

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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✓
O.A/T.A No. 1941/200

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(3) Office not page 1 + 3

SECTION OFFICER (Judl.)

Bobby
25/10/17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERS SHEET

1. Original Application No. 194/06
2. Misc Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) Smti Jayanti Deb Roy

Respondent(s) U.O.I (K.V.S)

Advocate for the Applicant(s) .. N. Chandra ..
..... S.K. Ghosh ..
..... S. Nath ..

Advocate for the Respondent(s) .. K.V.S. Counsel ..

Note of the Registry	Date	Order of the Tribunal
269/214567 13.6.06	14.09.2006	Present: Hon'ble Sri K.V. Sachidanandan Vice-Chairman.

Post on 15.09.2006

Vice-Chairman

/m/s/

15.9.06 The applicant was on leave. Subsequently the leave was extended on medical ground. The Assistant Commissioner, KVS has issued a Memorandum dated 9.9.2004 directing the applicant to resume duties within 10 days but the applicant has stated that the memorandum has not been received by her and she has received the memorandum on 12.9.06. She has reported for duty within 10 days as indicated in the said letter. But she was not permitted to join. Finally thereafter,

flap
Contd...

Defectives
1) No Counties
2) No. I.P.O.

Defects remove

Q.D.

the Assistant Commissioner, IG&B 100000

of the applicant and on 1.7.2005 appeal which was filed by the was rejected. Being aggrieved the applicant has filed this O.A.

I have heard Mr. S. Nath learned counsel for the applicant and Mr. M.K. Mazumdar learned counsel for KVS. The counsel for the respondents has submitted that he wanted some more time to get instructions.

Post-Überprüfung am 17.11.2011

Vice-Chairman

6
3
FORM NO. 4
(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O R D E R S H E E T.

1. Original Application No. **194/05/06**
2. Misc. Petition No.
3. Contempt Petition No.
4. Review Application No.

Applicant(s) ... **Smt. Jayanti Deb Roy**

Respondent(s) **U.O.I.G. Orissa**

Advocate for the Applicant(s) ... **M. Choudhury, S. K. Goswami, S. Nath**

Advocate for the Respondent(s) ... **K. V. S. Counsel**

Notes of the Registry	Date	Order of the Tribunal
	15.9.06	<p>The applicant was on leave. Subsequently the leave was extended on medical leave. The Assistant Commissioner, KVS has issued a Memorandum dated 9.9.2004 directing the applicant to resume duties within 10 days. The said memorandum was forwarded to the applicant on 14.9.2004(Annexure-11). Immediately on receipt of the said memorandum the applicant reported for duty on 24.9.2004 as instructed the said memorandum. But she was not permitted to join. Finally thereafter, the Assistant Commissioner, KVS issued a memorandum removing the applicant from service. The appeal filed by the applicant on 1.7.2005 was rejected. Being aggrieved the applicant has filed this O.A.</p>

15.9.06

I have heard Mr. S. Math learned counsel for the applicant and Mr. M.K. Mazumdar learned counsel for KVS.

Application is admitted. Issue notice on the respondents.

Learned counsel for the respondents prays for time to file written statement. Let it be done. Post the matter on 17.11.06.

[Signature]
Vice-Chairman

lm.

17.11.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

Learned Counsel for the Respondents wanted to have further time to file reply statement. Let it be done. Post on 11/12/2006.

[Signature]
Vice-Chairman

/mb/

11.12.06.

The counsel for the Respondents prays for time to file written statement. Prayer is allowed. Post the matter on 10.1.07

[Signature]
Vice-Chairman

lm

[Signature]

8.12.06.

10.1.07.

Further four weeks time is granted to file written statement. Let it be done. Post the matter on 13.2.07.

[Signature]
Vice-Chairman

lm

[Signature]

No WBS has been filed.

[Signature]

12.2.07.

0.A.194/06/3

4

13.2.07 Counsel for the respondents has some personal difficulty. Post the matter on 14.3.07.

Vice-Chairman

No W/S has been filed.

lm

NT
13.3.07.

14.3.2007 No reply filed. Mr. M.K. Mazumdar, learned Standing counsel for the Respondents is also absent. Let the case be posted on 24.04.2007 for filing of rejoinder.

(A)

Member

Vice-Chairman

23
/bb/

23.4.07.

24.4.07. Mr. M.K. Mazumdar learned counsel for the respondents submits that he has received the parawise comments from the respondents and sought time to draft the written statement and to obtain signature. Three weeks' time is granted to file written statement. Post the matter on 15.5.07.

JK
Member(A)

Guar
Member(J)

lm

15.5.2007

On the prayer of the counsel for the respondents two weeks further time is granted to file written statement.

Post the matter on 31.5.07.

Vice-Chairman

23
/pg/

O.A. 194/06

Written statement has not been filed by the respondents. Post the matter on 15.6.07. In the meantime the liberty is given to the applicant to file rejoinder if any, after receiving the written statement:

31.5.07

W/S submitted
by the Respondents.
page 1 to 5. (wpm)
(expt 'c' file.)

lm

15.6.07. Counsel for applicant wanted time
to file written statement rejoinder.
Let it be done. Post the matter on 11.

Vice-Chairman

DRS.

No rejoinder has
been filed.

lm

Vice-Chairman

DRS.
14.6.07.

11:7.2007

Post the case on 23.7.2007 for filing
of rejoinder.

Rejoinder not filed.

Vice-Chairman

DRS.
10.7.07.

/bb/

Rejoinder not filed.

Counsel for the applicant prays for

DRS.
20.7.07.

23.7.07.

further time to file rejoinder. Let it be
done. Post the matter on 9.8.07.

Vice-Chairman

DRS.
30.8.07.

31.8.07

Four weeks time granted to the
respondents for filing written statement.

Post on 5.10.07 for order.

Rejoinder not
filed.

DRS.
4.10.07.

pg

Vice-Chairman

05.10.2007

Mr. S. Nath, learned Counsel appearing for the Applicant is present. Mr. M. K. Mazumdar, learned Counsel for the Respondents states that he has got instructions from the Respondents/KVS to represent them in this case. He undertakes to file 'Vakalatnama' for the Respondents.

In the aforesaid premises, call this matter for final hearing on 15.11.07; on which day the Respondents should produce relevant records/files of KVS from which impugned/removal order was issued.

Call this matter on 15.11.07.

(Khushiram)

Member(A)

(Monoranjan Mohanty)

Vice-Chairman

Lau

15.11.2007

Mr. S. Nath, learned counsel appearing for the Applicant, seeks an adjournment on the ground that Mr. N. Choudhury is to argue the matter and he is indisposed of. Mr. M. K. Mazumdar, who was present on the last occasion, has filed a leave note. Although he was to file vakalatnama, he has not filed the same as yet. Signatures of the party/lawyer are absent in the written statement filed in this case. No annexure to the written statement has been filed although at Page-3 of the written statement some documents were sought to be enclosed.

Call this matter on 22.11.2007 for hearing.

(Khushiram)

Member (A)

(M.R. Mohanty)

Vice-Chairman

21.11.07
As per order dated
15.11.07, annexure
tagged with W/S, and
W/S properly signed.

Ran.
21/11/07

22.11.2007 Heard Mr.S.Nath, learned counsel for the Applicant and Mr.M.K.Mazumdar, learned Standing counsel for the KVS/Respondents. They both undertake to file written submissions, if any, well before 3rd December, 2007.

Call this matter on 03.12.2007 under the heading 'To be mentioned'.

Rejoinder not
bileef.

(Khushiram) (M.R.Mohanty)
Member (A) Vice-Chairman

/bb/

30.11.07
03.12.2007 Mr.S.Nath, learned counsel for the Applicant, files a written submission on behalf of the Applicant after serving a copy on Mr.M.K.Mazumdar, learned Standing counsel for the KVS.

Call this matter 06.12.2007.

(Khushiram) (M.R.Mohanty)
Member (A) Vice-Chairman

/bb/

06.12.2007 Heard Mr. S. Nath, learned Counsel for the Applicant and Mr. M.K. Majumdar, learned Counsel for the Respondents/Kendriya Vidyalaya Sangathan and perused the materials placed on record.

Hearing concluded. Orders reserved.

(Khushiram) (M.R.Mohanty)
Member (A) Vice-Chairman

akm

05.10.2007

05.10.2007

Mr. S. Nath, learned Counsel appearing for the Applicant is present. Mr. M. K. Mazumdar, learned Counsel for the Respondents states that he has got instructions from the Respondents/KVS to represent them in this case. He undertakes to file 'Vokalatnama' for the Respondents.

In the aforesaid premises, call this matter for final hearing on 15.11.07; on which day the Respondents should produce relevant records/files of KVS from which impugned/removal order was issued.

Call this matter on 15.11.07.


(Khushiram)
Member(A)


(Monoranjan Mohanty)
Vice-Chairman

Lm

15.11.2007

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21.11.07
As per order dated
15.11.07 Respondents
submitted annexures
which is tagged with
WJS. Memo or appearance
submitted. WJS properly
signed.

21/11/07

Call this matter on 22.11.2007 for hearing.

166/

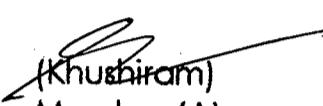

(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

22.11.2007

Heard Mr.S.Nath, learned counsel for the Applicant and Mr.M.K.Mazumdar, learned Standing counsel for the KVS/Respondents. They both undertake to file written submissions, if any, well before 3rd December, 2007.

Call this matter on 03.12.2007 under the heading 'To be mentioned'.


(Khushiram)
Member (A)

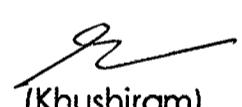

(M.R.Mohanty)
Vice-Chairman

/bb/

03.12.2007

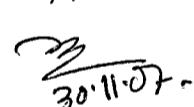
Mr.S.Nath, learned counsel for the Applicant, files a written submission on behalf of the Applicant, after serving a copy on Mr.M.K.Mazumdar, learned Standing counsel for the KVS.

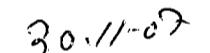
Call this matter 06.12.2007.


(Khushiram)
Member (A)


(M.R.Mohanty)
Vice-Chairman

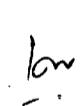
Rejoinder not
bileft.


30.11.07.


30.11.07

NO written Submission /bb/

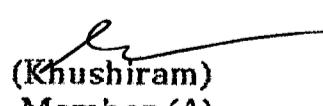
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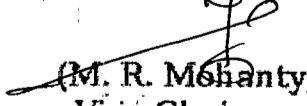

low

06.12.2007

Heard Mr S. Nath, learned Counsel for the Applicant and Mr M.K. Majumdar, learned Counsel for the Respondents/Kendriya Vidyalaya Sangathan and perused the materials placed on record.

Hearing concluded. Orders reserved.


(Khushiram)
Member (A)

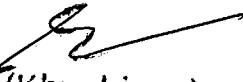

(M. R. Mohanty)
Vice-Chairman

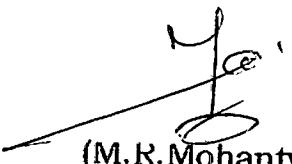
nkm

02.01.2008 Judgment pronounced in open Court. Kept in separate sheets.

This Original Application is allowed. No order as to costs.

12.2.08
Certified Copy
Collected by LM
H.A.D.V. for the
applicant on 9.1.08
and copy of the
same sent to LM
and Office for Finance
to the Parliament
H.A.D.V. for the
respect.


(Khushiram)
Member(A)


(M. R. Mohanty)
Vice-Chairman

LM

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**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 194 of 2006

DATE OF DECISION: 02/01/2008

Smt Jayanti Deb Roy

....APPLICANT(S)

Mr N. Choudhury, Mr S.K. Ghosh
and Mr S. Nath

ADVOCATE(S) FOR THE
APPLICANT(S)

- VERSUS -

Union of India & Ors.

.....RESPONDENT(S)

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

CORAM:

The Hon'ble Mr. M.R. Mohanty, Vice-Chairman

The Hon'ble Mr Khushiram, Administrative Member

1. Whether reporters of local newspapers
may be allowed to see the Judgment? Yes/No
2. Whether to be referred to the Reporter or not? Yes/No
3. Whether to be forwarded for including in the Digest
Being compiled at Jodhpur Bench and other Benches? Yes/No
4. Whether their Lordships wish to see the fair copy
of the Judgment? Yes/No

.....
Vice-Chairman/Member

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No.194 of 2006

Date of Order: This the 2nd day of January 2008

The Hon'ble Shri M.R. Mohanty, Vice-Chairman

The Hon'ble Shri Khusiram, Administrative Member

Smt Jayanti Deb Roy
Wife of Panna Kanti Roy,
House No.40,
Basishtanagar Road,
Guwahati.

.....Applicant

By Advocates Mr N. Choudhury,
Mr S.K. Ghosh and Mr S. Nath.

- versus -

1. The Union of India, represented by
The Secretary to the Government of India,
Ministry of
2. Kendriya Vidyalaya Sangathan
Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi-110016.
3. Commissioner
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi-110016.
4. Joint Commissioner (Admn.)
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Mrg.
New Delhi - 110016.
5. Assistant Commissioner, KVS,
Regional Office,
Guwahati.
6. Principal,
Kendriya Vidyalaya No.1,
Tezpur.

