

50/100

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

9

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. 24/2005  
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SECTION OFFICER (Judl.)

*[Signature]*  
31/1/17

FORM NO. 4

(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

ORDER SHEET

Original Application No. 24/05

Misc. Petition No. \_\_\_\_\_

Contempt Petition No. \_\_\_\_\_

Review Application No. \_\_\_\_\_

Applicants: D.K. Srivastava

Respondents M.O. J. 2088

Advocates for the Applicant M. Chanda, S. Nath,  
C.N. Chakraborty

Advocates of the Respondents K.V.S., S.C.

Notes of the Registry Date \_\_\_\_\_ Order of the Tribunal \_\_\_\_\_

28.1.2005

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

Heard Mr. M. Chanda, learned counsel for the applicant and also Mr. M. K. Mazumdar, learned counsel for the KVS.

Issue notice to the respondents. List on 11.2.2005.

*K.V. Prahladan*  
Member

bb

11.2.05.

Present: Hon'ble Mr. B.K. Mishra, Member (J).

Only question involved in the present O.A. whether the applicant is entitled to TA/DA on his transfer from Kendriya Vidyalaya Tezu to Kendriya Vidyalaya No. 2, Itanagar instead of Kendriya Vidyalaya, Tawang as per transfer order dated 20.8.01 as modified on 6.9.2001 respectively. It is noted that the other terms and conditions of transfer order will remain the same.

contd/-

This application is in form \_\_\_\_\_  
is filed \_\_\_\_\_ Rs. 50/-  
deposited \_\_\_\_\_ P. BD  
No. 200/135638  
Dated 28/1/05

*N. J. J.*  
28.1.05  
Registrar

*le*  
28/01

Received case records  
to-day on 7.2.05.

*N. J. J.*  
7.2.05

11.2.05. It is contended by Mr. M.K. Mazumdar, learned counsel for the respondents that the applicant has been transferred to Itanagar vide order dated 6.9.01, on his own request. Mr. Mazumdar further contended that the applicant has been transferred as per Transfer policy guideline which is applicable in this case.

The respondents are directed to file reply for prosecution of the case by 16.2.05 and the matter be posted on 17.2.05 before Division Bench.

*[Signature]*  
Member (J)

lm

16.2.05

Written Statement has been filed by the Respond. No. 3 at page Nos 22 to 30.

*[Handwritten notes]*  
11.2.05  
16.2.05

*[Faint handwritten text]*

Notes of the Registry

Date

Orders of the Tribunal

18.2.2005.

The applicant has assailed the respondents' action in returning his claim for Transfer Allowance of Rs. 17,944/- and also seeks a declaration that he is entitled to the said allowance.

The brief facts which are required to be noticed are that pursuant to Vidyalaya Management Committee's recommendation dated, 3<sup>rd</sup> July, 2001 for taking "strong disciplinary action including transfer", the applicant was transferred vide order dated 20.8.2001 from Kendriya Vidyalaya, Tezu to Kendriya Vidyalaya Tawang "with immediate effect in public interest". He submitted a written request to the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Guwahati on 6.9.2001 to the effect that he be transferred "to any K.V. other than K.V., Tawang." Acting swiftly on the said request, on the even date itself, the Assistant Commissioner, K.V.S., Guwahati issued modified transfer order and transferred the applicant to Kendriya Vidyalaya - No.2, Itanagar, instead of Kendriya Vidyalaya, Tawang. The said order further stated, "other terms and conditions of transfer order will remain the same".

Initially, the applicant took advance of Rs. 20,000/-, as T.A and after complying the aforesaid modified transfer order dated 6.9.01, he preferred a claim of Rs. 17,944/-. The said claim was returned by the Accounts Officer, stating that since modified transfer order was issued on his own request and therefore, he is not entitled to said T.A.

Notes of the Registry	Date	Orders of the Tribunal
	18.2.05.	<p>claim. It is contention of the applicant that he had submitted the representation to the Assistant Commissioner on 17<sup>th</sup> Feb., 2004 <sup>and</sup> <del>is</del> <sup>and</sup> <del>was</del> requested to pass the said claim, which remains unconsidered.</p>
		<p>The Respondents contested the applicant's claim on the ground that he <sup>was</sup> <del>has</del> not entitled to T.A. claim particularly when the modified transfer order was issued on his own request and not in public interest. The reliance was placed in in rule 16 of Article 171 of Kendriya Vidyalaya Education Code as well as S.R.114 which read as follows:</p> <p style="text-align: center;">“Transfer TA will be regulated as per the orders of the Government of India on the subject.”</p> <p style="text-align: center;">“The traveling allowance may not be drawn under this section by a Govt. servant on transfer from one station to another unless he is transferred for the public convenience and is entitled to pay during the period occupied by the journey. A transfer at his own request should not be treated as a transfer for the public convenience unless the authority sanctioning the transfer, for special reasons which should be recorded, otherwise directs.”</p> <p>We have heard learned counsel for the parties and perused the pleadings. The Respondents have taken stand diametrically opposite view in the present case. On the one hand it is stated that modified transfer order dated 6.9.2001 was issued applicant's</p>

Notes of the Registry Date

Orders of the Tribunal

own request and for this purpose the placed applicant's representation dated 6.9.2001 on record and on the other stand contended that the Vidyalaya Management Committee recommended strong disciplinary action including transfer.

Such being the facts we are of the considered view that the Respondents were not justified to take stand that the applicant was transferred on his own request. The applicant's request was to transfer him to any other Kendriya Vidyalaya except Tawang. Even if respondents contention that applicant has transferred on his own request is accepted then why and how a modified

Transfer order indicated that the other terms and condition of earlier transfer order will remain same, is beyond our comprehension. No attempt was made to explain or disclose what were other conditions of earlier transfer order. We are of concerned view that the applicant is entitled to T.A. Claim. Accordingly, application is allowed.

