~xxx~~ is also competent to issue the impugned order as has been done in the instant case. Therefore, the impugned order is just, proper and legal.

18. That with regard to the statements made in paragraph 13 of the writ petition the deponent states that after deducting the weightage of experience and accepting 47% marks in graduation instead of 53% the petitioner became ineligible for the post of PRT and consequently the petitioner has no right to hold the post of PRT in the Sangthan. Had the petitioner not suppressed these material facts, she neither would have been called for interview nor she would have been selected for the post in question. Therefore, no fault can be found in the decision taken by the authority which is just, fair and reasonable and for the best interest of the education system itself.

19. That with regard to the statements made in paragraph 19 of the writ petition the deponent states that after careful examining the whole gammut of the matter and taking into consideration the reply filed by the petitioner and when the conduct committed by the petitioner has been proved, further retention of the petitioner's service in the Santhan is definitely not desirable in public interest.

20. That the grounds set forth in paragraph 20 and sub-paragraphs (a) to (g) of the writ petition for assailing the order of termination are not grounds in the eye of law. It is reiterated that passing of

of the impugned order by the respondent No.3 is not barred under Article 81(a) read with Rule 12 of the aforesaid Rules and Rule 5 of the CCS (Temporary Services) Rules, 1965. The order of termination dtd 17.9.97 is very much an order of termination simplicitor. Reference made by the respondent No.3 in the impugned order to the Show cause notice does not render the order a nullity and void. It is brought to the notice of this Hon'ble Court that the petitioner being a probationer, there is no requirement of framing of charge and or holding of an enquiry. The legal position in this regard is no more res integra. Therefore, the allegation of violation of Article 14, 16, 311 of the Constitution are not wellfounded and denied by the deponent. Further, this Hon'ble Court may be pleased not to entertain the writ petition as admittedly the petitioner has not approached this Hon'ble Court with clean hands. As indicated above, the petitioner by suppressing the material fact managed to get the call letter and selected. However, on scrutiny it was later on detected that the aggregate marks obtained by the petitioner in graduation is 47% instead of 53% as furnished at the time of application pursuant to the advertisement referred to above. All these facts would go to show that the petitioner has been

rightly dealt with and no interference is called for at the instance of the writ petitioner whose claims are tainted with illegality.

21. That with regard to the statements made in paragraph 21 of the writ petition the deponent states that the entitlement of holding of Govt residential accommodation even if the allotting authority allots quarter based on priority to another employee on rotation basis as provided in the rules. As such this Hon'ble Court may be pleased to vacate the interim order on this ground alone.

22. That with regard to the statements made in paragraphs 22 and 23 of the writ petition the deponent states that the writ petition is not maintainable in its present form as admittedly, the petitioner has approached this Hon'ble Court without exhausting the equally efficacious remedy available to her under Rule 5(ii)(a) of the CCS (Temporary Services) Rules, 1965 by way of preferring an appeal to the Commissioner, Kendriya Vidyalaya Santhan being the head of the organisation. Admittedly, the petitioner has not exhausted the alternative remedy which is also efficacious. Therefore, on this ground alone the writ petition is liable to be dismissed.

23. That under the facts and circumstances stated above, it is respectfully submitted that the challenge in the writ petition is devoid of any merit

and the same is liable to be dismissed with cost.

24. That the statements made in this paragraph and in paragraphs 1 to 5, 6 (pt), 8, 9, 13, 15 (pt) and 16 to 22 are true to my knowledge, those made in paragraphs 6 (pt), 7, 10, 11, 12, 14 and 15 (pt) being matters of record of the case are true to my information derived therefrom which I believe to be true and the rest are my humble submissions before this Hon'ble Court.

Identified by.

Tailokya Dela A/c
Advocate's clerk.
15-12-97

Batap Ram Puri
Deponent.
15.12.97

Sworn and affirmed before me on 15.12.97
Dec 15 1997 the declarant is identified by Tailokya Dela A/c personally known to me
I certify that I read over and explained the contents to the declarant and that the declarant seemed to understand them.
Commissioner of Affidavits
Gochari High Court
Gwalior 15.12.97

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ANNEXURE - I

Annexure - III

KENDRIYA VIDYALAYA, ZEMABAWK, AIZAWL.