.....Respondents

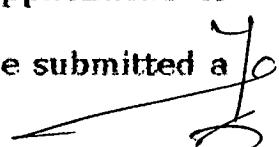
By Advocate Mr M.K. Mazumdar, Standing Counsel, KVS.

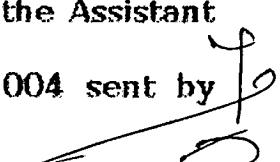
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ORDERM.R. MOHANTY (VICE-CHAIRMAN)

Applicant, a Teacher (PRT) in Kendriya Vidyalaya Sangathan (KVS), having faced termination from her services (after long 24 years of her employment in KVS) under Article 81 (d) of the Education Code of KVS, on 02.11.2004, preferred an Appeal and, her said Appeal having been rejected on 01.07.2005, she has approached this Tribunal with the present Original Application filed under Section 19 of the Administrative Tribunals Act, 1985.

2. The case of the Applicant is that she joined as a PRT in KVS on 01.08.1980 and posted at Tezpur KVS-1; that during October 1982 she was transferred to KVS- Khanapara (where she worked till June 2000); that, thereafter, she joined KVS- Digaru, on 01.07.2000, on transfer; that, on 21.04.2003, she joined in KVS- Tezpur on transfer; that, while working at Tezpur, she fell ill owing to various ailments, which compelled her to proceed on Extra-ordinary leave (EOL), on medical grounds, since 01.09.2003; that, since her condition did not improve, she submitted applications (on 04.10.2003, 03.11.2003 & 03.12.2003) seeking extension of leave on medical grounds; that she also submitted an application on 24.11.2003 seeking her transfer/posting at Guwahati (with alternate prayer to treat her said application as a resignation w.e.f. 01.12.2004, in the event her prayer for posting at Guwahati is not considered favourably) and that, by a communication dated 01.01.2004, the Assistant Commissioner informed that prayer for transfer and resignation was not available to be inter-linked for which different applications to different authorities was to be made; that thereafter she submitted a



fresh and un-conditional prayer on 10.02.2004, for her transfer to Guwahati and submitted a reminder on 28.04.2004; that, without giving any sympathetic consideration, by an order dated 04.08.2004 a notice was issued to her to show-cause as to why her loss of lien (in employment) should not be confirmed under Article 81 (d) of the Education Code of KVS; that in reply to the said show-cause notice, the Applicant, in her representation that was filed on 16.08.2004, once again reiterated the prayer for her posting at Guwahati; that, thereafter, the Assistant Commissioner of KVS, on 09.09.2004, issued a memorandum intimating that (a) her prayer for transfer or resignation could not have been combined and (b) that her absence from 01.09.2003 stood treated as un-authorized absence and (c) that her application for transfer was not submitted by due date (although, under the transfer-guidelines dated 02.07.2004; issued, by the Joint Commissioner (Admn) of KVS, for the year 2004-05; sympathetic consideration of the prayers of teachers for transfer was assured) and (d) finally she was asked to resume duty within 10 days; that the said memorandum dated 09.09.2004 of the Assistant Commissioner of KVS was forwarded to the Applicant by the Principal under a forwarding letter dated 14.09.2004 by Registered Post; that on receipt of the said letter dated 14.09.2004 and memorandum dated 09.09.2004, she went to the School and submitted her joining report to the Principal of the School on 24.09.2004; that the Principal of the School, having refused to receive the joining letter, asked her to obtain a fresh order; that in the said premises, she (on the same day) faxed a letter to the Assistant Commissioner seeking intervention; that on 08.10.2004 she, again, submitted an application seeking intervention of the Assistant Commissioner; that by a memorandum dated 15.10.2004 sent by 

3.7.03 only due to domestic reasons. She was granted E.L. from 16.7.03 to 26.7.03 on Medical ground and she resumed duty on 28.7.03. On 4.8.03 she was conveyed the decision against her application for voluntary retirement (vide Application dated 29.8.03) which could not be allowed.

Thereafter she applied for 15 days E.O.L. from 1.9.03.

Thereafter (on the strength of medical certificate dated 4.9.03) she applied for 1 months EOL w.e.f. 1/9/03.

Thereafter again (on the strength of medical certificate dated 6.10.03) she again applied for E.O.L. vide application dated 8.10.03 to avail leave w.e.f. 1/10/03 to 31.10.03 on medical ground.

She again applied for E.O.L. for another 30 days i.e. from 1.11.03 to 30.11.03 by sending a Telegram.

The E.O.L. for these period was not granted and a Telegram was sent on 10.11.03 asking her to join duty immediately.

Another telegram was sent on 1.7.04 asking her to join.

But she did not join and remained absent without grant of leave.

The applicant, as stated above, as conveyed the decision against her application for allowing voluntary retirement, which could not be allowed, initially availed earn leave and thereafter absented herself without permission and irrespective of the telegram dated 11.10.03 asking her to join duty immediately.

Another telegram was sent to her again on 01.7.2004 asking her to join duty.

She did not joined duty and remained absent without granting leave.

The Applicant had applied through her letter dated 24.11.2003 for posting in any Kendriya Vidyalaya at Guwahati or the letter may be treated as resignation w.e.f. 01.12.2003. She was informed vide this office letter dated 1.1.2004 that request for transfer and resignation can not be combined together.

Mrs Roy applied for transfer vide her letter dated 10.2.2004 to a Kendriya Vidyalaya in Guwahati. But she did not apply for transfer in the prescribed format, circulated by KVS for Annual Transfer. Her case was

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considered by the competent authority and disposed of vide this office memo dtd. 9.9.2004.

One more opportunity to join duties by 29.10.2004 by the Assistant Commissioner, KVS, (GR), vide Memo dated 18.10.2004 but she did not join duties by 29.10.2004.

The applicant reported for duty on 24.9.2004 at 12.10 P.M. and insisted that the reporting time be written as forenoon which was not accepted by the Principal and on that ground she was not allowed to join duty on that day. Thereafter she faxed a letter to the Regional Office at 1.41 P.M. seeking directions to Principal to allow her to join duty. On the same day i.e. on 24.9.2004 from this office reply was sent by fax to the Principal Kendriya Vidyalaya No.1, Tezpur to allow her to join duty. The Principal informed her telephonically on 24.9.2004 and 28.9.2004 to join duties but she did not join duty. The averment made by the applicant is denied. She was given reasonable time and opportunities to join her duties, but she chose not to join. In view of the above, the competent authority has come to the conclusion that she has voluntarily abandoned her service of KVS and action taken as per article 81 (d) of the Education Code of KVS.

She was granted E.L. from 16.7.2003 to 26.7.2003 on Medical Ground. She applied for E.O.L. from 1.9.2003 to 30.9.2003 and extended her E.O.L. from 1.10.2003 to 31.10.2003 on Medical Ground. She again applied from 1.11.2003 to 30.11.2003 by sending a telegram. The E.O.L. from 1.9.2003 to 30.11.2003 was not granted and the disciplinary authority directed her to join duty immediately vide telegram dated 10.11.2003 and again on 17.2.2004."

4. In course of hearing, being called upon, the Counsel for the Respondents/KVS produced the Departmental Records before us; which go to show that, on 23.06.2003, the Applicant submitted an application to take VRS and, on 03.07.2003, the Applicant agreed in writing to waive the notice period (for VRS) by foregoing one month salary. On 04.07.2003, the Principal of KV/Tezpur forwarded the said representation of the Applicant (for VRS) to the Assistant Commissioner of KVS at Guwahati. On 18.07.2003, the Assistant Commissioner of KVS/Guwahati asked for more details about the Applicant (to give consideration to the VRS notice) from the Principal

of the School. On 26.07.2003, the details were furnished by the Principal. On 04.08.2003, the request of the Applicant to take VRS was turned down. The text of the rejection order dated 04.08.2003 reads as under:

"Subject : Application of Mrs. J.D. Roy, PRT for VRS – reg.

Sir,

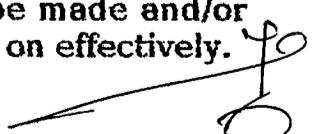
I am to refer to your letter No.F.6(B)/KVT/2003 04/338, dated 26.07.2003 on the subject cited above and to say that Mrs. J.D. Roy's application has been considered sympathetically but could not be acceded to since being CPF optee has not attained the age of 55 years as per FRSR 56(k)(i).

She may be in-formed accordingly."

Thus the prayer of the Applicant to go on Voluntary Retirement was turned down on the ground that she having opted for CPF benefits and having not attained 55 years of her age, as per FRSR 56(k)(i). Since the date of birth of the Applicant is 10.05.1952, she was little more than 50 years old and since she joined KVS Services on 01.08.1980, she had, by the time of tendering notice to take VRS, served the KVS for little more than 22 years. Article 55 of KVS Education Code, which deals with "Resignation and Voluntary Retirement", reads as under:

"55 Resignation and Voluntary Retirement

- (a) In cases where an employee tenders resignation and seeks to be relieved before the expiry of one month from the date of notice the appointing authority has the discretion either to insist of full month's notice or to relieve the employee before the end of the notice period without asking for payment of salary in lieu of notice, provided that the appointing authority is satisfied that alternative arrangements can be made and/or Vidyalaya's work can be carried on effectively.



(b) The employees of the Sangathan who had put in not less than 20 years of qualifying service may seek voluntary retirement by giving 3 months notice in writing to the Appointment Authority to retire from service voluntarily as per the provisions of Rule 48-A of the CCS (Pension) Rules, 1972."

Rule 48-A of CCS (Pension) Rules, 1972 (which is applicable to Government Servants and, for the reason of Article 55 of KVS Education Code, extended to the members of the staff of KVS) reads as under:

"48-A Retirement on completion of 20 years' qualifying service

(1) At any time after a Government servant has completed twenty years' qualifying service, he may, by giving notice of not less than three months in writing to the Appointing Authority, retire from service.

Provided that this sub-rule shall not apply to a Government servant, including scientist or technical expert who is –

- (i) on assignments under the Indian Technical and Economic Co-operation (ITEC) Programme of the Ministry of External Affairs and other and programmes.
- (ii) posted abroad in foreign based offices of the Ministries/Departments,
- (iii) on a specific contract assignment to a foreign Government,

unless, after having been transferred to India, he has resumed the charge of the post in India and served for a period of not less than one year.

(2) The notice of voluntary retirement given under sub-rule (1) shall require acceptance by the Appointing Authority:

Provided that where the Appointing Authority does not refuse to grant the permission for retirement before the expiry of the period specified in the said notice, the retirement shall become effective from the date of expiry of the said period.

(3) Deleted

(3-A) (a) A Government servant referred to in sub-rule (1) may make a request in writing to the Appointing Authority to accept notice of voluntary retirement of less than three months giving reasons therefor;

(b) On receipt of a request under Clause (a), the Appointing Authority subject to the provisions of sub-rule (2), may consider such request for the curtailment of the period of notice of three months on merits and if it is satisfied that the curtailment of the period notice will not cause any administrative inconvenience, the Appointing Authority may relax the requirement of notice of three months on the condition that the Government servant shall not apply for commutation of a part of his pension before the expiry of the period of notice of three months.

(4) A Government servant, who has elected to retire under this rule and has given the necessary notice to that effect to the Appointing Authority, shall be precluded from withdrawing his notice except with the specific approval of such authority:

Provided that the request for withdrawal shall be made before the intended date of his retirement.

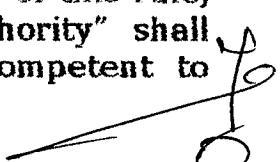
(5) The pension and (retirement gratuity) of the Government servant retiring under this rule shall be based on the emoluments as defined under Rules 33 and 34 and the increase not exceeding five years in his qualifying service shall not entitle him to any notional fixation of pay for purposes of calculating pension and gratuity.

(6) This rule shall not apply to a Government servant who-

(a) retires under Rule 29, or

(b) retires from Government service for being absorbed permanently in an Autonomous Body or a Public Sector Undertaking to which he is on deputation at the time of seeking voluntary retirement.

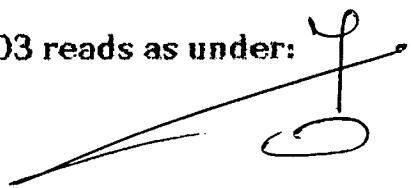
EXPLANATION.- For the purpose of this rule, the expression "Appointing Authority" shall mean the authority which is competent to



make appointments to the service or post from which the Government servant seeks voluntary retirement."

Thus, the reasons, for which the prayer (of the Applicant to take VRS benefits) was turned down, was/is not sustainable; as no materials have been placed on record/shown at the hearing (although pointedly asked to the Advocate for the Respondents) that provisions of Rule 56(k)(i) of FRSR (which are applicable to Government Servants) was applicable, by adoption, to the members of the staff of KVS; which is an autonomous body ^{and} amenable to our [^] _^ adjudicatory jurisdiction ^{only} for the reason of Government of India Notification.

5) The materials placed on record (from the Department file produced by the Counsel for the Respondents) go further to show that, the Applicant joined as PRT, on transfer, at KV/Tezpur on 21.01.2003. She, later, proceeded on leave (on medical grounds) from 16.07.2003 to 26.07.2003 and resumed duty on 28.07.2003. For the reason of her sickness, she had to remain absent from 01.09.2003 and applied for (Extraordinary) leave on 04.09.2003 seeking leave with effect from 01.09.2003. On 08.10.2003 she again applied for leave w.e.f. 01.10.2003 on medical ground. On 07.11.2003, she again sought extension of leave on medical ground. The text of the leave application dated 07.11.2003 reads as under:



"To,
The Principal,
K.V. No.1,
Tezpur.