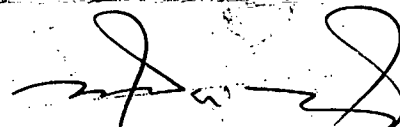
The Respondents are directed to adjust the applicant's claim, as submitted within a period of 45 days and refund the amount if any recovered earlier. No costs.

15.3.05

Copy of the final order Dtd. 18.2.05 has been sent to the office for issuing the same to the L/Advocate for the parties.

WJ

  
Member(A)

  
Member (J)

28 JAN 2005

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

O.A. No. 24 /2005

Shri Dharendra Krishna Srivastava

-Vs-

Union of India & Ors.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

- 20.08.2001- Applicant while working as Primary Teacher at K.V, Tezu was transferred to K.V, Tawang in public interest; he was paid Rs. 20,000/- as transfer T.A. advance. (Annexure-I)
- 04.09.2001- Applicant though went to Tawang but could not join due to ailment.
- 06.09.2001- Assistant Commissioner, Regional Office, Guwahati modified the transfer order dated 20.08.01 vide order dated 06.09.01. (Annexure-II)
- 08.09.2001- Applicant carried out the transfer order dated 06.09.01 and joined at K.V, Itanagar and submitted a T.A. Bill claiming Rs. 17, 944/-.
- 25.01.2002- Assistant Commissioner, Guwahati Region informed the applicant that a primary/fact finding inquiry would be conducted on the basis of complain dated 03.12.01 as well as dated 22.01.02.
- 28.01.2002- Assistant Commissioner before receipt of the preliminary report placed the applicant under suspension.
- 01/04.02.02- Regional Office, Guwahati returned the T.A Bill of the applicant on the alleged ground that the transfer order has been modified at the instance of the applicant. (Annexure-III)
- 19.02.2002- Principal, K.V. No. 2 directed the applicant to refund the entire amount of transfer T.A advance. (Annexure-IV)
- 25.02.2002- Principal K.V. No.2 informed the applicant that the transfer advance would be recovered from the subsistence allowance payable to the applicant w.e.f. February, 02. (Annexure-V)

21.02.2002, 19.08.02- Applicant submitted representation to the Assistant Commissioner praying for passing of his transfer T.A Bill but to no result.

(Annexure-VI & VII)

03.10.2002, 02.06.03, 17.02.04- Applicant submitted representations against the arbitrary decision of recovery of Rs. 2,000/- p.m and interalia prayed for adjustment and passing of T.A. Bill but to no result.

(Annexure-VIII&IX)

Hence this Original Application before the Hon'ble Tribunal.

### PRAYERS

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

1. That the Hon'ble Tribunal be pleased to declare that the applicant is entitled to transfer T.A in terms of the modified order dated 06.09.2001.
2. That the Hon'ble Tribunal be pleased to direct the respondents to pay the transfer T.A by adjusting the T.A bill submitted by the applicant for an amount of Rs. 17, 994/- in accordance with rule and further be pleased to direct the respondents to refund the amount already recovered from the applicant.
3. Costs of the application.
4. Any other relief(s) to which the applicant is entitled to as the Hon'ble Tribunal may deem fit and proper.

### Interim order prayed for.

During pendency of this application, the applicant prays for the following interim relief:

1. That the Hon'ble Tribunal be pleased to restrain the respondents to make any further recovery till disposal of the Original Application.

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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI**

(An Application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the case : O. A. No. 24 /2005

Shri Dharendra Krishna Srivastava: Applicant

- Versus -  
Union of India & Others : Respondents.

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Date 28.01.05

Filed by  
*Subrata Nath*  
Advocate

*Dharendra Krishna Srivastava*

B  
1  
Filed by the applicant  
through Subrata Nath  
Advocate  
28.01.05

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI**

(An Application under Section 19 of the Administrative Tribunals Act, 1985)

O. A. No. 24 /2005

**BETWEEN**

Shri Dhirendra Krishna Srivastava.  
Primary Teacher,  
Kendriya Vidyalaya, No-2,  
Itanagar, Arunachal Pradesh.

...Applicant.

**-AND-**

1. The Union of India,  
Represented by the Secretary to the  
Government of India,  
Ministry of Human resource,  
New Delhi- 110001.
2. The Commissioner,  
Kendriya Vidyalaya Sanghatan,  
New Delhi.
3. The Assistant Commissioner,  
Kedriya Vidyalaya Sanghathan,  
Regional office, Guwahati.
4. Principal,  
K.V. No. 2, Itanagar,  
P.O- Itanagar,  
Arunachal Pradesh.

... Respondents.

**DETAILS OF THE APPLICATION**

1. **Particulars of order(s) against which this application is made**

Dhirendra Krishna, Srivastava

This application is made against the order of recovery of transfer T.A advance and also praying for a declaration that the applicant is entitled to transfer T.A in terms of the transfer order dated 06.09.2001.

2. Jurisdiction of the Tribunal.

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

3. Limitation

The applicant further declares that this application is filed within the limitation prescribed under Section-21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case

4.1. That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India. The applicant is presently working as Primary Teacher, Kendriya Vidyalaya, No-2, Itanagar.