Application for the post of 1st Biv.

Particulars of Candidate - (Biodata)

1) Name Mrs E.T Beatrice
 2) Father/Husband's Name Mrs. Jerald Vincent
 3) Address for Correspondence c/o Stan typn works
Shanpin Vong, Zema Bawk.
 4) Date of Birth 23.02.1965
 Qualifications B.Sc B.Ed

Exam passed	Board Univ	Year of passing	Subject offered	% of Marks obtained	Class Division
1	2	3	4	5	6
High School	Board of Sec. Edu. Tamil Nadu	1982	MAT, ENG, Maths, Science, etc.	48%	III rd class
B.A/B.Sc/	University of Calicut Kerala	1989	Zoology, Chem, Chemistry & Biology	52.9%	II nd class
M.A/M.Sc					
J.B.T/D.T.C/ B.Ed	Mysore University Karnataka	1991	Chemistry Biology	53%	II nd class
M.Ed/P.h.D					

Other

Qualifications.

7) Experience

Year	Class	Subject	Total	Experience
2006-07 to 12-07-07	V to VIII	Maths	6 months ✓	
2007-08 to 23-03-08	V to VII	Malayalam Social Science	2 months —	

I declare that are the above mentioned particulars are correct.

Date. 12.11.09

Signature of Candidate

E.T Beatrice

INDRIYA VIDYALAYA SANGATIAN

INSTRUCTIONS: (1) BEFORE FILLING THIS FORM READ THE GIVEN INSTRUCTIONS CAREFULLY.

(1) BEFORE FILING THIS FORM READ THE

(2) ALL ENTRIES SHOULD BE MADE IN CAPITAL LETTERS.

(4) ALL ENTRIES SHOULD BE MADE IN CAPITAL LETTERS.
(5) WHENEVER YOU FIND THE SPACE PROVIDED IN THE APPLICATION FORM TO BE INADEQUATE, YOU MAY USE ADDITIONAL SHEETS OF PLAIN PAPER AND ATTACH THEM AT THE END WITH PROPER REFERENCES.



Regimen applied from

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(See Instructions 2)

Preferred region for
pathing: • 17
(See: direction 2)



U.S. District Court, District of Columbia, Case No. _____ Filed 2/26/94
 U.S. District Court, District of Columbia, Case No. _____ Filed 2/26/94

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7. (c) Are you taking any of the following?
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and with any translation, etc.

Case No. 10/10/10

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1. The first part of the document is a letter from the author to the reader, dated 1945. The letter is written in a personal, conversational style and discusses the author's experiences during the war. The author mentions that he was a member of the 101st Airborne Division and that he was one of the first to land on D-Day. He describes the challenges of the invasion and the camaraderie among the soldiers. The letter also touches on the author's thoughts on the future of the world and the role of the United States.

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No. of Articles Published in professional journals

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Articles contributed to Professional Journals in chronological order, starting with the latest

Serial No.	Name of the article	When Published	Name of the Journal

1. Present and former, if treated

Period	If working, name and address of Organisation, where working	Place of Posting
PRESENT	BUSINESS	112 BNL, MIZORAM

2. Other places, where you may like to mention for consideration.

DECLARATION

I hereby declare that the above by me are correct to the best of my knowledge and belief.

I hereby declare that my employment in the Sangathan, my services are liable to be terminated if the above furnished by me is found to be wrong or suppressed.

I hereby declare that the above are correct.

(Signature)
Signature of applicant

For use in forwarding office (if employed)

Date _____

I hereby declare that I am working as _____ in this institution/office/organisation

and that no disciplinary action has been taken against me by the management/verification from the service record. No disciplinary action

Signature with designation

Seal of Office

112 BNL, MIZORAM

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