Sub: Prayer for extension of E.O.L.

Date: The 7th November, 2003.

Respected Sir,

With due honour, I would like to inform you that, I had applied for extension of E.O.L. on 08/10/2003 for 4 (four) weeks on Medical ground.

On completion of the above period, after necessary Medical checkup it is found that, I am not completely fit to join my duties immediately.

In view of the above, I would like to request your goodself to extend my leave (E.O.L.) for another 4 (four) weeks commencing from 1st November, 2003, and also allow me to remain out of the station for the above period.

Thanking you,

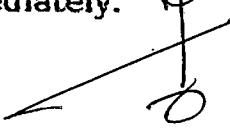
Medical certificate enclosed.

Yours faithfully,

(Mrs. Jayanti D. Roy)
P.R.T. (on leave)
K.V. No.1, Tezpur."

On each occasion, she furnished medical certificates in support of her sickness/prayer for leave. Despite supporting Medical Certificates, the prayer for grant of Extraordinary leave (i.e. leave without pay) was turned down by the Principal of KVS/Tezpur on 10.11.2003. On the margin of the leave application dated 07.11.2003, the endorsement (dated 10.11.2003) of the Principal of the School reads as under:

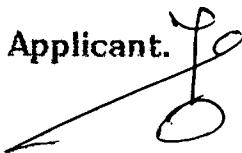
"leave not granted.

A telegram sent to the teacher
Today asking her to join duty
Immediately." 

There are no materials available on record to show the reason as to why the Principal of the KVS/Tezpur refused to grant leave on medical grounds. On the face of the supporting medical certificates (made available with the leave application, which is in the records produced by the Advocate for the Respondents/KVS); the Principal of KVS/Tezpur could not have decided to send a telegram to the Applicant forcing her to report to duty. Such decision of the Principal of KVS/Tezpur to force the Applicant to report to duty (on the face of Medical Officer's opinion to remain on rest), in our considered opinion, was nothing but a result of gross miscarriage of justice and not sustainable in the eye of law.

6) It also appears from the materials available in the Departmental file that, on 24.11.2003, the Applicant submitted a representation for posting her (on transfer) at Guwahati or to treat the said representation as her resignation, which was forwarded by the Principal on 03.12.2003. The said prayer, in our considered view, was rightly rejected on 01.01.2004; as a conditional resignation could not have been accepted. But nothing was stated therein about her original prayer for a posting (on transfer from Tezpur) at Guwahati.

It is also seen from the records that the Applicant submitted representations, on 10.02.2004 and on 23.04.2004, seeking her transfer to Guwahati; which also did not receive consideration (only on very hyper-technical ground of not making the prayer for transfer in time) and, the authorities, in our considered view, ought to have given consideration in the matter, for the reason of the sickness of the Applicant.



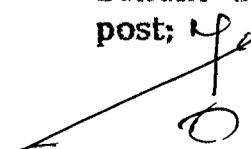
7) It also appears from the materials made available in the Departmental File produced by the learned Counsel appearing for the Respondents that, after sending telegram to the Applicant (intimating her about refusal of the prayer for EOL/leave on medical grounds and asking her to report to duty) and after forwarding the representation of the Applicant for a transfer to Guwahati etc. (which was rejected) the Principal of KVS/Tezpur reported the matter to the Assistant Commissioner of KVS/Guwahati (in his letter dated 27.07.2004) and the said report led to starting of a proceeding under Article 81(d) of KVS Education Code.

Relevant portion of Article 81(d) of the Education Code of KVS reads as under:

"81(d) Voluntary Abandonment of Service

The KVS vide letter F.No.11-12-/2000 – KVS(Vig.) dted 4.9.2002 has conveyed the following decision on

- 1) If an employee has been absent/remains absent without sanctioned leave or beyond the period of leave originally granted or subsequently extended, he shall provisionally lost his lien on his post unless:-
 - (a) he returns within fifteen calendar days of the commencement of the absence or the expiry of leave originally granted or subsequently extended, as the case may be; and
 - (b) satisfies the appointing authority that his absence or his inability to return on the expiry of the leave as the case may be was for reasons beyond his control. The employee not reporting for duty within fifteen calendar days and satisfactorily explaining the reasons for such absence as aforesaid shall be deemed to have voluntarily abandoned his service and would thereby provisionally loss lien on his post.
2. An employee, who has provisionally lost lien on his post in terms of the aforesaid provisions, shall not be entitled to the pay and allowances or any other benefit after he has provisionally lost lien on his post;



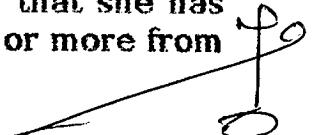
Provided that payment of such pay and allowances will be regularized by such directions as the appointing authority may issue while ordering reinstatement of the employee in terms of Sub-Clause (6) of this Article.

3. In cases falling under Sub-clause (1) of this Article, an order recording the factum of voluntary abandonment of service by the employee and provisional loss of his lien on the post, shall be made and communicated to the employee concerned at the address recorded in his service book and/or his last known address, to show cause why the provisional order above mentioned may not be confirmed.
4. The employee may make a written representation to the appointing authority, within ten days of receipt of the order made under sub-clause (3).
5. The appointing authority may on receipt of the representation, if any, and perusal of materials available on record as also those submitted by the employee, grant, at his discretion, an oral hearing to the employee concerned to represent his case.
6. If the appointing authority is satisfied after such hearing that the employee concerned has voluntarily abandoned his service in terms of the provisions of Sub-clause (1) of this Article, he shall pass an order confirming the loss of employee's lien on his post, and, in that event, the employee concerned shall be deemed to have been removed from the service of the Kendriya Vidyalaya Sangathan with effect from the date his remaining absent in. In case the appointing authority is satisfied that the provisions of Sub-clause (1) of Clause (d) of this Article are not attracted in the facts and circumstances of the case, he may order reinstatement of employee to the post last held by him, subject to such directions as he may give regarding the pay and allowances for the period of absence."

On 04.08.2004, the Assistant Commissioner of KVS/Guwahati passed the following orders:

"SUB:- ORDER OF PROVISIONAL LOSS OF LIEN ON POST HELD AND SHOW-CAUSE NOTICE UNDER ARTICLE 81(d)(3) OF THE EDUCATION CODE FOR CONFIRMATION THEREOF.

Smt J.D. Roy, PRT is hereby informed that she has remained absent for a period of fifteen days or more from



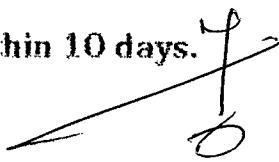
01-09-2003 till date without sanctioned leave or beyond the period of leave originally granted or subsequently extended. Smt J.D. Roy, PRT has neither reported for duty within the aforesaid period of 15 calendar days nor satisfactorily explained the reasons for her absence in terms of sub Clause (1) of Clause (d) of Article 81 of the Education Code, she is deemed to have Voluntarily abandoned her service and there by provisionally lost lien on her post.

As required under Sub-Clause(3) of Clause(d) of Article 81, this order is hereby made recording the factum of Voluntary abandonment of service by Smt J.D. Roy and provisional loss of her lien on PRT and the same is hereby communicated to her accordingly.

As further required under Sub-Clause(3) of Clause(d) of Article 81, Smt J.D. Roy, PRT is hereby given the opportunity to show cause as to why the aforesaid order of provisional loss of lien should not be confirmed.

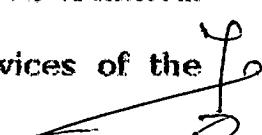
Smt J.D. Roy, PRT may make written representation to the undersigned within 10 days of the receipt of this order failing which an order shall be passed confirming loss of lien on the post held by her and in that case, she shall be deemed to have been removed from the service of the Kendriya Vidyalaya Sangathan as per the Provisions of Article 81(d)."

Thus, it appears that by treating the absence from 01.09.2003 (without sanction of leave, for which written applications were submitted), of the Applicant, the Assistant Commissioner initiated a proceeding under Article 81(d) of KVS Education Code against her. While initiating the proceeding in his order dated 04.08.2004, the Assistant Commissioner assessed the said absence as a deemed abandonment of the services by the Applicant; because, as per the Assistant Commissioner, the Applicant failed "to satisfactorily explain the reasons for her absence". In the said order, the Applicant was, however, given an opportunity to show cause as to why provisional loss of her lien in the post of PRT should not be confirmed and she was asked to make representation within 10 days.



8. The prima-facie view (for which a provisional loss of lien order was passed and a post-decisional opportunity was given) that the Applicant remained absent for unexplained reasons, as has been depicted in the preliminary order dated 04.08.2004, in our considered view, was an outcome of non application of mind; because the records go to show that the Applicant proceeded on leave on medical ground (and also produced supporting medical certificates, on each occasion; even while seeking extension of leave without pay/EOL) right from 01.09.2003 and the same was rejected (which, we have already assessed as an unjust act of the Principal of KVS/Tezpur) and, on the face of the said materials available on the records, the Assistant Commissioner of KVS/Guwahati could not have treated the absence to be unexplained. That apart, before issuance of the Order dated 04.08.2004, no explanations were called for from the Applicant to explain the reasons of her absence from 01.09.2003.

9. It appears from the records that, on receipt of above order dated 04.08.2004, the Applicant submitted a reply on 16.08.2004 and, on receipt of the same, the Assistant Commissioner of KVS/Guwahati asked the Applicant (by his Memorandum dated 09.09.2004) that "in case she does not resume her duties within 10 days", the provisional loss of lien shall be confirmed and, on receipt of the said Memorandum dated 09.09.2004, the Applicant reported to duty, on 24.09.2004, in KV/Tezpur but she was not allowed to resume duty by the Principal, which factum was intimated to the Assistant Commissioner of KVS/Guwahati over fax message sent on the same 24.09.2004 from Tezpur. This action of the Principal of KV/Tezpur (in not allowing the Applicant to resume duty on 24.09.2004) on technical ground, which resulted in arbitrary termination of services of the

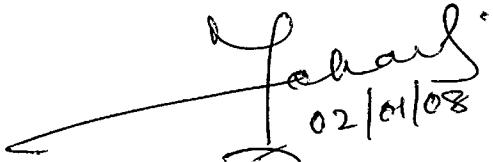


Applicant; which powers were not available with the Principal and, therefore, rightly there were immediate instructions (over fax message) from the end of the Assistant Commissioner of KVS/Guwahati (to the Principal of KV/Tezpur) to allow her (Applicant) to resume duty/accept her joining report. There are, of course, some confusions in accepting the fact that the Principal contacted the Applicant over telephone, on 24.09.2004 and 28.09.2004, to resume duty (after the Fax-instructions of the Assistant Commissioner on 24.09.2004); on the face of the fact that, without hearing from Principal/Assistant Commissioner, the Applicant submitted a representation (apart from the one she sent over fax on 24.09.2004) on 08.10.2004 to the Assistant Commissioner of KVS/Guwahati; which is available in the records of the Respondent Organisation. In any event, the Assistant Commissioner of KVS/Guwahati, by his communication dated 15/18.10.2004, rightly gave another opportunity to the Applicant to resume duty by 29.10.2004 under the pains of confirmation of the loss of lien. This letter dated 15/18.10.2004 of the Assistant Commissioner of KVS/Guwahati (sent by Registered Post) reached the Applicant, in fact, on 29.10.2004 itself; for which she could not report to duty on the stipulated date (29.10.2004) at Tezpur. The Applicant intimated the said fact, in writing, to the Assistant Commissioner of KVS by her letter dated 29.10.2004 (reached in the Office of the Assistant Commissioner of KVS on 03.11.2004) seeking an extension of time to resume duty. On the other hand, on receipt of a report dated 02.11.2004 (over fax message) of the Principal of the KV/Tezpur about non-resumption of duty by the Applicant, the Assistant Commissioner of KVS passed the final order on 02.11.2004 itself; which action was, apparently, a hasty one.

10. In all fairness of things, the Assistant Commissioner of KVS/Guwahati, before passing of the final order on 02.11.2004, ought to have ensured from postal authorities as to whether the Registered letter dated 18.10.2004 was served on the Applicant or not in time. Since the Assistant Commissioner did not do so, in our considered view, a miscarriage of justice crept in to the decision making process and there has been an injustice in passing of the final order that was issued on 02.11.2007.

11. Having heard the learned Counsel for both parties, on perusal of the materials placed on record and upon giving full consideration in the matter (as discussed in the foregoing paragraphs); we hold, finally, that refusal to accept the prayer of the Applicant to go on Voluntary Retirement; the refusal to accept the prayer of the Applicant to remain on leave on medical ground and the final view that she abandoned employment were bad and not sustainable on the touch stone of present judicial scrutiny. As a consequence, the impugned orders dated 16.08.2004, 02.11.2004 and 01.07.2005 are set aside and the Respondents are directed (a) to treat the Applicant to be continuing in service and to give her a posting and (b) to consider her case to grant her Voluntary Retirement (by taking into consideration the long period of service rendered by her in the KVS), if she makes an application to that effect. This case is, thus, allowed with no order as to cost.


(KHUSHIRAM)
ADMINISTRATIVE MEMBER


(M. R. MOHANTY)
VICE-CHAIRMAN

PUC

Memo No 2397-403 /W.P.C STD 12.6.08
received from the Asstt. Registrar, Gauhati
High Court, Gauhati.