4.2. That it is stated that the applicant since his joining in Kendriya Vidyalaya, No.2, Itanagar on 08.09.2001. The Principal T. Ramaiah started misbehavior with the applicant on the question of entitlement of the applicant regarding grant of transfer allowance even though he had submitted a bill of Rs. 17,944/- for adjustment against the Transfer T.A advance of Rs. 20,000/-. The principal was determined not to sanction the said adjustment bill on the plea that the order of posting at Kendriya Vidyalaya, No.2, Itanagar has been

Dhireswar Lal Sharma Srivastava

modified at the instance of the applicant by the Asstt. Commissioner. The applicant submitted several representations to the Asstt. Commissioner through the Principal, Kendriya Vidyalaya, No.2, Itanagar for sanction of the bill of Rs. 17,944/-. However due to interference of T. Ramaiah, Principal, Kendriya Vidyalaya No.2, Itanagar the bill has not yet been sanctioned but animosity has been developed in the mind of T. Ramaiah, Principal, Kendriya Vidyalaya No.2, Itanagar for submission of several representations for sanction and adjustment of transfer T.A. the applicant urge to produce relevant documents in this regard at the time of hearing before the Hon'ble Tribunal.

- 4.3 That it is stated that the applicant was initially transferred while working at K.V, Tezu to K.V, Tawang vide letter no. F 10-4/2001-KVS(GR)/15195-97 dated 20.08.2001 whereby applicant have been ordered for posting from Tezu to K.V. Tawang in public interest. In this connection it may be stated that applicant was initially posted at K.V.tezu only on 07.07.2001 and after rendering 55 days service at K.V, Tezu he was transferred to K.V, Tawang vide order dated 20.08.2001.

A copy of the transfer order dated 20.08.2001 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure-I.

- 4.4 That pursuant to the order dated 20.08.2001 applicant was paid an amount of Rs. 20,000/- as transfer T.A advance. However, the applicant in terms of the order dated 20.08.2001 went to K.V, Tawang on 04.09.2001 but could not report for duty at K.V, Tawang due to severe ailment. Thereafter applicant came back to the Regional office of the K.V, Guwahati and reported to the Assistant Commissioner, Regional Office, Guwahati. However Assistant.

Dhirendra . Kishore . Sivasubramanian

Commissioner on consideration of the facts and circumstances modified the transfer order dated 20.08.2001 vide letter no. F.10-4/2001-KVS(GR) 15661 dated 6.9.2001. In the said order dated 6.9.2001 it is specifically stated that "OTHER TERMS AND CONDITIONS OF TRANSFER ORDER WOULD REMAIN THE SAME".

A copy of the transfer order dated 06.09.2001 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure-II.

- 4.5 That your applicant in terms of the transfer order dated 6.9.2001 carried out the said order and reported for duty at K.V., Itanagar on 8.9.2001. After reporting for duty at K.V, Itanagar applicant submitted a T.A. bill claiming Rs. 17,944/- for adjustment against the T.A. advance of Rs. 20,000/- earlier taken by the applicant. But surprisingly the said T.A. bill claiming Rs. 17,944/- was not entertained and the same was returned by the accounts officer vide his letter dated 01.02.2002, addressed to the Principal on the plea that since the transfer order was modified at the request of the applicant as such applicant is not entitled to any transfer allowance. In this connection it may be stated that sine the terms and conditions of the transfer remain same as indicated in the modified order dated 06.09.2001. Therefore question of not entertaining and returning of the T.A. bill of the applicant is highly arbitrary, unfair and illegal. It is pertinent to mention here that the office of the R.O return the bill of the applicant vide impugned letter no. F.25/2001-02-KVS(GR)/AA/2368 dated 01/4/ 02/02. It appears that the bill was returned on the alleged ground that the transfer order has been modified at the instance of the applicant.

Dhirendra Kumar Singh, Srivastava

A copy of the letter-dated 01/4/02/02 is enclosed hereto for perusal of Hon'ble Tribunal as Annexure-III.

- 4.6 That it is stated that the Principal K.V. No-2, Itanagar respondent No. 4 vide impugned letter No. F.09/KVI-2/2001-2002/998 dated 19.02.2002 and letter No. F.09/KVI-2/2001-2002/1003 dated 25.02.2002 directed to refund the entire amount of transfer T.A advance with panel interest from the date of advance at an early date, by the order dated 25.2.2002. It is stated that transfer advance would be recovered from the subsistence allowance payable to the applicant w.e.f February'02. It is relevant to mention here that the applicant while serving as such capacity of Primary Teacher at Kendriya Vidyalaya No. 2, Itanagar. The Asstt. Commissioner, Guwahati Region vide officer order bearing letter No. 13-15/94-KVS (GR)/1585-86 dated 25.01.2002 deputed Shri P.S. Kathal, Principal, Kendriya Vidyalaya, New Bongaigaon to conduct the primary fact finding inquiry on the complain dated 03.12.2001 as well as complain dated 22.01.2002 written by Shri T. Ramaiah, Principal KV. No. 2 Itanagar but surprisingly the Asstt. Commissioner before receipt of the primary inquiry report placed the applicant under suspension vide office order letter bearing No. F.13-15/94-KVS (GR) dated 28.01.2002 on the basis complain lodged by the Principal KV. No. 2 Itanagar.

Copy of the impugned letter dated 19.02.2002 and letter dated 25.02.02 are enclosed hereto for perusal of Hon'ble Tribunal as Annexure-IV & V respectively.

Dhirendra, Krishna, Srinivasa

4.7 That the applicant after receipt of the impugned letter dated 19.02.02 submitted a representation dated 21.02.02 to the Aast. Commissioner, wherein it is stated by the applicant that although it is modified but the terms and conditions remained the same as such the applicant is entitled to transfer allowance. The applicant again submitted representation on 19.08.2002 to the Assistant Commissioner praying interalia passing of his transfer T.A bill.

Copies of the representation dated 21.02.02 and dated 19.08.02 are enclosed hereto for perusal of Hon'ble Tribubal as Annexure-VI and VII respectively.

4.8 That it is stated that direction for recovery/refund contained in the impugned order dated 19.02.02 and 25.02.02 have been passed in violation of the principle of natural justice as because no opportunity is given to the applicant before taking such arbitrary decision. And as such those impugned orders as stated above are void-ab-initio.

