

FORM NO. @
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

Original Application No. _____
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicant(s) Smt. Sabita Dey Bhawanik
Respondent(s) Sri Ranjib Jammuda & ors.

Advocate for the Applicants I. Hussain

Advocate for the Respondent(s) Mr. M.K. Mazumdar GSGG
Rly St. Counsel

Notes of the Registry Date _____ Order of the Tribunal

This Contempt petition 2.12.05.
has been filed by the
counsel for the petitioner
praying for initiation
of a contempt proceeding
against the respondents
for non-compliance of order
dated 29.6.05 passed by
this Honble Tribunal in
OA 178/05.

laid before the
Honble Court for further
order.

Section Officer
1-12-05

Heard Mr. I. Hussain learned
counsel for the applicant. Issue
notice to the respondents.

Post the matter on 5.1.06.
Affidavit of the Respondents if any
in the meantime. Personal appearance
of the respondents are dispensed with
for the time being.

V. Sengupta
Vice-Chairman

The O.A. was disposed of by an
order dated 29.6.05 directing the
respondent to disposed of the represen-
tation submitted by the applicant
for keeping the norms for transfer
in mind. Since the said direction was
not complied with. Accordingly, the
applicant has filed this Contempt
Application. Mr. M.K. Mazumdar learned
counsel for the respondents has placed
before us a memorandum dated 23.11.05
and submitted that the direction
issued by the Tribunal has been
complied with. Mr. I. Hussain learned

Contd.....

5.1.06. counsel for the petitioner submits that the order is not strictly compliance with ^{the} direction issued in the O.A. According to us, this order is passed in compliance with the direction in the O.A. If the applicant is still aggrieved by this order certainly, he has got a remedy by way to approach this Tribunal. ^{in separate proceedings} Accordingly, C.P. is closed.

Member

Vice-Chairman

Notice & order sent to D/section for issuing to resp. Nos. 1, 2, 3 by regd. A/D post.

(clerk) 12/12/05. D/No = 1690 to 1692

DT = 19/12/05.

Notice duly served on resp. No. 2

2/1/06

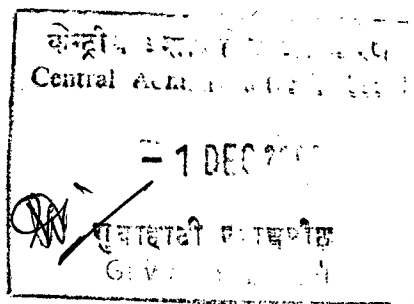
4 - 1 - 06

- ① Notice duly served on R. No. - 2
- ③ Service awaited for R. No. - 1 & 3.
- ③ No Affidavit has been filed.

Copy received
MIC/Mepinder
Advocate
06/01/06

18.1.06

Copy of the order handed over to the A/D for the respn on 6.1.06. and a copy of the has been sent to the D/Sec. for sending to the applicant by post.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUHATI BENCH
AT GUWAHATI.

Contempt Petition No. 32 /2005
(Arising out of O.A. No.173/2005)

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Filed by the Petitioner
Smti. Sabita Dey Bhowmick
1/12/05
Jyoti Hema
Jyoti Hema
1/12/05

IN THE MATTER OF :-

An application under section 17 of
the Administrative Tribunal Act, 1985
praying for initiation of a contempt
proceeding against the respondents for
non-compliance of order dated 29.6.05
passed in O.A. No.173/2005.

-AND-

IN THE MATTER OF :-

Smti Sabita Dey Bhowmick
C/o Sri A.K. Dey Bhowmik
Gauripur Town, Ward No.2, Bamanatty,
P.O. Gauripur, Dist. Dhubri, Assam.

..... Petitioner.