The PUC may kindly be seen.

The Kandriy's Vidyalaya Sangathan
or on the application in W.P.C No.
1882 of 2008 filed before the
Hon'ble Gauhati High Court
against the Judgment and order
STD 2.1.2008 passed by this Hon'ble
Tribunal in OA. No. 194/2006.
The High Court stayed the
Judgment in order of this Court on
19.5.2008.

Submitted for favor & kind
perusal.

The matter may be placed
before The Hon'ble Vice-Chairman
and Hon'ble Member (A) for their
~~consideration~~ 'Lordships' kind perusal.

14/7

Normalized
Sd (S) 14/7/08

REGISTRAR

~~few words~~

~~few words~~ (A)

Note

Memo. No - HC XXII 2305/WP dtd - 16-8-16.

Received from the Deputy Registrar (Jud. I)

Guwahati High Court Guwahati, on - 23-8-2016.

The Kendriya Vidyalaya Sangathan files the applicant in WPC No. 1882/08, the Central Administrative Tribunal, Guwahati Bench as party respondents No-1 in this WPC.

The Hon'ble High Court passed an order dated 19-5-2008 in WPC 1882/08. Registry of the High court. Same notice & order was sent to the CAT, Guwahati Bench on 27-6-2008.

Submitted for favours of kind perusal.

The matter may kindly be placed before the Hon'ble Mrs. M. Das, Member (S) / HOD, and Hon'ble Md. Hosen Khan, Member (A) for their Lordships kind perusal.

23-8-2016

SB(G) PGM
23/8/16

JR

Note from registry is not clear Go through order dt 19.5.2008. Why they are sending on 16.8.16?

SO(G)
BGS
24/8/16
Khairul

24/8

17

Ref. notes on pre-pages with regard to WPC 1882/2008.

It is seen that in the WPC 1882/2008 which was filed by Kendriya Vidyalaya Sangathan against the final order dt. 2-1-2008 passed by the Hon'ble C.A.T, Guwahati Bench in OA 194/2006, C.A.T. Guwahati Bench has been made Respdt. No. 1. Since the Hon'ble Tribunal in no way was involved in the WPC and may not be interested to hear the case and above all, this Hon'ble Tribunal having become functus officio on passing the final order in OA 194/06, no further action on the WPC 1882/2008 is called for than simply placing the documents in the case records of OA 194/2006.

Submitted pl.

For perusal, pl.

JR

28
30/9/16

30/9.

Hon'ble Member (A)

Serv.

G
30 Sept. 2016

J.R

30/9

DR
SO (2)

Civil Form No. 28 for Service on Respondents No. 1

REGISTERED POST WITH A/D
25

W.P. (C) - 1882/2008

Civil Rule Revision No.

THE GAUHATI HIGH COURT

(HIGH COURT OF ASSAM : NAGALAND : MEGHALAYA : MANIPUR :
TRIPURA : MIZORAM AND ARUNACHAL PRADESH)

Memo. No. 27/18 - 19 | W.P.C. 107 | 27-6-08
(Civil Jurisdiction)

In the matter of :-- An application U/A 226 of the Constitution of India and
in the matter of

-- And --

In the matter of :-- **Kendriya Vidyalaya Sangathan & Ors** Petitioner

-- Versus --
Central Administrative Tribunal & Ors

1. Central Administrative Tribunal,
Guwahati Bench, Rajgarh Road, Bhangagarh,
Guwahati-781005
2. Smti Jayanti Deb Roy
W/o Panna Kanti Roy,
House No. 40 Basistha Nagar Road,
Guwahati

*CAT filed on
27/6/08
Put in my file
by [unclear]*

36

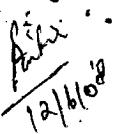
Opposite Party / Respondent

O. P.

Take notice that an application a copy whereof and a copy of the court order of this Court whereon are hereto annexed has been made to this Court by the above named Appellant/Petitioner and that you are hereby called upon to show cause as directed in the said order within 14 days from the date of service.

By Order


Asstt. Registrar (B)


12/6/08

The Rule is made
returnable by--

AGP High Court - 6/01-80,000 21-8-2001

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4
			W.P(C) 1882/08
			BEFORE HON'BLE THE CHIEF JUSTICE MR. J. CHELAMESWAR HON'BLE MR. JUSTICE HRISHIKESH ROY
19.05.2008			
[Chelameswar CJ]			
		Heard Mr. B.Kalita, learned Senior Counsel appearing for the appellant.	
		Admit issue notice.	
		Learned Central Govt Standing Counsel accepts notice on behalf of Respondent No.3. The petitioner shall take steps for service on Respondent Nos.1 and 2 by registered post with A/D.	
		There shall be interim suspension of the judgment and order dated 02.01.2008 passed by the Central Administrative Tribunal, Guwahati Bench, Guwahati in O.A.No.194/2006.	

Sd/Hrishikesh Roy
Judge

Sd/J.Cheleameswar
Chief Justice

True Copy
12/5/08
Superintendent,
Civil Rule (1. ad) Section,
Guwahati High Court

12/5/08

IN THE GAUHATI HIGH COURT

38

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

CIVIL APPELLATE SURF

Appeal from

WOP (e) No. 1882 2008

~~Civil Rule~~

Xenabriga Vidyalaya Sanghaithan

Appellant

Petitions

Central Administrative Tribunal & its

Verfügung

Respondent

Opposite Party

Appellant
For
Decision

Mr. B. K. Kalita (Ex)

Petitioner

Mr M. K. Majumdar

Responden For... Opposite 11

Arch. 562

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4

District - Kamrup

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IN THE GAUHATI HIGH COURT

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

(Criminal Extra Ordinary Jurisdiction)

W.P.(C) No. 1882 of 2008

Writ Petition against Judgment of
The Central Administrative Tribunal

Code No. : 10037

To

The Hon'ble Mr. Jasti Chelameswar, B.Sc., BL, the
Chief Justice of the Gauhati High Court and his
Lordships other 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 of Certiorari or like nature
and/or Mandamus or of like nature
and/or any other writ, order and/or
Direction.

-And-

In the matter of :

1. Kendriya Vidyalaya Sangathan
18, Institutional Area,
Saheed Jeet Singh Marg,
New Delhi-110016.

2. The Commissioner

Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Saheed Jeet Singh Marg,
New Delhi-110016.

3. The Joint Commissioner (Admn.)

Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Saheed Jeet Singh Marg,
New Delhi-110016.

4. The Assistant Commissioner

Kendriya Vidyalaya Sangathan,
Regional Office, Guwahati,
Khanapar, Jawahar Nagar,
Guwahati-781022.

5. The Principal

Kendriya Vidyalaya No.1
Tezpur, Dekargaon.

.....Petitioners

-Versus-

1. The Central Administrative Tribunal, Guwahati Bench, Rajgarh Road, Bhangagarh, Guwahati-781005.
2. Smti. Jayanti Deb Roy
W/o Panna Kanti Roy,
House No.40, Basistha Nagar Road,
Guwahati.

.....Respondents

3. Union of India,
Through the Secretary to the Govt.
of India, Ministry of Human
Resource Development,
New Delhi-110001.

.....Proforma Respondent

-And-

In the matter of :

The judgment and order 21.08
passed by the Central Administrative
Guwahati Bench in Original
Application No.194 of 2006.

-And-

In the matter of :

Enforcement of Constitutional other
Legal rights.

4

62

The humble petition of the
petitioners above-named.

Most Respectfully Sheweth :-

1. That the Petitioner No.1 Kendriya Vidyalaya Sangathan is an autonomous body registered under the Societies Registration Act, 1860 set up by the Ministry of Human Resource Development India for imparting education and establishing Central Schools having its own Education Code and Accounts Code for smooth functioning of Kendriya Vidyalaya both in the academic and administrative fields. Petitioner No.2 is the Executive Head of the Petitioner No.1 and Petitioners No.2, 3 and 4 are officers of the Petitioner No.1 and the Petitioner No.5 is the Principal of the concerned school. Petitioner No.3, the Joint Commissioner (Admn.) shall be considered the Principal Executive of the Sangathan and the Sangathan may sue or be sued in the name of the Joint Commissioner (Admn.).
2. That the Respondent No.2 as an applicant filed an application under Section 19 of the Administrative Tribunal Act, 1985 against the present petitioners and the proforma respondent as Respondents before the Central Administrative Tribunal, Guwahati Bench, Guwahati in short referred to as the "Tribunal" for reliefs inter-alia to set aside impugned order dated

2.11.04 passed by the Assistant Commissioner, KVS, Regional Office, Guwahati, removing the Respondent No.2 from service on the ground that she has lost lien on her post on voluntary abandonment and the order dated 1.7.05 passed by the Joint Commissioner (Admn.) KVS, rejecting the appeal and to reinstate her in service and the said application was registered as O.A. No.194/06.

3. That the case of Respondent No.2 (applicant in the Original Application) stated in her application inter-alia is that she had joined in the Kendriya Vidyalaya Sangathan (here in after referred to as KVS) on 1.8.1980 and having served on her different schools under KVS on 21.4.03. She has joined in KV No.1, Tezpur on transfer. While working there she fell seriously sick owing to various chronic ailments which have necessitated her to go on Extra Ordinary Leave (in short referred to as "EOL") w.e.f. 1.9.03 on medical ground. Subsequently there being no improvement of condition of her health she had to pray for extension of leave on medical ground by filing application dated 4.10.03, 3.11.03 and 3.12.03 she had also made an application to this authority on 24.11.03 for transferring her to Guwahati enabling her to avail proper medical facility for treatment of her chronic aliments or alternatively to treat her said application as resignation letter w.e.f. 1.12.03. That the authority did not allow any of the prayers made in the said application and has

directed her to file application with unconditional prayer and the Respondent No.2 had filed application on 10.2.04 for transfer followed by reminder dated 23.4.04. The authority did not consider the said prayer for transfer and instead, a notice dated 4.8.04 under Article 81(d)(3) of the Education Code of the Sanghathan was issued asking the Respondent No.2 to show-cause as to why the order of provisional loss of lien for voluntary abandonment of her service should not be confirmed. In response thereto Respondent No.2 (Applicant) had submitted her show-cause on 16.8.04 stating inter-alia that, she had submitted application for EOL on medical ground on various dates and as such she was not liable for any disciplinary action and she has further reiterated her prayer for transfer to Guwahati. Thereafter the Petitioner No.4 had issued a memorandum dated 9.9.04 intimating the Respondent No.2 (Applicant) that her prayer for transfer and resignation could not be considered and had directed her to resume her duties within 10 days from the receipt of the letter failing which the provisional loss of lien communicated per office letter dated 4.8.04 would stand confirmed. The said memo dated 9.9.04 was forwarded to Respondent No.2 (Applicant) by the Petitioner No.5 through a forwarding letter dated 14.9.04 through registered post and immediately after receipt of the said memo, the Respondent No.2 attended the school and had submitted her joining report to the Petitioner No.5 (Principal), but the Petitioner No.5 had refused to accept the joining

report and had asked her to bring a fresh order from the Assistant Commissioner. Thereafter the Respondent No.2 had came out of the school and had sent an application to the Assistant Commissioner through Fax for intervention in the matter. Thereafter on 29.10.04, the Respondent No.2 had received a memo dated 15.10.04 from the assistant Commissioner directing her to report her duties at KV No.1, Tezpur not later than 29.10.04, otherwise loss of her lien to the post intimated through letter dated 4.8.04 would stand confirmed and no further correspondence would be entertained in that respect. The Respondent No.2 (Applicant) through a letter dated 29.10.04 sent through registered post had made a prayer to allow reasonable time for her joining, but the Petitioner No.4 by memo dated 2.11.04 had intimated the respondent No.2 that her provisional loss of lien on abandonment of service has stood confirmed. Thereafter she had filed an appeal and the appeal was also dismissed and therefore the Respondent No.2 had filed the application before the learned Central Administrative Tribunal, Guwahati Bench, Guwahati for reliefs as stated hereinabove and in the original application.

A copy of the original application has been annexed hereto as Annexure-A and the documents annexed with the original application have also been annexed hereto as Annexure-A(1) to A-(18).

4. That receiving the notice of the case, the petitioners (Respondents No.2 to 6 in the original application) had filed written statement contending inter-alia that the Respondent No.2 (Applicant) had joined in KV No.1, Tezpur on 21.4.03 on transfer, soon after joining she had made application on 23.6.03 for voluntary retirement followed by another letter dated 3.7.03 due to domestic reasons. On 4.8.03, she was conveyed the decision that her prayer for voluntary retirement could not be allowed. The Respondent No.2 had made application on 29.8.03 for 15 days EOL from 1.9.03 to 14.9.03 and thereafter she had made an application for one month EOL w.e.f. 1.9.03. On 8.10.03 the respondent No.2 had submitted an application for extension of EOL from 1.10.03 to 31.10.03 thereafter she had made prayer for extension of her EOL from 1.11.03 to 30.11.03 through a telegram, but EOL on the basis of the prayer made in the aforesaid 3 applications could not be granted by the authority and the absence of the Respondent No.2 from her duty for the said period amounted to unauthorized absence and the Respondent No.2 was asked by the authority through telegram to resume her duty, but she did not do so. Therefore on 4.8.04 the authority has issued a notice to the Respondent No.2 to show-cause as to why her loss of lien on the ground of abandonment of service could not be confirmed under Article 81(d) of the Education Code of KVS. In response thereto the Respondent No.2 had submitted representation reiterating her request for

transfer to Guwahati. After considering the representation, the Petitioner No.4 on 9.9.04 had issued a memo to the Respondent No.2 asking her to join her duty within 10 days from the receipt of the memo, but the Respondent No.2 had reported for duty to the Principal of the school a bit late for which the concerned Principal (Petitioner No.5) did not accept the joining report. Thereafter on representation of the Respondent No.2 for allowing a reasonable joining time, the Petitioner No.4 on 5.10.04 had finally directed the Respondent No.2 to join her duty at Tezpur KV No.1 by 29.10.04 failing which the loss of her lien to the post would stand confirmed and there would be no further correspondence in that respect. The respondent No.2 not having joined in duty as directed above her loss of lien stood confirmed on abandonment of her post and the Petitioner No.4 had intimated the same to the Respondent No.2 per memo dated 2.11.04 and as such there was no illegality.