4.9 That it is stated that although vide initial transfer order dated 20.08.01 applicant was transferred from K.V, Tezu to K.V, Tawang. However, the said order was modified only to the extent that the applicant is posted to K.V No. 2, Itanagar in place of K.V, Tawang. Therefore, terms and conditions remain the same and as such question of refund on recovery from the applicant does not arise at all. It is a fact that applicant has undertaken a journey from K.V, Tezu to K.V, Itanagar No. 2 in order to carry out the transfer and posting order. Therefore question of recovery or refund of the transfer T.A does not arise at all in the facts and circumstances of the case.

Dhirendra Krishna Srivastava

4.10 That it is stated that the Principal without having any jurisdiction under the law started recovery of Rs. 2,000/- pm in violation of principle of natural justice. Therefore finding no other alternative applicant approaching this Hon'ble Tribunal for an appropriate direction upon the respondents not to make any recovery without adjusting the claim T.A bill submitted by the applicant amounting to Rs. 17, 994/- and further be pleased to declare that recovery or refund of the T.A advance as claimed by the respondents is illegal, arbitrary and unfair.

4.11 That it is stated that finding no other response and in view of the arbitray decision of recovery, the applicant again submitted representation dated 03.10.2002, 02.06.03 and dated 17.02.03 to the Assistant Commissioner through proper channel claiming adjustment and passing of the T.A bill. But the respondents did not even furnish any reply but started recovery at the rate of Rs. 2000/- pm, in such compelling circumstances applicant finding no other alternative approaching this Hon'ble Tribunal for grant of appropriate and adequate relief to the applicant. It is submitted that in the aforesaid representations the applicant also prays for adjustment and passing of the T.A bill. But till date without considering the representation of the applicant the respondents started recovery of the transfer T.A advance in a most arbitrary and unfair manner.

Copy of the representation dated 02.06.03 and 17.02.04 is enclosed herewith for perusal of Hon'ble Tribunal and marked as Annexure-VIII and IX respectively.

4.12 That it is stated that it is a fit case for the Hon'ble Court to interfere with and protect the right and interest of the applicant by setting aside the impugned order as stated above.

Dhirendra Lal Sharma, Srivastava

4.13 That this application is made bonafide and for the ends of the Justice.

5. Grounds for relief(s) with legal provisions

- 5.1 For that, in the modified order of transfer dated 06.09.01 it is specifically stated that terms and conditions of transfer order dated 20.08.01 remain same. As such transfer of the applicant for K.V, Tezu to K.V No.2 Itanagar fall within the purview of public interest.
- 5.2 For that, the order of transfer and posting dated 20.08.01 has been issued in the public interest, the subsequent modified order also liable to be treated as on public interest. More so, in view of the facts that the terms and conditions of the transfer order dated 20.08.01 would remain same and the said conditions are operating even after passing of the modified order dated 06.09.01 issued by the Assistant Commissioner, R.O, Guwahati which is still in force.
- 5.3 For that, subsequent decision of the Accountant or of Audit party cannot change the nature and character of the modified transfer and posting order dated 06.09.01
- 5.4 For that, the applicant even in terms of the modified transfer order dated 06.09.01 had to undertake journey for carrying out the transfer and posting order dated 06.09.01 where simply place of posting has been changed, and such claim of the applicant for transfer T.A cannot be defeated that too at the whims of the respondents. More so, in view of the fact that when the Assistant Commissioner was pleased to declare that the terms and conditions

Dhirendra Chiplun, Smitra

of the transfer order dated 20.08.01 should operate in the case of the modified order dated 06.09.01.

- 5.5 For that, the decision of recovery of T.A advance availed by the applicant is contrary to the principle of natural justice as well as the same is also in violation of the modified transfer order dated 06.09.01.
- 5.6 For that, none of the representation of the applicant has been entertained by the respondents and the same are still pending.
- 5.7 For that, the respondents still continuing the recovery of the T.A advance in a most arbitrary and illegal manner without following the principle of natural justice.

6. Details of remedies exhausted.

That the applicant states that he has exhausted all the remedies available to him and there is no other alternative and efficacious remedy than to file this application.

7. Matters not previously filed or pending with any other Court.

The applicant further declares that he had not previously filed any application, Writ Petition or Suit before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief(s) sought for:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

Dhirendra, Vishnu, Srinivasa

8.1 That the Hon'ble Tribunal be pleased to declare that the applicant is entitled to transfer T.A in terms of the modified order dated 06.09.2001.

8.2 That the Hon'ble Tribunal be pleased to direct the respondents to pay the transfer T.A by adjusting the T.A bill submitted by the applicant for an amount of Rs. 17, 944/- in accordance with rule and further be pleased to direct the respondents to refund the amount already recovered from the applicant.

8.3 Costs of the application.

8.4 Any other relief(s) to which the applicant is entitled to as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

During pendency of this application, the applicant prays for the following interim relief: -

9.1 That the Hon'ble Tribunal be pleased to restrain the respondents to make any further recovery till disposal of the Original Application.

10. ....  
This application is filed through Advocates.

11. Particulars of the I.P.O.

i)	I. P. O. No.	: 20G135638.
ii)	Date of Issue	: 28.11.04.
iii)	Issued from	: GPO, Guwahati
iv)	Payable at	: GPO, Guwahati.

12. List of enclosures.  
As given in the index.

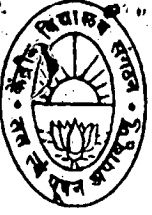
D hi rendra. Lambani. Surostia

VERIFICATION

I, Shri Dharendra Krishna Srivastava, Primary Teacher, Kendriya Vidyalaya, No: 2, Itanagar, Arunachal Pradesh, aged about 54 years, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 28<sup>th</sup> day of January, 2005.