-Versus-

1. Sri Ranglal Jamuda,
Commissioner, Kendriya Vidyalaya
Sangathan, 18, Institutional Area
Shaheed Jit Singh Marg, New
Delhi-110016.
2. Sri U.N. Khaware,
Assistant Commissioner, Kendriya
Vidyalaya Sangathan, Guwahati Region,
Khanapara, Guwahati-22.
3. Sri V.K. Srivastava,
Asstt. Commissioner, Kendriya
Vidyalaya Sangathan, Kolkata Region,
E-13 Block, "Labany" Salt Lake, Kolkata.

..... Respondents
Alleged Contemners.

The petitioner above-named,

MOST RESPECTFULLY SHEWETH:-

1. That the petitioner begs to state that she is serving as a Music Teacher under Kendiriyā Vidyalaya Sangathan, hereinafter referred to as K.V.S. Initially she joined on 5.7.76 in K.V Tura, Meghalaya, she was transferred to Borjhar in 1977 and then to K.V., Kokrajhar Assam where she served till the year 2000 (all the above places are in North Eastern Region which are special category stations as per K.V.S. Guidelines).
2. That, she was transferred from K.V.S. Kokrajhar to K.V.S. Cochbihar in November, 2000 after serving for a long period and she joined there on 1.12.2000.
3. That, serving at K.V.S. Cochbihar, when the petitioner was at home due to vacation, she received an order dated 30.5.05 passed by the Respondent No.1 transferring one Sri Nidhir Kumar Sikdar, a junior Music teacher of K.V., Kokrajhar to K.V. Cochbihar on his own request and transferred the petitioner from K.V. Cochbihar to K.V., Kokrajhar violating the existing rules and procedure of transfer policy.

The transfer order dated 30.5.05 passed by the Respondent No.1 is annexed hereto and marked as Annexure No.1.

4. That, the petitioner submitted a representation dated 17.6.05 to respondent No.1 with a prayer for cancellation of the transfer order as because, she had

already served at Kokrajhar (hard station) for the 14 years and being a senior teacher ought not have replaced by a junior one.

The copy of representation dt. 17.6.05
is annexed hereto as Annexure No.2.

5. That, as no action was taken by the respondents, the petitioner preferred an original application No.173/2005 before this Hon'ble Tribunal with a prayer for setting aside and quashing the transfer order and to allow her to serve at K.V. Cochinhar as before. Thereafter, the Hon'ble Tribunal vide an order dated 29.6.2005 disposed of ^{the same} at the admission stage with a direction to the respondent No.1 to consider the representation dated 17.6.2005 sent by the petitioner keeping the norms for transfer in mind within 6 weeks from the date of receipt of the order.

The copy of the order dt. 29.6.2005
passed in O.A. No.30/9/05 is annexed
hereto and marked as Annexure No.3.

6. That the petitioner states that thereafter the petitioner submitted the copy of the order of the Hon'ble Tribunal to the respondent No.1 on 8.7.2005 through Fax and the copy of order was sent to Asstt. Commissioner, K.V.S. Kolkata Region as well to all the respondents. The order of the Hon'ble Tribunal was also communicated by the office of the Central Administrative Tribunal, Guwahati in time.

7. That the petitioner states that as no action was taken by the respondents to implement the order of the Hon'ble Tribunal, she sent a pleader's notice dt. 12.9.05 to the respondent No.1 informing him about the order of the Tribunal and requested him to cancel the transfer order dated 17.6.2005 passed by him.

The copy of pleader's notice dt. 12.9.05
is annexed hereto as Annexure No.4.

8. That the petitioner states that in the meantime the respondent No.1 under the signature of the Education Officer of his office sent a letter dt. 30.9.05 to the respondent No.2 to apply for extension of time for disposal of the representation dated 17.6.2005 of the petitioner as per Hon'ble CAT order dated 29.6.2005. The copy of the letter also sent to her advocate.

The copy of letter dated 30.9.05 of
the respondent No.1 written to respondent
No.2 is annexed hereto as Annexure No.5.

9. That the petitioner states that the respondents have not taken action in terms of the Hon'ble Central Administrative Tribunal and are sitting over the matter on one pretext or another because of which the petitioner is facing great mental agony and uncertain future.