A copy of the written statement is annexed herewith and marked as Annexure-B.

5. That after hearing the parties and perusing the records the learned Central Administrative Tribunal Guwahati Bench, Guwahati by judgment and order dated 2.1.08 passed in Original Application No.194/2006 has allowed the case of the (applicant)/Respondent No.2,

set-aside the impugned orders of loss of lien on post, its confirmation and the order passed by the Appellate Authority and directed the Petitioners (Respondents in the O.A. Case) to treat the applicant to be continuing in service and to consider her case for voluntary retirement.

A copy of the said judgment and order dated 2.1.08 has been annexed hereto as Annexure-C.

6. That the Petitioners state that the leave of the Respondent No.2 since 1.9.03 not having been granted and respondent No.2 not having attended her duty since that day till passing of the order confirming the loss of lien ~~or~~ on the post, the said absence has amounted to unauthorized absence as per provision of the Code of KVS.

7. That the Petitioners state that the Petitioner no.5 did not find the Respondent No.2 entitled to have granted EOL w.e.f. 1.9.03 and as such she was asked to resume her duty but, she did not do so.

8. That the Petitioners state that in the original application the Respondent No.2/(Applicant) has not sought any relief in respect of voluntary retirement from service.

9. That the Petitioners submits that the learned Tribunal has committed error of law apparent on the face of the records in passing the impugned judgment and order and as such the said judgment and order is liable to be set aside/quashed.

10. That the petitioners submit that the respondent No.2/(Applicant) not having sought for any relief in her original application in respect of voluntary retirement from service, the learned Tribunal has acted beyond its jurisdiction by granting relief on that Court also.

11. That the Petitioners submit that the EOL since 1.9.03 apparently not having been granted by the authority, the absence of the Respondent No.2/(Applicant) from duty became unauthorized and as per provision of Article 81(d)(1) she had provisionally lost her lien on her post.

12. That the Petitioners submit that the learned Tribunal while passing the impugned judgment has misinterpreted the provisions of Article 81 of the Education Code of KVS and wrongly applied the same in the facts of the case.

13. That the Petitioners submit that, being apparent on the face of the records that the respondent No.2/(Applicant) had applied for leave for the month of

September on 4.9.03, for the month of October on 8.10.03 and for the month of November on 7.11.03, her absence apparently amounted to unauthorized even on the date/dates of submitting the leave application and so she has lost her lien on her post in view of Article 81 (d) (1) of the KVS Education Code.

14. That the Petitioners submit that if being apparent on the face of the records that despite her unauthorized absence for a long period, the authorities have considered her case sympathetically and allowed her to join in her duty on 2 (two) occasions which she did not do, the Petitioners (Respondents in O.A.) had no other alternative but to invoke the provisions of Article 82 (d) of the Education Code of KVS and in that way the Respondent No.2 had lost her lien on her post.

15. That the Petitioners submit that while intimating about the order of provisional loss of lien, the Respondent No.2/(Applicant) was also given full opportunity to submit her show-cause as provided under Article 81 (d) of the Education Code and considering the representation submitted by the Respondent No.2/ (Applicant) when it was found that there was no ground for reinstatement of the Respondent No.2 to her post, the authority had confirmed the loss of lien of the Respondent No.2 on her post which is to be deemed to have been removed from service.

16. That the Petitioners submit that the appellate authority has also considered the appeal submitted by the respondent No.2 in accordance with law by applying mind and as such there is no illegality in disposing of the appeal.

17. That the Petitioners submit that in view the facts and circumstances of the case as evident on the face of the records, the findings of the learned Tribunal that the decision of the Petitioners to force the Respondent No.2/(Applicant) to report to duty and the act of passing the order/orders of provisional loss of lien on the post and its confirmation are arbitrary, hasty and miscarriage of justice, are not maintainable and the impugned judgment and order passed by the learned Tribunal on the basis of the said finding is illegal and liable to be quashed.

18. That the Petitioners submit that in view of the matter the impugned judgment and order passed by the learned Tribunal is illegal and as such same is liable to be quashed.

19. That the Petitioners submit that in processing the matter in different offices of the Department, it took sometime and as such there is a bit delay in filing this petition which is unintentional and unavoidable and the Petitioners may be excused therefore.

20. That the Petitioners submit that during pendency of this writ petition if the operation of the impugned judgment and order dated 2.1.08 passed by the learned Tribunal is not suspended/stayed, there will be administrative difficulties of the part of the Petitioners and the writ petition will also be anfractuous.

21. That there is no other alternative remedy and the remedy sought for in this petition is just, proper and adequate.

22. That the petition is made bonafide and for the interest of justice.

In the premises aforesaid it is respectfully prayed that this Hon'ble Court would be pleased to call for the records of the case, issue a Rule calling upon the Respondents to show-cause as to why a writ of certiorari or like nature should not be issued setting aside/quashing the impugned judgment and order dated 2.1.08 passed by the learned Central Administrative Tribunal, Guwahati Bench, Guwahati in O.A. No.194/06 and/or as to why any other appropriate writ/writs and/or order or Direction which would give

complete relief to the Petitioners should not be issued and after perusing the records and causes as may be shown and hearing the parties make the Rule absolute and/or pass such further or other order/orders as to which this Hon'ble Court may deem fit and proper.

-And-

Pending disposal of the Rule, this Hon'ble Court may further be pleased to suspend/stay the operation of the impugned judgment and order dated 2.1.08 passed by the learned Central Administrative Tribunal, Guwahati Bench, Guwahati in O.A. No.194/2006.

And for this, the petitioner as in duty bound shall ever pray.

.....Affidavit.....

A F F I D A V I T

I, Shri U.N. Khaware, son of Sri Jagat Narayan aged about 48 years, by religion Hindu, by profession Service in Kendriya Vidyalaya Sangathan, at present residing at Khanapar, Guwahati-22, Dist.- Kamrup (Metro) Assam do hereby solemnly affirm and state as follows.

1. That I am now serving as the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Guwahati Region and Petitioner No.4 in this writ petition. I have been taking steps in the case on behalf of all the petitioners and as such I am well acquainted with the facts and circumstances of the case.
2. That the statements made in this affidavit and in paragraphs 19 to 22 of this writ petition are true to my knowledge, those made in paragraphs 1 to 8 thereof being matters of records are true to my information derived therefrom which I believe to be true and the rest thereof are my humble submissions before this Hon'ble Court.

And, I sign this affidavit on this 13th day of May, 2008 at Guwahati.

Identified by

DEPONENT

Advocate's Clerk

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Ans + C

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No.194 of 2006

Date of Order: This the 2nd day of January 2008

The Hon'ble Shri M.R. Mohanty, Vice-Chairman

The Hon'ble Shri Khusiram, Administrative Member

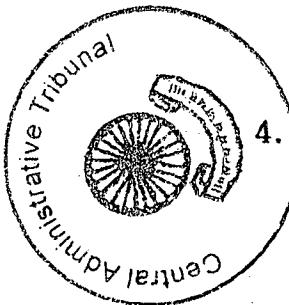
Smt Jayanti Deb Roy
Wife of Panna Kanti Roy,
House No.40,
Basishtanagar Road,
Guwahati.Applicant

By Advocates Mr N. Choudhury,
Mr S.K. Ghosh and Mr S. Nath.

- versus -

1. The Union of India, represented by
The Secretary to the Government of India,
Ministry of
2. Kendriya Vidyalaya Sangathan
Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi-110016.
3. Commissioner
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi-110016.
4. Joint Commissioner (Admin.)
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Mrg,
New Delhi - 110016.
5. Assistant Commissioner, KVS,
Regional Office,
Guwahati.
6. Principal,
Kendriya Vidyalaya No.1,
Tezpur.Respondents

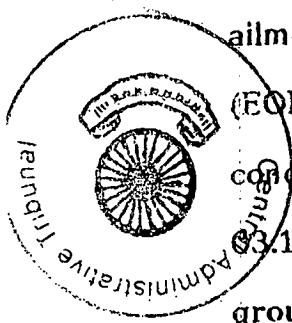
By Advocate Mr M.K. Mazumdar, Standing Counsel, KVS.



ORDERM.R. MOHANTY (VICE-CHAIRMAN)

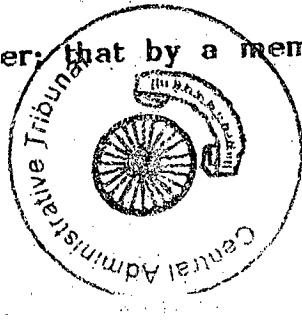
Applicant, a Teacher (PRT) in Kendriya Vidyalaya Sangathan (KVS), having faced termination from her services (after long 24 years of her employment in KVS) under Article 81 (d) of the Education Code of KVS, on 02.11.2004, preferred an Appeal and, her said Appeal having been rejected on 01.07.2005, she has approached this Tribunal with the present Original Application filed under Section 19 of the Administrative Tribunals Act, 1985.

2. The case of the Applicant is that she joined as a PRT in KVS on 01.08.1980 and posted at Tezpur KVS-1; that during October 1982 she was transferred to KVS- Khanapara (where she worked till June 2000); that, thereafter, she joined KVS- Digaru, on 01.07.2000, on transfer; that, on 21.04.2003, she joined in KVS- Tezpur on transfer; that, while working at Tezpur, she fell ill owing to various ailments, which compelled her to proceed on Extra-ordinary leave (EOL), on medical grounds, since 01.09.2003; that, since her condition did not improve, she submitted applications (on 04.10.2003, 03.11.2003 & 03.12.2003) seeking extension of leave on medical grounds; that she also submitted an application on 24.11.2003 seeking her transfer/posting at Guwahati (with alternate prayer to treat her said application as a resignation w.e.f. 01.12.2004; in the event her prayer for posting at Guwahati is not considered favourably) and that, by a communication dated 01.01.2004, the Assistant Commissioner informed that prayer for transfer and resignation was not available to be inter-linked for which different applications to different authorities was to be made; that thereafter she submitted a



[Signature]

fresh and un-conditional prayer on 10.02.2004, for her transfer to Guwahati and submitted a reminder on 28.04.2004; that, without giving any sympathetic consideration, by an order dated 04.08.2004 a notice was issued to her to show-cause as to why her loss of lien (in employment) should not be confirmed under Article 81 (d) of the Education Code of KVS; that in reply to the said show-cause notice, the Applicant, in her representation that was filed on 16.08.2004, once again reiterated the prayer for her posting at Guwahati; that, thereafter, the Assistant Commissioner of KVS, on 09.09.2004, issued a memorandum intimating that (a) her prayer for transfer or resignation could not have been combined and (b) that her absence from 01.09.2003 stood treated as un-authorized absence and (c) that her application for transfer was not submitted by due date (although, under the transfer-guidelines dated 02.07.2004; issued, by the Joint Commissioner (Admn) of KVS, for the year 2004-05; sympathetic consideration of the prayers of teachers for transfer was assured) and (d) finally she was asked to resume duty within 10 days; that the said memorandum dated 09.09.2004 of the Assistant Commissioner of KVS was forwarded to the Applicant by the Principal under a forwarding letter dated 14.09.2004 by Registered Post; that on receipt of the said letter dated 14.09.2004 and memorandum dated 09.09.2004, she went to the School and submitted her joining report to the Principal of the School on 24.09.2004; that the Principal of the School, having refused to receive the joining letter, asked her to obtain a fresh order; that in the said premises, she (on the same day) faxed a letter to the Assistant Commissioner seeking intervention; that on 08.10.2004 she, again, submitted an application seeking intervention of the Assistant Commissioner; that by a memorandum dated 15.10.2004 sent by



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Registered Post (received by the Applicant in the afternoon of 29.10.2004) the Assistant Commissioner intimated that (a) the Applicant reported for joining at 12.10 P.M. at the Vidyalaya, (b) insisted for treating her joining in the forenoon, (c) did not wait for fax message from Assistant Commissioner on 24.09.2004 (d) did not report to duty despite telephonic message of the Principal, on 24.09.2004 and 28.09.2004, to join and (e) finally, directed her that, unless she reported to duty at KVS No.1 at Tezpur by 29.10.2004, loss of her lien to the post (as given out in letter dated 04.08.2004) would be confirmed; that the said Registered letter was posted on 18.10.2004 and received by her on 29.10.2004; that she sent a representation on 29.10.2004, by Registered Post, seeking a reasonable time to resume duty and that, by a memorandum dated 02.11.2004, the Assistant Commissioner at Guwahati intimated her about confirmation of loss of her lien on her abandonment of her post of PRT; that Applicant having been permitted to join her duties vide letter dated 09.09.2004 and the Applicant having reported for joining on 24.09.2004 within 10 days of receipt of the said letter, the Assistant Commissioner committed injustice in holding that the Applicant had abandoned her service and, as such, the impugned action of throwing the Applicant out of service in colourable exercise of power is arbitrary, illegal and in violation of principles of natural justice and that the Appellate Authority, on 01.07.2005, confirmed the orders of the Assistant Commissioner.