① Dharendra Krishna Srivastava



केन्द्रीय विद्यालय संगठन  
KENDRIYA VIDYALAYA SANGATHAN

क्षेत्रीय कार्यालय Regional Office  
मालीगाँव चारियाली Maligaon Chariali  
गुवाहाटी : 781 012 Guwahati : 781 012

पत्रांक :  
No. F. : 10-4/2001-KVS(GR)/ 15195-97

दिनांक :  
Dated : 20.08.2001

TRANSFER ORDER

Shri D. K. Srivastava, Primary teacher, Kendriya Vidyalaya, Tezu is hereby Transferred to Kendriya Vidyalaya Tawang with immediate effect in public interest.

To,  
Mr. D. K. Srivastava,  
Primary teacher,  
Kendriya Vidyalaya,  
Tezu.

*(D. K. SAINI)*  
ASSISTANT COMMISSIONER

Copy to :-

1. The Principal, Kendriya vidyalaya, Tezu alongwith the copy of transfer order in respect of above teacher with the direction to handover the copy to him and dated signature may please be obtained. He may immediately be relieved. His date of relief should immediately be intimated to the undersigned.
2. The Principal, Kendriya Vidyalaya, Tawang. The date of joining of Mr. Srivastava may please be intimated.

Asstt. Commissioner  
Kendriya Vidyalaya Sangathan  
Regional office, Guwahati



केन्द्रीय विद्यालय संगठन  
KENDRIYA VIDYALAYA SANGATHAN

क्षेत्रीय कार्यालय Regional Office  
मालीगाँव चारियाली Maligaon Chariali  
गुवाहाटी : 781 012 Guwahati : 781 012

पत्रांक :  
No. F. : 10-4/2001-KVS(GR)/15661

दिनांक :  
Dated : 6.9.2001

TRANSFER MODIFICATION ORDER

In partial modification of this office transfer order of even number dated 20.08.2001 the place of posting of Mr. D.K. Srivastava, PRT Kendriya Vidyalaya, Tezu is hereby modified to Kendriya Vidyalaya No.2 Itanagar instead of Kendriya Vidyalaya, Tawang.

Other terms and conditions of transfer order will remain the same.

*D. K. Saini*  
( D. K. SAINI ) 6/9  
ASSISTANT COMMISSIONER

Copy to :-

- ✓ 1. Mr. D. K. Srivastava, PRT, Kendriya Vidyalaya Tezu
2. Principal Kendriya Vidyalaya No.2 Itanagar.
3. Principal Kendriya Vidyalaya Tawang.
4. Principal , Kendriya Vidyalaya, Tezu.

ASSISTANT COMMISSIONER

919  
25/2/02

KENDRIYA VIDYALAYA SANGATHAN  
REGIONAL OFFICE : GUWAHATI

No.F. 25

199-KVS(CR)/NA/2368  
2001-02

Dated: 01/02/02

REGISTERED

The Principal,  
Kendriya Vidyalaya,

No. II, Itanagar (AP).

Subject:- Pre-audit of Transfer T.A. bill for  
Rs. 17,944/- in respect of Sh.D.K. Srivastava  
PRT, KV No. II, Itanagar.

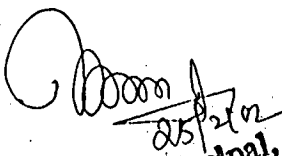
Ref:- Your letter No. F.33/KVI-2/2001-02/900 dt. 28-01-2002  
dated \_\_\_\_\_

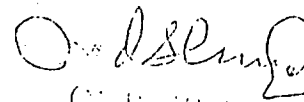
Sir/Madam,

The above bill in original alongwith its enclosures is  
returned herewith, without pre audited, due to the following  
reason(s)/shortcoming(s) :

As the transfer was modified on his own request, the  
Bill can not be ~~entertained~~ entertained. Similarly no joining time  
is admissible.

Encl: As above

  
Principal,  
K.V. No. 2, Itanagar,

  
(G.D. SHARMA)  
ACCOUNTS-COM-III OFFICER

**KENDRIYA VIDYALAYA : NO: II : ITANAGAR,**  
**ARUNACHAL PRADESH ; PIN : 791 111.**

No.F.09/KVI-2/2001-2002/998

Dated 19.02.2002.

To,

Sh.D.K.Srivastava,PRT,  
Vivek Vihar, Itanagar.

Sub:- Transfer T.A.—regarding.

Sir,

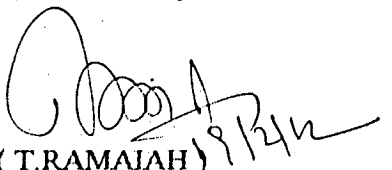
It is for your kind information that you have submitted Transfer T.A Bill from Kendriya Vidyalaya, Tezu to this Vidyalaya. As the transfer was modified of your own request from K.V, Tawang to K.V.No.II,Itanagar, the Transfer T.A bill can not be entertained.

Hence you are requested to refund to entire advance amount with panel interest from the date of advance at an early date.

Further you are hereby informed to give your present address of Itanagar during your suspension period for further communication.

Thanking you,

Yours faithfully,

  
( T.RAMAIIAH )  
PRINCIPAL  
Principal,  
H.V. No. 2, Itanagar.

**KENDRIYA VIDYALAYA ;NO:II: ITANAGAR,**  
**ARUNACHAL PRADESH : 791 111.**

No.F.09/KVI-2/2001-2002/1003

Dated 25.02.2002.

To,

Sh. D.K.Srivastava, PRT,  
Vivek Vihar, Itanagar.