10. That the respondent has wilfully violated the order dated 29.6.2005 passed in O.A. No.1730/2005 in not considering the representation dated 17.6.2005 vide order of the Hon'ble Tribunal as per norms for transfer policy

within 6 weeks from the date of receipt of the order.

The respondents are duty bound to honour the order of the Hon'ble Tribunal. Because of violation of the order of this Hon'ble Tribunal, it is a fit case for initiation of contempt proceeding against them and impose punishment in accordance with law and further be pleased to pass any other order or orders as deemed fit and proper in facts and circumstances of the case stated above.

11. That this petition is filed bonafide and for the ends of justice.

Under the above circumstances, this Hon'ble Tribunal may be pleased to initiate contempt proceedings against the respondents/ alleged contemnors for wilful non-compliance of order dated 29.6.2005 passed by this Hon'ble Tribunal in O.A. No. ~~24~~ 173/2005 and further be pleased to impose punishment upon the alleged contemnors in accordance with law and further be pleased to pass any such other order as deemed fit and proper by this Hon'ble Tribunal.

And for this act of kindness, the humble petitioner, as in duty bound, shall ever pray.

Affidavit.....

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A F F I D A V I T

I, Smti Sabita Dey Bhowmick Wife of Sri A.K. Dey Bhowmick, aged about 56 years, a resident of Gauripur Town Ward No.2, Bamanatty, P.O. Gauripur, Dist. Dhubri, Assam, do hereby solemnly affirm and declare as follows:-

1. That I am the petitioner of the accompanying contempt petition and as such I am well acquainted with the facts and circumstances of the case and also competent to sign this affidavit.
2. That the statements made in paragraphs 1 to 9 are true to my knowledge and belief and I have not suppressed any material fact.
3. That this affidavit is made for the purpose of filing contempt petition before this Hon'ble Tribunal, Gauhati Bench at Guwahati in the matter of non-compliance of Hon'ble Tribunal's order dated 29.6.2005 passed in O.A. No.173/2005.

Identified by me:-

Nees Nathar Ahmed.
Advocate. 1.12.05

Sabita Dey Bhowmick
Denonent.

Solemnly affirmed and declared
before me by the denonent
Smti Sabita Dey Bhowmick on
this the 1st day of December,
2005 at Guwahati.

Iqbal Hussain
Advocate, Guwahati.

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DRAFT CHARGE

Laid down before the Hon'ble Central Administrative Tribunal, Guwahati for initiating a contempt proceeding against the respondent/contemners for wilful disobedience and deliberate non-compliance of order of the Hon'ble Tribunal dated 29.6.2005 passed in O.A. No.173/2005 and to impose punishment upon the alleged contemners for willful disobedience and deliberate non-compliance of the Hon'ble Tribunal's order dated 29.6.2005.

Kendriya Vidyalaya Sangathan
18 Institutional Area, Shaheed Ji Singh Marg,
New Delhi - 110 016

TRANSFER ORDER

F.3-1(D)/MSC(MUST)/2005/KVS (ESTT.III)

In terms of clause 10 (2) of the latest transfer guidelines which inter-alia, provides to create a vacancy so as to accommodate the persons who are figuring in priority list II, as per their priority position, transfer of the following employees is hereby ordered on request / in public interest. The displacement of employees have been effected as per clause 10(3) of latest transfer guidelines. The employees transferred in public interest and from NEH and VHS are entitled for all transfer benefits as per clause 15 of latest transfer guidelines.