3. The Respondents filed a written statement; relevant portion of which reads as under:—

"Mrs Jayanti Deb Roy, Ex. PRT, joined K.V. No.1 Tezpur on 21.4.03. On 23.6.03 she made application for voluntary retirement followed by another Letter dtd. *[Signature]*

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3.7.03 only due to domestic reasons. She was granted E.L. from 16.7.03 to 26.7.03 on Medical ground and she resumed duty on 28.7.03. On 4.8.03 she was conveyed the decision against her application for voluntary retirement (vide Application dated 29.8.03) which could not be allowed.

Thereafter she applied for 15 days E.O.L. from 1.9.03.

Thereafter (on the strength of medical certificate dated 4.9.03) she applied for 1 months EOL w.e.f. 1/9/03.

Thereafter again (on the strength of medical certificate dated 6.10.03) she again applied for E.O.L. vide application dated 8.10.03 to avail leave w.e.f. 1/10/03 to 31.10.03 on medical ground.

She again applied for E.O.L. for another 30 days i.e. from 1.11.03 to 30.11.03 by sending a Telegram.

The E.O.L. for these period was not granted and a Telegram was sent on 10.11.03 asking her to join duty immediately.

Another telegram was sent on 1.7.04 asking her to join.

But she did not join and remained absent without grant of leave.

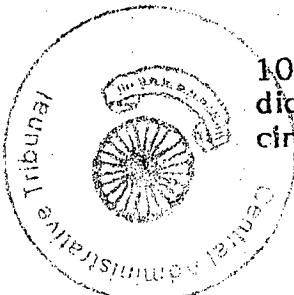
The applicant, as stated above, as conveyed the decision against her application for allowing voluntary retirement, which could not be allowed, initially availed earn leave and thereafter absented herself without permission and irrespective of the telegram dated 11.10.03 asking her to join duty immediately.

Another telegram was sent to her again on 01.7.2004 asking her to join duty.

She did not joined duty and remained absent without granting leave.

The Applicant had applied through her letter dated 24.11.2003 for posting in any Kendriya Vidyalaya at Guwahati or the letter may be treated as resignation w.e.f. 01.12.2003. She was informed vide this office letter dated 1.1.2004 that request for transfer and resignation can not be combined together.

Mrs Roy applied for transfer vide her letter dated 10.2.2004 to a Kendriya Vidyalaya in Guwahati. But she did not apply for transfer in the prescribed format circulated by KVS for Annual Transfer. Her case was



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considered by the competent authority and disposed of vide this office memo dtd. 9.9.2004.

One more opportunity to join duties by 29.10.2004 by the Assistant Commissioner, KVS, (GR), vide Memo dated 18.10.2004 but she did not join duties by 29.10.2004.

The applicant reported for duty on 24.9.2004 at 12.10 P.M. and insisted that the reporting time be written as forenoon which was not accepted by the Principal and on that ground she was not allowed to join duty on that day. Thereafter she faxed a letter to the Regional Office at 1.41 P.M. seeking directions to Principal to allow her to join duty. On the same day i.e. on 24.9.2004 from this office reply was sent by fax to the Principal Kendriya Vidyalaya No.1, Tezpur to allow her to join duty. The Principal informed her telephonically on 24.9.2004 and 28.9.2004 to join duties but she did not join duty. The averment made by the applicant is denied. She was given reasonable time and opportunities to join her duties, but she chose not to join. In view of the above, the competent authority has come to the conclusion that she has voluntarily abandoned her service of KVS and action taken as per article 81 (d) of the Education Code of KVS.

She was granted E.L. from 16.7.2003 to 26.7.2003 on Medical Ground. She applied for E.O.L. from 1.9.2003 to 30.9.2003 and extended her E.O.L. from 1.10.2003 to 31.10.2003 on Medical Ground. She again applied from 1.11.2003 to 30.11.2003 by sending a telegram. The E.O.L. from 1.9.2003 to 30.11.2003 was not granted and the disciplinary authority directed her to join duty immediately vide telegram dated 10.11.2003 and again on 17.2.2004."

4. In course of hearing, being called upon, the Counsel for the Respondents/KVS produced the Departmental Records before us; which go to show that, on 23.06.2003, the Applicant submitted an application to take VRS and, on 03.07.2003, the Applicant agreed in writing to waive the notice period (for VRS) by foregoing one month salary. On 04.07.2003, the Principal of KV/Tezpur forwarded the said representation of the Applicant (for VRS) to the Assistant Commissioner of KVS at Guwahati. On 18.07.2003, the Assistant Commissioner of KVS/Guwahati asked for more details about the Applicant (to give consideration to the VRS notice) from the Principal

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of the School. On 26.07.2003, the details were furnished by the Principal. On 04.08.2003, the request of the Applicant to take VRS was turned down. The text of the rejection order dated 04.08.2003 reads as under:

"Subject : Application of Mrs. J.D. Roy, PRT for VRS -
reg.

Sir,

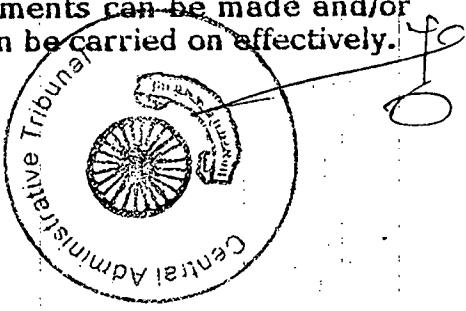
I am to refer to your letter No.F.6(B)/KVT/2003 04/338, dated 26.07.2003 on the subject cited above and to say that Mrs. J.D. Roy's application has been considered sympathetically but could not be acceded to since being CPF optee has not attained the age of 55 years as per FRSR 56(k)(i).

She may be in-formed accordingly."

Thus the prayer of the Applicant to go on Voluntary Retirement was turned down on the ground that she having opted for CPF benefits and having not attained 55 years of her age, as per FRSR 56(k)(i). Since the date of birth of the Applicant is 10.05.1952, she was little more than 50 years old and since she joined KVS Services on 01.08.1980, she had, by the time of tendering notice to take VRS, served the KVS for little more than 22 years. Article 55 of KVS Education Code, which deals with "Resignation and Voluntary Retirement", reads as under:

"55 Resignation and Voluntary Retirement

(a) In cases where an employee tenders resignation and seeks to be relieved before the expiry of one month from the date of notice the appointing authority has the discretion either to insist of full month's notice or to relieve the employee before the end of the notice period without asking for payment of salary in lieu of notice, provided that the appointing authority is satisfied that alternative arrangements can be made and/or Vidyalaya's work can be carried on effectively.



(b) The employees of the Sangathan who had put in not less than 20 years of qualifying service may seek voluntary retirement by giving 3 months notice in writing to the Appointment Authority to retire from service voluntarily as per the provisions of Rule 48-A of the CCS (Pension) Rules, 1972."

Rule 48-A of CCS (Pension) Rules, 1972 (which is applicable to Government Servants and, for the reason of Article 55 of KVS Education Code, extended to the members of the staff of KVS) reads as under:

"48-A Retirement on completion of 20 years' qualifying service

(1) At any time after a Government servant has completed twenty years' qualifying service, he may, by giving notice of not less than three months in writing to the Appointing Authority, retire from service.

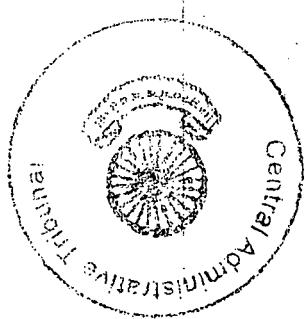
Provided that this sub-rule shall not apply to a Government servant, including scientist or technical expert who is -

- (i) on assignments under the Indian Technical and Economic Co-operation (ITEC) Programme of the Ministry of External Affairs and other such programmes.
- (ii) posted abroad in foreign based offices of the Ministries/Departments,
- (iii) on a specific contract assignment to a foreign Government,

unless, after having been transferred to India, he has resumed the charge of the post in India and served for a period of not less than one year.

(2) The notice of voluntary retirement given under sub-rule (1) shall require acceptance by the Appointing Authority.

Provided that where the Appointing Authority does not refuse to grant the permission for retirement before the expiry of the period specified in the said notice, the retirement shall become effective from the date of expiry of the said period.



(3) Deleted

(3-A) (a) A Government servant referred to in sub-rule (1) may make a request in writing to the Appointing Authority to accept notice of voluntary retirement of less than three months giving reasons therefor;

(b) On receipt of a request under Clause (a), the Appointing Authority subject to the provisions of sub-rule (2), may consider such request for the curtailment of the period of notice of three months on merits and if it is satisfied that the curtailment of the period notice will not cause any administrative inconvenience, the Appointing Authority may relax the requirement of notice of three months on the condition that the Government servant shall not apply for commutation of a part of his pension before the expiry of the period of notice of three months.

(4) A Government servant, who has elected to retire under this rule and has given the necessary notice to that effect to the Appointing Authority, shall be precluded from withdrawing his notice except with the specific approval of such authority:

Provided that the request for withdrawal shall be made before the intended date of his retirement.

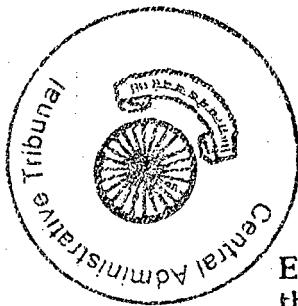
(5) The pension and (retirement gratuity) of the Government servant retiring under this rule shall be based on the emoluments as defined under Rules 33 and 34 and the increase not exceeding five years in his qualifying service shall not entitle him to any notional fixation of pay for purposes of calculating pension and gratuity.

(6) This rule shall not apply to a Government servant who-

(a) retires under Rule 29, or

(b) retires from Government service for being absorbed permanently in an Autonomous Body or a Public Sector Undertaking to which he is on deputation at the time of seeking voluntary retirement.

EXPLANATION.- For the purpose of this rule, the expression "Appointing Authority" shall mean the authority which is competent to

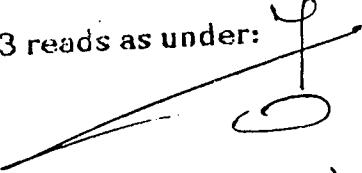
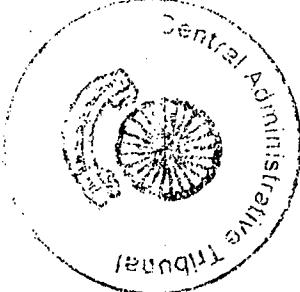


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make appointments to the service or post from which the Government servant seeks voluntary retirement."

Thus, the reasons, for which the prayer (of the Applicant to take VRS benefits) was turned down, was/is not sustainable; as no materials have been placed on record/shown at the hearing (although pointedly asked to the Advocate for the Respondents) that provisions of Rule 56(k)(i) of FRSR (which are applicable to Government Servants) was applicable, by adoption, to the members of the staff of KVS; which is an autonomous body ^{and} ^{only} [^] [#] amenable to our adjudicatory jurisdiction [^] [#] for the reason of Government of India Notification.

5) The materials placed on record (from the Department file produced by the Counsel for the Respondents) go further to show that, the Applicant joined as PRT, on transfer, at KV/Sezpur on 21.01.2003. She, later, proceeded on leave (on medical grounds) from 16.07.2003 to 26.07.2003 and resumed duty on 28.07.2003. For the reason of her sickness, she had to remain absent from 01.09.2003 and applied for (Extraordinary) leave on 04.09.2003 seeking leave with effect from 01.09.2003. On 08.10.2003 she again applied for leave w.e.f. 01.10.2003 on medical ground. On 07.11.2003, she again sought extension of leave on medical ground. The text of the leave application dated 07.11.2003 reads as under:

7/4

"To,
 The Principal,
 K.V. No.1,
 Tezpur.

Sub: Prayer for extension of E.O.L.

Date: The 7th November, 2003.

Respected Sir,

With due honour, I would like to inform you that, I had applied for extension of E.O.L. on 08/10/2003 for 4 (four) weeks on Medical ground.

On completion of the above period, after necessary Medical checkup it is found that, I am not completely fit to join my duties immediately.

In view of the above, I would like to request your goodself to extend my leave (E.O.L.) for another 4 (four) weeks commencing from 1st November, 2003, and also allow me to remain out of the station for the above period.

Thanking you,

Medical certificate enclosed.

Yours faithfully,

(Mrs. Jayanti D. Roy)
 P.R.T. (on leave)
 K.V. No.1, Tezpur."

On each occasion, she furnished medical certificates in support of her sickness/prayer for leave. Despite supporting Medical Certificates, the prayer for grant of Extraordinary leave (i.e. leave without pay) was turned down by the Principal of KVS/Tezpur on 10.11.2003. On the margin of the leave application dated 07.11.2003, the endorsement (dated 10.11.2003) of the Principal of the School reads as under:

"Leave not granted.