Sub:- **Transfer T.A - regarding.**

Sir,

In continuation of this Office letter No. F.09/KVI-2/2001-2002/ 998, dated 19.02.2002 towards the transfer T.A, you are hereby informed that the transfer order vide letter No. F.10-4/2001-KVS(GR) /15193-97, dated 20.08.2001 has been modified at your own request vide letter No.F.10-4/2001-KVS (GR)/15664, dated 06.09.2001.


Further the same has also been clarified from the Assistant Commissioner, KVS (GR), Guwahati vide letter No. F.25/2001-02/KVS (GR) AA/2368, dated 4.02.2002 and got confirmed ( copy enclosed herewith ).

Hence, the advance amount will be recovered from your subsistence allowance w.e.f February, 2002.

Thanking you,

Enclo:- As Above.

Yours faithfully,

  
(T.RAMIAH)  
Principal,  
K.V. No. 2, Itanagar,

Annexure-VI

Translated from Hindi

To.  
The Principal  
K.V. No. 2, Itanagar.

21.2.02

Sub: - Regarding Transfer T.A.

Respected Sir,

Yours letter No. F.09/KV I-2/2001-2002/998 dated 19.2.2002 which I have received through Shri N.K. Arora, P.G.T (Phys. Sc.) at 2.00 P.M. I beg to submit as under.

Sir, kindly go through the K.V.S (G.R) letter No. F.10-4/2001-KVS (G.R)/15661 dated 16.9.2001, in which it is clearly stated that only the place of transfer has been changed but other terms and conditions remained same.

Again I beg to submit that sir, I have never applied for transfer at K.V No. 2, you have written the word modified in your letter wherein from the heading of the above mentioned letter it is clear that it has been partly modified. Kindly send a copy of my application in which I have sought posting at K.V No. 2, Itanagar.

2. My present address at Itanagar is:

D.K. Srivastava.  
Room No.3  
Star Complex, Vivek Bihar 791113.  
(near video C.D. Hall).

Kindly acknowledge receipt of the letter.

Yours faithfully

D.K. Srivastava, P.R.T,  
Star Complex, Room No.3,  
Near Video C.D. Hall.  
Vivek Vihar,  
Itanagar- 791113.

Translated from Hindi

Annexure-VII

19-8-2002

To.

Assistant Commissioner,  
K.V.S (G.R)

Sub:- Regarding Travelling Allowance.

Respected Sir,

I am enclosing the photocopy of two transfer orders at K.V.S (G.R) issued by the then Assistant Commissioner Shri D.K. Saini and request you to order Principal, K.V. No. 2, Itanagar to grant my traveling allowance. I shall remain grateful to you.

Yours faithfully

D.K. Srivastava.  
P.R.T U/S  
K.V. No. 2, Itanagar,  
791111.

Enclosure-

1. Transfer order F. 10-4/2001-KVS (GR)
2. Transfer modification order No. F. 10-4/2001-KVS (G.R)/15661 dated 6.9.2001.

Annexure-VIII

Translated from Hindi

02.6.03

To.  
Respected Assistant Commissioner  
K.V.S (G.R)

Through:  
Principal,  
K.V. Tenga Valley (A.P)  
790116.

Sub: - Regarding T.T.A Bill.

Respected Sir,

Regarding letter send by Principal, K.V, No.2, Itanagar (Memo No. F.33/KVI-2/2003/458 dated 7.5.2003) to refund of old Transfer T.A Advance Rs. 2000/-.

I beg to submit as follows:

1. Assistant Commissioner in his transfer order No. F. 10-4/2001-K.V.S (G.R)/15661 dated 6.9.2001 has mentioned that only there will be change in place of transfer of the person but the other terms and conditions regarding transfer will be the same. (Copy enclosed).
2. Principal K.V. No. 2 due to his personal reason by its letter No. F.07/ KVI. 2/2001-2002/1003 dated 25.02.2002, dated 6.4.2002, 3.9.2002, 27/26.08.2002 is harassing me by illegally demanding money from me. He is not releasing my salary during suspension period and illegally demanding money from me from the very day when I have joined duty at K.V, Tengavally. Principal
3. Principal vides his letter No. F. 76/KVI-2/2001-2002/dated 13.11.2001 (which he has also written to Chairman, V.M.C) informed me that my transfer at K.V No.2, Itanagar, is in public interest. But the Principal still by sending such kind of letter actually insisting me to commit suicide. His attitude towards me was always malafide in the intention of taking revenge from me, and always make arbitrary complain against me.

Respected sir,

By going through the above mentioned matters please help me by disposing the matter as soon as possible, otherwise if I loose my mental control or any other incident happens to me due to this over tension then Sri T. Ramiah, Principal K.V No.2 and Sri D.K. Saini previous Assistant Commissioner G.R. will be entirely responsible for this who has tortured and harassed me for without any reason.

Yours faithfully

D.K. Srivastava.  
Primary Teacher.  
K.V, Tengavalley.

Annexure-IX

Translated from Hindi

From:

D.K. Srivastava  
Primary Teacher,  
K.V, Tengavalley.

17.2.2004

To.

Assistant Commissioner,  
K.V.S (G.R)

(Through Principal, K.V, Tengavelly, A.P)

Sub: - Relating to travelling allowance.

Respected Sir,

K.V.S (G.R) in its letter bearing No. F. 10-4/2001-KVS (GR)/15195-97 dated 20.8.2001 has transferred me from K.V, Tezu to K.V, Tawang (copy enclosed).

But later on K.V.S (GR) vide letter bearing No. F. 10-4/2001-K.V.S (G.R)/15661 dated 6.9.2001 by changing its above mentioned order has transferred me to K.V. No. 2, Itanagar instead of K.V, Tawang (copy enclosed), other conditions were previously ascertained (regarding transfer).