Date: 30.05.2005

POST: - MSC MUST

S.No	Emp-code	Name	From	To	Nature of transfer
			Reg Stn KV KV-Name	Reg Stn KV KV-Name	
6	70071	SHRI SUDHAMA RAM (By displacing) MRS INDERJEET KAUR	07 540 1294 RAMGARH (ITBP)	07 539 1308 MULLANPUR GARIBDAS	On request
7	70185	SHRI HARI KISHAN SHARMA (By displacing) Mrs SUDESH SHARMA	07 174 1300 BHATINDA NO.III (AFS)	07 540 1294 RAMGARH (ITBP)	In pub. int.
			07 173 1297 BHATINDA NO.I (THIMAYYA MARG)	07 174 1300 BHATINDA NO.III (AFS)	On request
8	80060	SHRI SHEEL KUMAR SINGH (By displacing) SHRI RAJESH SRIVASTAVA	08 228 1339 RAIWALA	15 409 1732 KANPUR CANTT	In pub. int.
			15 409 1732 KANPUR CANTT	15 404 1724 FATEH GARH	On request
9	100052	SHRI NIDHIR KUMAR SIKDAR (By displacing) SMT S D BHOWMIK	10 256 1479 KOKRAJHAR (HATHIMATHA)	06 150 1247 COOCH BEHAR	In pub. int.
			06 150 1247 COOCH BEHAR	10 256 1479 KOKRAJHAR (HATHIMATHA)	On request
10	100164	SHRI AVIJIT PROSAD MAITRA (By displacing) SMT N CHAKRABORTY	10 252 1473 ITANAGAR.NO.II	06 143 1287 SEVOK ROAD	In pub. int.
			06 143 1287 SEVOK ROAD	06 153 1252 GANGTOK	On request
					In pub. int.

This issues with the approval of the Competent Authority of KVS.

ertified to be
Copy

Advocate

Distribution:

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

(RANVIR SINGH)
EDUCATION OFFICER

Certified to be
true Copy

Advocate

Vidyalaya so that I may continue my service. Kindly inform me the transfer order and retain me in the same within ten days otherwise I may be compelled and that too.

To, ..

The Commissioner,
Kendriya Vidyalaya Sangathan
New Delhi-16.

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5X
Ann. no. 2

(Through Proper Channel)

Date :- 17-06-05

Subject :- Prayer for modification of transfer.

Ref:- Transfer order No. F 3-1 / MSC (MUST) 2005/KVS (ESTT) Dt.30-5-05.

Sir,

With reference to the above I would like to bring to your kind notice the following few lines for favour of your kind consideration and necessary action.

That Sir, I have joined KVS on 5th July/1976 and served in the North East Region more than 18 years. I served in K.V. Tura from 05-07-76 to 10-11-77, K.V. Borjhar 14-11-77 to 30-08-80 and K.V. Kokrajhar from 09-09-86 to 30-11-2000.

My husband Mr. A.K. Dey Bhowmick was also a K.V. teacher who got transfer from K.V. Kokrajhar in 1993. But I was deprived of getting transfer on spouse ground and had to stay there alone in a declared disturbed place like Kokrajhar till November 2000. I joined K.V. Coochbehar on 01-12-2000 and after a few months my husband was displaced from Coochbehar in 2001. Again we were disturbed and the situation compelled my husband to take VR in 2001.

That Sir, I have been transferred before the completion of 05 years at K.V. Coochbehar and again been put to K.V. Kokrajhar where I worked more than 14 years. Moreover, clause 10(2) says that no teacher shall be transferred to a place where there are Junior teachers serving in nearby schools.

That Sir, Mr. N.K. Sikdar transferred to K.V. Coochbehar already served the Vidyalaya since the opening of The Vidyalaya till November 2000 getting all the home town facilities. Moreover, after 4th November 2005 I shall also be entitled to get the benefit of LTR. All these things have not been kept in view before my displacement.

That Sir, recently I have undergone an operation and since then I am facing lot of complications. So, it is not possible for me to join K.V. Kokrajhar where I will not get all sorts of medical facilities.


Under the above circumstances I would like to request you kindly to consider my case sympathetically and cancel the transfer order and retain me in the same Vidyalaya so that I may continue my service. Kindly inform me about your decision within ten days otherwise I may be compelled to take recourse of law for redressal and that too without further reference.