A telegram sent to the teacher
 Today asking her to join duty
 Immediately."

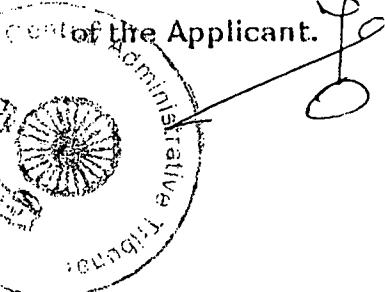


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There are no materials available on record to show the reason as to why the Principal of the KVS/Tezpur refused to grant leave on medical grounds. On the face of the supporting medical certificates (made available with the leave application, which is in the records produced by the Advocate for the Respondents/KVS); the Principal of KVS/Tezpur could not have decided to send a telegram to the Applicant forcing her to report to duty. Such decision of the Principal of KVS/Tezpur to force the Applicant to report to duty (on the face of Medical Officer's opinion to remain on rest), in our considered opinion, was nothing but a result of gross miscarriage of justice and not sustainable in the eye of law.

6) It also appears from the materials available in the Departmental file that, on 24.11.2003, the Applicant submitted a representation for posting her (on transfer) at Guwahati or to treat the said representation as her resignation, which was forwarded by the Principal on 03.12.2003. The said prayer, in our considered view, was rightly rejected on 01.01.2004; as a conditional resignation could not have been accepted. But nothing was stated therein about her original prayer for a posting (on transfer from Tezpur) at Guwahati.

It is also seen from the records that the Applicant submitted representations, on 10.02.2004 and on 23.04.2004, seeking her transfer to Guwahati; which also did not receive consideration (only on very hyper-technical ground of not making the prayer for transfer in time) and, the authorities, in our considered view, ought to have given consideration in the matter, for the reason of the sickness



7) It also appears from the materials made available in the Departmental File produced by the learned Counsel appearing for the Respondents that, after sending telegram to the Applicant (intimating her about refusal of the prayer for EOL/leave on medical grounds and asking her to report to duty) and after forwarding the representation of the Applicant for a transfer to Guwahati etc. (which was rejected) the Principal of KVS/Tezpur reported the matter to the Assistant Commissioner of KVS/Guwahati (in his letter dated 27.07.2004) and the said report led to starting of a proceeding under Article 81(d) of KVS Education Code.

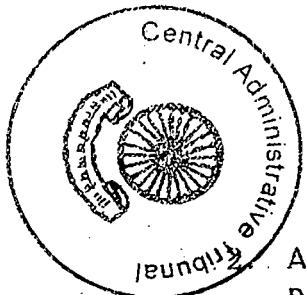
Relevant portion of Article 81(d) of the Education Code of KVS reads as under:

"81(d) Voluntary Abandonment of Service

The KVS vide letter F.No.11-12-/2000 – KVS(Vig.) dted 4.9.2002 has conveyed the following decision on

- 1) If an employee has been absent/remains absent without sanctioned leave or beyond the period of leave originally granted or subsequently extended, he shall provisionally lost his lien on his post unless:
 - (a) he returns within fifteen calendar days of the commencement of the absence or the expiry of leave originally granted or subsequently extended, as the case may be; and
 - (b) satisfies the appointing authority that his absence or his inability to return on the expiry of the leave as the case may be was for reasons beyond his control. The employee not reporting for duty within fifteen calendar days and satisfactorily explaining the reasons for such absence as aforesaid shall be deemed to have voluntarily abandoned his service and would thereby provisionally loss lien on his post.

An employee, who has provisionally lost lien on his post in terms of the aforesaid provisions, shall not be entitled to the pay and allowances or any other benefit after he has provisionally lost lien on his post;



[Handwritten signature/initials over the stamp]

Provided that payment of such pay and allowances will be regularized by such directions as the appointing authority may issue while ordering reinstatement of the employee in terms of Sub-Clause (6) of this Article.

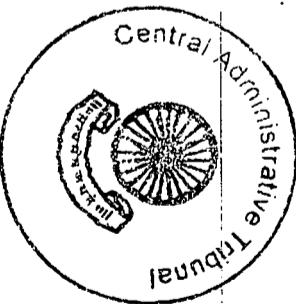
3. In cases falling under Sub-clause (1) of this Article, an order recording the factum of voluntary abandonment of service by the employee and provisional loss of his lien on the post, shall be made and communicated to the employee concerned at the address recorded in his service book and/or his last known address, to show cause why the provisional order above mentioned may not be confirmed.
4. The employee may make a written representation to the appointing authority, within ten days of receipt of the order made under sub-clause (3).
5. The appointing authority may on receipt of the representation, if any, and perusal of materials available on record as also those submitted by the employee, grant, at his discretion, an oral hearing to the employee concerned to represent his case.
6. If the appointing authority is satisfied after such hearing that the employee concerned has voluntarily abandoned his service in terms of the provisions of Sub-clause (1) of this Article, he shall pass an order confirming the loss of employee's lien on his post, and, in that event, the employee concerned shall be deemed to have been removed from the service of the Kendriya Vidyalaya Sangathan with effect from the date his remaining absent in. In case the appointing authority is satisfied that the provisions of Sub-clause (1) of Clause (d) of this Article are not attracted in the facts and circumstances of the case, he may order reinstatement of employee to the post last held by him, subject to such directions as he may give regarding the pay and allowances for the period of absence."

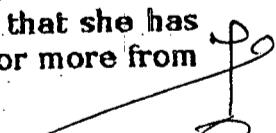
On 04.08.2004, the Assistant Commissioner of

KVS/Guwahati passed the following orders:

"SUB:- ORDER OF PROVISIONAL LOSS OF LIEN ON POST HELD AND SHOW-CAUSE NOTICE UNDER ARTICLE 81(d)(3) OF THE EDUCATION CODE FOR CONFIRMATION THEREOF.

Smt J.D. Roy, PRT is hereby informed that she has remained absent for a period of fifteen days or more from





01-09-2003 till date without sanctioned leave or beyond the period of leave originally granted or subsequently extended. Smt J.D. Roy, PRT has neither reported for duty within the aforesaid period of 15 calendar days nor satisfactorily explained the reasons for her absence in terms of sub Clause (1) of Clause (d) of Article 81 of the Education Code, she is deemed to have Voluntarily abandoned her service and thereby provisionally lost lien on her post.

As required under Sub-Clause(3) of Clause(d) of Article 81, this order is hereby made recording the factum of Voluntary abandonment of service by Smt J.D. Roy and provisional loss of her lien on PRT and the same is hereby communicated to her accordingly.

As further required under Sub-Clause(3) of Clause(d) of Article 81, Smt J.D. Roy, PRT is hereby given the opportunity to show cause as to why the aforesaid order of provisional loss of lien should not be confirmed.

Smt J.D. Roy, PRT may make written representation to the undersigned within 10 days of the receipt of this order failing which an order shall be passed confirming loss of lien on the post held by her and in that case, she shall be deemed to have been removed from the service of the Kendriya Vidyalaya Sangathan as per the Provisions of Article 81(d)."

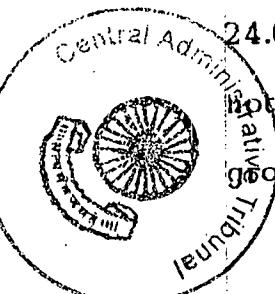
Thus, it appears that by treating the absence from 01.09.2003 (without sanction of leave, for which written applications were submitted), of the Applicant, the Assistant Commissioner initiated a proceeding under Article 81(d) of KVS Education Code against her. While initiating the proceeding in his order dated 04.08.2004, the Assistant Commissioner assessed the said absence as a deemed abandonment of the services by the Applicant; because, as per the Assistant Commissioner, the Applicant failed "to satisfactorily explain the reasons for her absence". In the said order, the Applicant was, however, given an opportunity to show cause as to why provisional loss of her lien in the post of PRT should not be confirmed and she was asked to make representation within 10 days.

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8. The prima-facie view (for which a provisional loss of lien order was passed and a post-decisional opportunity was given) that the Applicant remained absent for unexplained reasons, as has been depicted in the preliminary order dated 04.08.2004, in our considered view, was an outcome of non application of mind; because the records go to show that the Applicant proceeded on leave on medical ground (and also produced supporting medical certificates, on each occasion; even while seeking extension of leave without pay/EOL) right from 01.09.2003 and the same was rejected (which, we have already assessed as an unjust act of the Principal of KVS/Tezpur) and, on the face of the said materials available on the records, the Assistant Commissioner of KVS/Guwahati could not have treated the absence to be unexplained. That apart, before issuance of the Order dated 04.08.2004, no explanations were called for from the Applicant to explain the reasons of her absence from 01.09.2003.

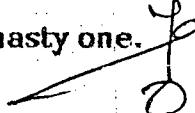
9. It appears from the records that, on receipt of above order dated 04.08.2004, the Applicant submitted a reply on 16.08.2004 and, on receipt of the same, the Assistant Commissioner of KVS/Guwahati asked the Applicant (by his Memorandum dated 09.09.2004) that "in case she does not resume her duties within 10 days", the provisional loss of lien shall be confirmed and, on receipt of the said Memorandum dated 09.09.2004, the Applicant reported to duty, on 24.09.2004, in KV/Tezpur but she was not allowed to resume duty by the Principal, which factum was intimated to the Assistant Commissioner of KVS/Guwahati over fax message sent on the same 24.09.2004 from Tezpur. This action of the Principal of KV/Tezpur (in not allowing the Applicant to resume duty on 24.09.2004), on technical ground, which resulted in arbitrary termination of services of the



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Applicant; which powers were not available with the Principal and, therefore, rightly there were immediate instructions (over fax message) from the end of the Assistant Commissioner of KVS/Guwahati (to the Principal of KV/Tezpur) to allow her (Applicant) to resume duty/accept her joining report. There are, of course, some confusions in accepting the fact that the Principal contacted the Applicant over telephone, on 24.09.2004 and 28.09.2004, to resume duty (after the Fax-instructions of the Assistant Commissioner on 24.09.2004); on the face of the fact that, without hearing from Principal/Assistant Commissioner, the Applicant submitted a representation (apart from the one she sent over fax on 24.09.2004) on 08.10.2004 to the Assistant Commissioner of KVS/Guwahati; which is available in the records of the Respondent Organisation. In any event, the Assistant Commissioner of KVS/Guwahati, by his communication dated 15/18.10.2004 rightly gave another opportunity to the Applicant to resume duty by 29.10.2004 under the pains of confirmation of the loss of lien. This letter dated 15/18.10.2004 of the Assistant Commissioner of KVS/Guwahati (sent by Registered Post) reached the Applicant, in fact, on 29.10.2004 itself; for which she could not report to duty on the stipulated date (29.10.2004) at Tezpur. The Applicant intimated the said fact, in writing, to the Assistant Commissioner of KVS by her letter dated 29.10.2004 (reached in the Office of the Assistant Commissioner of KVS on 03.11.2004) seeking an extension of time to resume duty. On the other hand, on receipt of a report dated 02.11.2004 (over fax message) of the Principal of the KV/Tezpur about non-resumption of duty by the Applicant, the Assistant Commissioner of KVS passed the final order on 02.11.2004 itself; which action was, apparently, a hasty one.



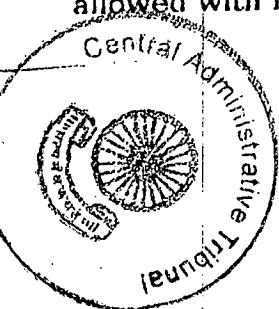
10. In all fairness of things, the Assistant Commissioner of KVS/Guwahati, before passing of the final order on 02.11.2004, ought to have ensured from postal authorities as to whether the Registered letter dated 18.10.2004 was served on the Applicant or not in time. Since the Assistant Commissioner did not do so, in our considered view, a miscarriage of justice crept in to the decision making process and there has been an injustice in passing of the final order that was issued on 02.11.2007.

11. Having heard the learned Counsel for both parties, on perusal of the materials placed on record and upon giving full consideration in the matter (as discussed in the foregoing paragraphs); we hold, finally, that refusal to accept the prayer of the Applicant to go on Voluntary Retirement; the refusal to accept the prayer of the Applicant to remain on leave on medical ground and the final view that she abandoned employment were bad and not sustainable on the touch stone of present judicial scrutiny. As a consequence, the impugned orders dated 16.08.2004, 02.11.2004 and 01.07.2005 are set aside and the Respondents are directed (a) to treat the Applicant to be continuing in service and to give her a posting and (b) to consider her case to grant her Voluntary Retirement (by taking into consideration the long period of service rendered by her in the KVS), if she makes an application to that effect. This case is, thus, allowed with no order as to cost.