But the Principal K.V, No. 2, Itanagar ignoring the above mentioned facts and conditions instead of releasing my traveling allowance making it pending and harassing me by giving letters to return back money and also embarrassed me.

Sir, I would be grateful to you if you kindly go through both the letters and dispose of the matter as soon as possible.

Enclosure- 1. Transfer order No. 10-4/2001 K.V.S (G.R)/15195-97 dated 20-3-2001 (1 copy).

2. Transfer modification order 10-4/2001-K.V.S (G.R)/15661 dated 6.9.2001. (1 copy)

Yours faithfully

D.K. Srivastava,  
PRT,  
K.V, Tenga valley (A.P)  
790116.

16 FEB 2005 IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

गुवाहाटी न्यायालय  
Guwahati Bench

GUWAHATI BENCH : GUWAHATI.

O.A.No. 24 /2005.

Shri D.K.Srivastava  
Primary Teacher,  
K.V.No.2, Itanagar,

...Applicant

- Versus -

Union of India & Ors.

...Respondents

In the matter of :

Written statements filed by the respondents.

- And -

In the matter of :

The Assistant Commissioner,  
Kendriya Vidyalaya Sangathan,  
Regional Office, Guwahati

Respondent No.3

The humble written statements of the Respondent  
No.3 above named;

Most Respectfully Sheweth :

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

2. That the deponent before controverting the contents of the paras made in the Original application begs to apprise that K.V.S is a registered society under the Societies Registration Act XXI of 1860 and fully financed by the Govt. of India with the objective of (i) to meet the educational need of children of transferable Central Govt. employees including Defence personnel by providing a common programme of education, (ii) to develop Vidyalaya as a model school in the context of National goal of Indian Education, (iii) to initiate/promote experimentation in the field of education in collaboration with other bodies like C.B.S.E, N.C.E.R.T etc. and (iv) to to promote National Integration.

Further the respondent begs to submit the relating provisions of this instant case as under :-

Filed by the Respondent  
Through Mr. Gajendra  
S.C. K.V. Sangathan  
16.2.05 34

- (a) That the Kendriya Vidyalaya Sangathan have framed rules of transfer which is being codified as Article 71 in the heading of transfer policy and rule 16 of the Article 71 deals with Transfer T.A which reads as follows:

“Transfer TA will be regulated as per the orders of the Government of India on the subject.”

3 That the deponent submits that in the instant case as regards to the para 1 of the Original Application under the heading of “particulars of order/s against which the application is made” is totally mis-understood by the applicant for the order against which the application is filed is not maintainable as per law.

4. That with regard to the statements made in paras 2 and 3 the deponent states that the Tribunal may not entertain the petition under Section 19 of the Administrative Tribunals Act, since the matter relates to an order dated 6.9.2001 for which no petition of condonation of delay is being preferred and the same is not within the limitation period prescribed under Section 21 of the Administrative Tribunals Act 1985 and the same is liable to be dismissed for, the refund of entire advance amount was intimated on 19.2.2002.

5. That with regard to statements made in para 4(i) the deponent states that the statements made regarding present working place is a false one rather after departmental enquiry the applicant was posted to Tangavalley vide office order dated 29.4.2003 where he joined on 3.5.2003.

6. That with regard to the statements made in paras 4.2, 4.3 and 4.4 of the Original Application the deponent states that the statements and allegations are baseless so far transferring the applicant is concerned, it is stated that he was transferred from Kendriya Vidyalaya, Tezu to Kendriya Vidyalaya, Tawang vide order dated 20.08.2001 in public interest on administrative ground based on complaint of the Chairman, VMC, K.V. Tezu.

Further on transfer the applicant vide letter dated 31.8.2001 made a request for transfer TA to proceed for Tawang which was paid as per his request in terms of transfer order to join at Kendriya Vidyalaya, Tawang.

Further, after availing the transfer TA of Rs.20,000/-, instead of proceeding Tawang he came down to Regional Office at Guwahati and by filing an undertaking he

requested to transfer him to any other K.V in the region vide letter dated 6.9.2001 which is also confirmed by the applicant in para 4.4 of the Original Application.

Copy of the complaint dated 3.8.2001 is annexed as Annexure-I.  
Copy of the transfer TA request dated 31.8.2001 is annexed as Annexure-II  
Copy of the request for transfer dated 6.9.2001 is annexed as Annexure-III.

7. That with regard to statement made in paras 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11 of the O.A, the deponent denies the correctness of the same and states that the transfer TA as mentioned in Rule 16 of Article 71 of the Education Code will be regulated as per the order of the Govt. of India on the subject which is available in Supplementary Rule 114 in the heading of General Condition of admissibility as per S.R.114:-

“The traveling allowance may not be drawn under this section by a Govt. servant on transfer from one station to another unless he is transferred for the public convenience and is entitled to pay during the period occupied by the journey. A transfer at his own request should not be treated as a transfer for the public convenience unless the authority sanctioning the transfer, for special reasons which should be recorded, otherwise directs.”

And as such the statements and allegations made in the above paras are baseless and further the action of the respondents vide order dated 1/4-2-2002 as annexed as Annexure-III of the Original Application stating the ground of non entertainability and disclosing non admissibility of joining time is as per law.

It is stated that as per the Central Govt. Rules and Orders relating to joining time when there is a transit on transfer, it is made specific that, when there is a request for transfer on transit as per rule 7 of joining time, fresh joining time is available only when the transfer is on public convenience

Further, it is specifically submitted that similarly the order of recovery of transfer TA vide order dated 19.2.2002, 25.2.2002 which are annexed as Annexure IV and V respectively in the Original Application are also in order and as such the petition may be dismissed on this ground with costs.