Thanking you,

Yours faithfully,

Encl :-

1. Discharge Certificate from Anandalok Hospital.
2. Prescription of ENT.
3. Prescription of General Physician.
4. Urine Culture Report


(Mrs. S.D. Bhowmick)
Music Teacher
K.V. Coochbehar.

Certified to be

True Copy

Advocate

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Ann. No. 3

Original Application No. 173 of 2005

Date of Order : This the 29th day of June, 2005.

The Hon'ble Sri Justice G. Sivarajan, Vice-Chairman.

Smti. Sabita Dey Bhowmick
S/o Sri A.K. Dey Bhowmick
Gauripur Town, Ward No. 2,
Baruapatty, P.O. Gauripur,
District - Dhubri.

... Applicant

By Advocates Mr. A.S. Choudhury, Mr. I. Hussain.

- Versus -

1. The Union of India, through the
Secretary, Ministry of Human Resource,
Govt. of India,
New Delhi.

2. The Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jit Singh Marg,
New Delhi - 110 016.

The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Guwahati Region, Khanapara,
Guwahati - 22.

4. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Kolkata Region, E 13 Block, "Labony"
Salt Lake, Kolkata - 64.

5. Sri Nidhin Kumar Sikdar,
Music Teacher, Kendriya Vidyalaya,
Kokrajhar (Under order of transfer
To Kendriya Vidyalaya, Cochbehari.)

... Respondents.

By Mr. M.K. Mazumdar, counsel for the KVS.

.....

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Copy

Advocate



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ORDER (ORAL)

SIVARAJAN. J. (V.C.)

The matter comes up for admission. Heard Mr. I. Hussain, learned counsel for the applicant and also Mr. M.K. Mazumdar, learned counsel for the K.V.S.

2. The matter relates to transfer of the applicant and the 5th respondent. The applicant is transferred from KVS, Cochbehar to KVS, Kokrajhar in place of the 5th respondent. The 5th respondent is transferred to K.V.S., Cochbehar at his request in the place of the applicant. The applicant's transfer is stated to be made in public interest. According to the applicant, she had served more than 14 years in the hard station at Kokrajhar while the 5th respondents had only lesser service in that area. That apart, it is stated, she is suffering from serious illness. According to the applicant the transfer order is in violation of the transfer norms published by KVS. It is stated that the respondent Nos. 2 to 4 have not considered these matters while passing the impugned transfer order. The applicant has already brought these matters to the notice of the second respondent by representation dated 17.06.2005. Hence, this is a matter to be considered by the said respondent.

3. In the nature of the direction being issued, it is not necessary to issue notice to the 5th respondent. Since the applicant had made detailed representation dated 17.06.2005 (Annexure - 3) before the 2nd respondent against her transfer, I am of the view that this application can be disposed of at the admission stage itself. Accordingly, there will be a direction to the 2nd respondent to consider the representation dated 17.06.2005 (Annexure - 3) sent by the



gms

applicant and pass appropriate order keeping the norms for transfer in mind within a period of 6 weeks from the date of receipt of this order. In the meantime, if the applicant has not been relieved/5th respondent has not come and joined in the post held by the applicant, this transfer order, in so far as the applicant and the 5th respondents are concerned will be kept in abeyance till the disposal of the representation as directed hereinabove.

The O.A. is disposed of at the admission stage itself as above.

Sd/VICE CHAIRMAN



Certified to be true Copy
প্রমাণিত প্রতিলিপি

[Signature]
30.6.05
Section Officer (J)
C.A.T. GUWAHATI BRANCH
Guwahati-781005

[Signature]
40/6

Regd with A/D.PLEADER'S NOTICE

From: Iqbal Hussain, Advocate,
Gauhati High Court.

"Munu Villa"
Ashram Road,

Bye Lane -1,

House No.11,

South Sarania,

Ulubari, Guwahati-7

27.12.9.05

To

The Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jit Singh Marg,
New Delhi-110 016

Sir,

Under instruction of my client Smti Sabita Dey Bhowmick wife of Sri A.K. Bhowmick, a resident of Gauripur Town, Ward No.2, Baruapatty, P.O. Gauripur, Dist. Dhubri, Assam, I serve this notice upon you on the following grounds amongst others :-

That, my client is a Music Teacher under Kendriya Vidyalaya Sangathan, initially appointed in the year 1976 and was posted at Tura, Meghalaya. Then she was transferred to Borjhar in 1977 and then to Kokrajhar (Assam) where she served till the year 2000. Thereafter, she was transferred to Kendriya Vidyalaya, Coochbehar (West Bengal).

While my client was serving in K.V. Coochbehar and was at home due to summer vacation, she received an order dt. 30.5.05 passed by you transferring one Sri Nidhir Kumar Sikdar, a junior Music Teacher of K.V. Kokrajhar to K.V. Coochbehar on his own request and transferred my client from K.V. Coochbehar to K.V. Kokrajhar violating the existing rules and procedure purportedly on public interest. Then my client submitted a representation dt. 17.6.05 to you with a prayer for cancellation of the transfer order as because she served at Kokrajhar earlier (hard station) for 14 years already and she being a senior teacher ought not to have been replaced by a junior one. On the otherhand

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True Copy

Advocate

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HON'BLE VIDYALAYA SANGATHAN

- 2 -

Sri Sikdar has served at Cochbehar for a long period since his initial appointment. Furthermore, my client also stated about her ailments and undergoing operation etc.

As nothing was done to consider the representation of my client, she approached the Hon'ble Central Administrative Tribunal, Guwahati Bench vide O.A.No.173/2005 with a prayer for cancellation of the transfer order and to allow her to remain at K.V. Cochbehar. Thereafter, the Hon'ble Tribunal vide an order dt. 29.6.05 of my client and to pass appropriate order.

The aforesaid order was communicated to you along with a representation dt. 8-7-05 but nothing has been done from your end to consider the case of my client and her fate is hanging in balance.

Therefore, I request you to consider the representation dt. 17.6.05 of my client in terms of the order of the Hon'ble Tribunal and to cancel the transfer order dt. 30.5.05 issued by you within 15 days of receipt of this notice,

And, further be pleased to allow my client to remain at K.V. Cochbehar as before. Otherwise, I have instruction to approach the appropriate Court once again for redressal of the grievances of my client and in that event you shall be liable for all costs and consequences as well.

Yours faithfully,

(Iqbal Hussain)

Advocate

Enclosure:

1. Copy of the transfer order
dt. 30.5.05.

2. Copy of representation dt.
17.6.05.

3. Copy of the order dt. 29.6.05

in O.A.No.173/05.



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Annex 10.563

KENDRIYA VIDYALAYA SANGATHAN

18, Institutional Area, SJS Marg

New Delhi- 110 016

Telephone: 26858570

FAX No. 26514179

Website: www.kvsangathan.org

SPEED POST / FAX

F.19-255(4)/05-KVS(L&C) / 4635

Dated *28/11/05*

The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office,
GUWAHATI.

Subject:- OA no.173/2005 filed by Smt.Sabita Dey Bhowmick, Music Teacher, KV,
Cochbehar - Order of Hon'ble CAT, Guwahati Bench - reg.

Sir,

I am to refer to the subject cited above and to request you to apply for extension of time for disposal of the representation dated 17-6-05 of Mrs.S.D.Bhowmick as mentioned in the CAT order dated 29-6-2005, with a copy to this office. The said representation is received by this office only on 16-9-05 alongwith the legal notice dated 12-9-05 sent by the Advocate of the petitioner (copy enclosed).

This may be treated most URGENT.

Yours faithfully,

Encl. As above

(JAIDEEP DAS)
EDUCATION OFFICER(L&C)

Copy for information to Shri Iqbal Hussain, Advocate, Guwahati High Court, Munu Villa, Ashram Road, Bylane-1, House No.11, South Sarania, Ulubari, Guwahati-7.

Jaideep
EDUCATION OFFICER(L&C)

Certified to be

True Copy

Advocate