8. It is submitted that Sri D.K.Srivastava, PRT while working at Kendriya Vidyalaya No.2 Itanagar has committed misconduct and violated code of conduct for teachers of KVS for which he was placed under suspension, issued charge sheet under Rule 14 of

CCS (CCA) Rules 1964 by the competent disciplinary authority. Vide this office Memorandum dated 24.6.2002.

9. That with regard to statements made in para 5 under the heading of grounds of relief with legal provision it is categorically stated that the applicant has tried to mislead the Court by his manifold illegal actions e.g. in para 4.5 it has been stated that there was no request from his part which is belied by his letter dated 6.9.2001 (Annexure-III) of this reply albeit he obtained advance transfer TA to proceed for Tawang vide Annexure-II of this reply and as such these are not good grounds against his illfounded claim to provide legs to stand and as such liable to be dismissed with costs.

• VERIFICATION

**VERIFICATION**

I Shri Uday Narayan Khawarey, Son of Shri Jagat Narayan Khawarey, aged about 44 years, presently working as Assistant Commissioner in the Regional Office of Kendriya Vidyalaya Sangathan, Mallgaon, Guwahati, do hereby verified that the statement made in paragraphs 1, 2, 3, 4, are true to my knowledge and those made in paragraphs are 5, 6, 7 based on records.

And I sign this verification on this the 16<sup>th</sup> day of Feb  
~~August~~, 2005 at Guwahati.

Uday Narayan Khawarey

Place :

DEPONENT

Date :

"CONFIDENTIAL"

-27-

39

GOVT. OF ARUNACHAL PRADESH  
OFFICE OF THE DEPUTY COMMISSIONER  
LOIT DISTRICT: TEZU.

NO. LC/KV/99  
Dtd. Tezu, the 3rd Aug/2001.

To

The Asstt. Commissioner,  
KV Sangathan,  
Gauhati Region,  
CR Bhawan Chariali,  
Maligaon, Gauhati-12.

SUBJECT: ACTIVITIES OF SHRI D.K. SRIVASTAV, PRT, KV, TEZU.

Sir,

I am to inform you that one teacher Shri. D.K. Srivastav, PRT has joined in KV, Tezu recently on his transfer. Since his joining in KV, Tezu, he has been found in discipline and problem creator. A meeting of executive Committee of KV was convened recently and discussed on the activities of Shri. D.K. Srivastav, PRT and the committee unanimously recommended for disciplinary action alongwith transfer him out from KV, Tezu immediately. Hence a resolution of the meeting is enclosed herewith for favour of your information and necessary action please.

Yours faithfully,

(Y.D. Thongchi), IAS  
Deputy Commissioner/  
Chairman, VMC (KV), Tezu.

Copy to:

The Principal, KV, Tezu for information.

W.E  
16/8

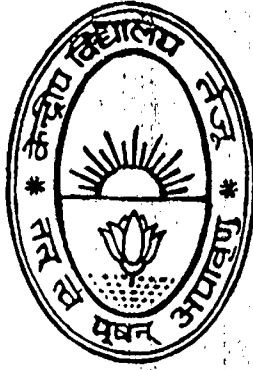
*[Handwritten signatures and initials]*  
16-8

केन्द्रीय विद्यालय

तेजु, जि० लोहित

[ अरुणाचल प्रदेश ]

पिन-७६२००१



STD. Code ; 03804

Phone No. (O) 22443

(R) 22443

**KENDRIYA VIDYALAYA**  
TEZU, P. O. LOHIT DIST.  
ARUNACHAL PRADESH.

D. O. No. ....

Dated .....

### RESOLUTION

The Executive Committee of K.V., Tezu consisting of the following members have unanimously resolved on the following point :


One Mr. D.K.Srivastav, PRT, has, recently joined the school on transfer. Ever since his joining here, he has totally polluted the academic and social environment in and around the school. He rarely meets his assigned classes, causing thereby untold damage to the future of the students. He passes on filthy comments on many staff members and uses unparliamentary language in the staff common room. He has scant regard for seniors, ladies and above all his fellow teachers. The common impression in the school is that he is a hooligan in the guise of a teacher. His further continuance in this school is not at all in the good interest of the school.

Hence, the Committee unanimously recommend for strong disciplinary action including transfer of Sri Srivastav.

Members:

1. Mr. I.S. Singh, Principal in-charge, K.V.Tezu
2. Mr.H.R. Sharma, Head master, Central Tibetan School
3. Mrs Kabita Satapathy, Teachers' Representative

Countersigned By Chairman, VMC and Deputy Commissioner, Lohit District, Tezu:

  
Deputy Commissioner  
Lohit District, Tezu  
Arunachal Pradesh

**TRANSLATED FROM HINDI TO ENGLISH**

-29-

**Dated : 31-08-2001**

To

Principal,  
Kendriya Vidyalaya,  
Tezu(A.P)

Subject : Request for Transfer T.A.

Respected Sir,

I am the applicant has been transferred from Kendriya Vidyalaya, Tezu to Kendriya Vidyalaya, Tawang for which he is required Rs.20,000/- as for Transfer T.A.

You are requested to sanction the amount for said purpose.

Yours faithfully,

Sd/-  
(D. K. Shrivastava)

PRT

31-08-01

Translated from Hindi to English

Dated : 06-09-2001

In respect of  
Assistant Commissioner  
Kendriya Vidyalaya Sangathan  
Regional Office, Guwahati

Sir,

I apologize for my every mistake and I assure you Sir, that I shall not commit any mistake in future.

You are requested to transfer me to any K.V.  
other than K.V. Tawang.

Yours faithfully,

sd/-

( D. K. Srivastava )  
PRT.

Sh. D.K. Srivastava, PRT may  
be transferred to K.V. No.2  
Itanagar

sd/-

( D. K. Saini )  
A.C.

06-09-2001