TRUE COPY
प्रतिलिपि

अनुमान अधिकारी
Section C. 1. 1. 1. 1
Central Administrative Tribunal
गुवाहाटी बायरी
GUWAHATI BENCH
गुवाहाटी/Guwahati-5

Sd/-
Manoranjan Mohanty
Vice Chairman
Sd/-
Kushiram
Member (A)



IN THE GAUHATI HIGH COURT

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

CIVIL APPELLATE SIDE

Appeal from

Civil Rule

WOP (C) No. 1882 2008

Xenobrya Vidyalaya Sangha Khan

Appellant

Petitioner

Central Administrative Tribunal vs

Respondent

Opposite Party

Appellant
For

Mr. B. K. Mallick (Adv)

Petitioner

Mr. M. K. Majumdar

Respondent

For Opposite Party Fest. 16/1/2008

Nothing by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
	2	3	4

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
Central Administrative Tribunal केन्द्रीय प्रशासनिक अधिकरण 8M - 1 JUL 2008 Guwahati Bench गुवाहाटी न्यायपीठ	2	3	4. W.P(Q) 1882/08
			BEFORE HON'BLE THE CHIEF JUSTICE MR. J. CHELAMESWAR HON'BLE MR. JUSTICE HRISHIKESH ROY
		19.05.2008 [Chelameswar CJ]	
		Heard Mr. B.Kalita, learned Senior Counsel appearing for the appellant.	
		Admit issue notice.	
		Learned Central Govt Standing Counsel accepts notice on behalf of Respondent No.3. The petitioner shall take steps for service on Respondent Nos.1 and 2 by registered post with A/D.	
		There shall be interim suspension of the judgment and ordered dated 02.01.2008 passed by the Central Administrative Tribunal, Guwahati Bench, Guwahati in O.A.No.194/2006.	

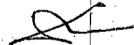
Sd/Hrishikesh Roy
Judge

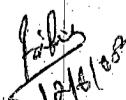
Sd/J. Chelameswar
Chief Justice

Memo No 2397 - 403 /wpcdated 12.6.08
Copy forwarded for information & necessary action to:

1. Kendriya Vidyalaya Sangathan, 18, Institutional Area, Saheed Jeet Singh Marg, New Delhi-110016
2. The Commissioner, Kendriya Vidyalaya Sangathan, 18, Institutional Area, Saheed Jeet Singh Marg, New Delhi-110016
3. The Joint Commissioner (Admn), Kendriya Vidyalaya Sangathan, 18, Institutional Area, Saheed Jeet Singh Marg, New Delhi-110016
4. The Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Guwahati, Khanapara, Jawahar Nagar, Guwahati-22
5. The Principal, Kendriya Vidyalaya No.1, Tezpur, Dekargaon
6. The Central Administrative Tribunal, Guwahati Bench, Rajgarh Road, Bhangarh, Guwahati-781005
7. The Secretary to the Govt of India, Ministry of Human Resource Development, New Delhi-110001

By Order


Asstt. Registrar (I&E)


12/6/08

Memo no HC XXII 2305/WP dttd 16/8/16

BY REGD. POST WITH A/D

Civil Form No.28

for service on Respondent No.

WP(C) No.1882/2008

CENTRAL ADMINISTRATIVE TRIBUNAL
केन्द्रीय प्रशासनिक अधिकारी
DAIRY NO./दायरी सं.....
687 23 AUG 2016
GUWAHATI BENCH
गुवाहाटी न्यायालय
GUWAHATI-05/गुवाहाटी-05

IN THE GAUHATI HIGH COURT

(HIGH COURT OF ASSAM: NAGALAND: MIZORAM AND ARUNACHAL PRADESH)

(CIVIL EXTRA-ORDINARY JURISDICTION)

In the Matter:-

An application under Article 226 of the Constitution of India
praying for issuance of a Writ in the nature of Mandamus/
Certiorari and/or any other appropriate writ, order or
direction of like nature.

-And-

In the matter of Kendriya Vidyalaya Sangathan &ors Petitioner

-VS-

The Central Administrative Tribunal & 2 ors. Respondents

✓ 1. The Central Administrative Tribunal, Guwahati Bench,
Rajgarh Road, Bhangaghat, Guwahati- 781005.

Opposite Parties/Respondents

O.P.)

Take notice that an application, a copy whereof along with a copy of
this Court's order thereon are annexed hereto, has been filed by the above named
Applicant/Petitioner and that you are hereby called upon to show cause as directed
in the aforesaid Order within 14 days of service of this notice.

The Rule is made
Returnable by

By Order

BSamuel
16-8-16
Deputy Registrar (Judl.-I)
Gauhati High Court, Guwahati.

RTM on file
22/8
SO (T)
BGS 23/8
Khairey Thakuria
Done
Entyedone
23/8

Ch.
16/8/16

IN THE GAUHATI HIGH COURT

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

CIVIL APPELLATE SECTION

Appeal from
~~Civil Rule~~

WOP (es) No. 1882 of 2008

Kendriya Vidyalaya Sangathan Appellant
Petitioner 

Central Administrative Tribunal ^{Versus} I&B

Respondent

Opposite Party

For Appellant Mr. B. K. Valita (S)
Petitioner Mr. M. K. Majumdar

For Respondent N. Choudhury, S.C. Keyal } for Respd no. 2
Opposite Party Asstt. S G & S.K. Ghosh, S.P. Choudhury,
P. Goswami

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4

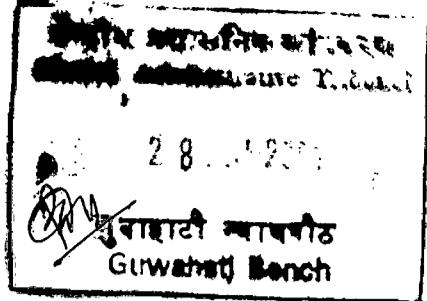
Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4
			W.P(Q) 1882/08
			<p style="text-align: center;">BEFORE HON'BLE THE CHIEF JUSTICE MR. J. CHELAMESWAR HON'BLE MR. JUSTICE HRISHIKESH ROY</p> <p>19.05.02008</p> <p>[Chelameswar CJ]</p> <p>Heard Mr. B.Kalita, learned Senior Counsel appearing for the appellant.</p> <p>Admit issue notice.</p> <p>Learned Central Govt Standing Counsel accepts notice on behalf of Respondent No.3. The petitioner shall take steps for service on Respondent Nos.1 and 2 by registered post with A/D.</p> <p>There shall be interim suspension of the judgment and order dated 02.01.2008 passed by the Central Administrative Tribunal, Guwahati Bench, Guwahati in O.A.No.194/2006.</p>

Sd- HRISHIKESH Roy
 Judge

Sd- J. CHELAMESWAR
C J

True Copy
16/8/18
Sd/-
Administrative Officer (Judi.)
Civil Rule (Pending) Section
Guahati High Court
Guwahati
16/8/18

Not to file
for Registration
Defective file



78

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH:
GUWAHATI

OA.....194...../2006

Smti. Jayanti Deb Roy

-vs-

Union of India & others

Synopsis and list of dates

That the applicant initially appointed as PRT in the KVs on 1.8.1980, thereafter she in various Kendriya Vidyalaya. On 21.4.2003 she was posted in KVS, Tezpur on transfer. After joining in the Tezpur the applicant feel seriously sick and to go her on Extra Ordinary Leave initially for 1 month since 1.9.2003. at the condition did not improve in the meantime she had to made prayer for extension of leave on medical grounds from time to time. Ultimately as the applicant health was not improved she filed an application on 24.11.2003 before the praying for posting at Guwahati on sympathetic consideration but to no effect. On 10.2.2004, 23.4.2004 filed another applications praying for transfer to Guwahati but the authority does not considering her case. Rather on 4.8.2004 respondent issued a show cause notice under Article 81(d)(3) of the Education code as if the applicant voluntarily abandoned her service and thereupon asked her to show cause as to why her loss of lien should not be forfeited. In reply thereto the applicant filed her representation on 16.8.2004 and thereby once again reiterated her prayer for posting at Guwahati but to no result.

On 9.9.2004 Assistant Commissioner issued memorandum that if the applicant does not resume her duties within 10 days on receipt of this provisional loss of lien issued vide this office letter dated 4.8.2004 shall be confirmed. The said memorandum dated 9.9.2004 forwarded to the applicant on 14.9.2004. Thereafter on 24.9.2004 submitted her joining report but the Principal refuses to accept the joining report. On the same day applicant communicated the matter of refusal to the Assistant commissioner through Fax. Thereafter she filed another application on 29.10.2004 before the Assistant Commissioner praying for give her reasonable time to join the KV, Tezpur. On reply to the Assistant Commissioner on 2.11.2004 issued a memorandum terminating the service of the applicant. Filed appeal before the appellate authority. On 1.7.2005 appeal was rejected. Finding no other alternative applicant approached before this Hon'ble Tribunal.

X

4.9.2003: Applicant filed leave application for grant E.L. on the ground of illness.
Annexure-1/page-12-14

8.10.2003: Applicant filed application praying for extension of earlier leave by annexing the medical certificate.
Annexure-2/page-15-17

7.11.2003: Another application praying for extension of leave for 4 weeks.
Annexure-3/page-18

24.11.2003: Application praying for either transfer to Guwahati due ground of various ailments or to treat this application as resignation thereof.
Annexure-4/page-19

1.1.2004: Education officer wrote a letter to the Principal KV, Tezpur that prayer transfer and resignation cannot be interlinked as these are done by different authorities and as such condition resignation cannot be accepted.
Annexure-5/page-20

10.2.2004: Applicant submitted another representation praying for transfer her to Guwahati.
Annexure-6/page-21

2.7.2004: Joint Commissioner issued transfer guild line for the academic year 2004-2005.
Annexure-7/page-22-23

4.8.2004: Assistant commissioner issued a order to the applicant showing cause under Article 81(d)(1). Order was issued that the applicant voluntary abandonment of service and provisional loss of her lien on PRT and the same is hereby communicated to the applicant and also to file to show cause as to why order of provisional loss of lien should not be confirmed.
Annexure-8/page-24

16.8.2006: Applicant filed reply.
Annexure-9/page-25-26

9.9.2004: Assistant commissioner issued memorandum that if the applicant does not resume her duties within 10 days on receipt of this provisional loss of lien issued vide this office letter dated 4.8.2004 shall be confirmed.
Annexure-10/page-27

14.9.2004: Memorandum dated 9.9.2004 forwarded to the applicant.
Annexure-11/page-28

24.9.2004: Applicant submitted her joining report but the Principal refuses to accept the joining report.
Annexure-12/page-29

24.9.2004: Applicant communicated the matter of refusal to the Assistant commissioner through Fax.

Annexure-13/page-30

24.9.2003: Joining report

Annexure-14/page-31

29.10.2004: Applicant filed a representation before the Assistant Commissioner praying for give her reasonable time to join the KV, Tczpur.

Annexure-15/page-32

2.11.2004: Assistant Commissioner issued a memorandum terminating the service of the applicant.

Annexure-16/page-33

Filed appeal before the appellate authority.

Annexure-17/page-34-40

1.7.2005: Appeal was rejected.

Annexure-18/page-41-43

Date

Filed by

()

Advocate

6

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. 194 /2006

Smti Jayanti Deb Roy. : Applicant.

-Versus-

Union of India & Ors. : Respondents.

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Filed By:


Advocate

Date:- 26.06.06

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH:
GUWAHATI

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

OA No...194.../06

BETWEEN

Smti. Jayanti Deb Roy
Wife of Panna Kanti Roy
House NO.40
Basishtanagar Road
Guwahati
.....Applicant

-And-

1. The Union of India

Represented by the Secretary to the Govt. of India,
Ministry of ~~Human Resource & Development~~, New Delhi

2. Kendriya Vidyalaya Sangathan

Institutional Area, shaheed Jeet Singh Marg, New Delhi-110016

3. Commissioner

Kendriya Vidyalaya Sangathan

18, Institutional Area

Shaheed Jeet Singh Marg, New Delhi-110016

4. Joint Commissioner (Admn.)

Kendriya Vidyalaya Sangathan

18, Institutional Area

Shaheed Jeet Singh Marg, New Delhi-110016

5. Assistant Commissioner, KVS,

Regional Office, Guwahati.

6. Principal, Kendriya Vidyalaya No.1, Tezpur

.....Respondents

82
Filed by the applicant
Bench: S. Nalini
Advocate
26.06.07
Jayanti Deb Roy.

DETAILS OF THE APPLICATION

1. Particulars of order against which this application is made:

This application is made against the order dated 1.7.2005 No. F.9-01/2005-KVS (Vig) issued by the appellate authority Respondent No. 4 thereby rejecting the appeal of the applicant and against the order dated 1.9.2003 where by applicant was removed from service as PRT.

2. Jurisdiction of the Tribunal

The applicant declares that the subject matter of this application is well within 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 Tribunal Act, 1985.

4. Facts of the Case:

4.1. That your applicant joined the Kendriya Vidyalaya Sangathan (hereinafter referred to as 'the KVS') on 1.8.1980 as PRT and was posted at Tezpur KVS-1. In October 1982 the applicant was transferred to KVS, Khanapara where she worked till June 2000 and thereafter she joined KVS Digaru on 1.7.2000 on transfer. On 21.4.2003, the applicant joined KVS, Tezpur on transfer.

4.2. That while working at Tezpur the applicant fell seriously sick owing to various chronic ailments, which necessitated her to go on Extra Ordinary Leave (for short, EOL) initially for 1 month on medical ground since 1.9.2003. But her condition did not improve in the meantime and as such she had to make prayer for extension of leave on medical grounds from time to time vide applications dated 4.10.2003, 3.11.2003, 3.12.2003.

Tanjarkandi Debl Roy

Copies of leave applications dated 4.9.2003, 8.10.2003, 7.11.2003 along with medical certificates are annexed herewith and are marked as Annexures 1, 2 and 3 respectively.

4.3. That as the applicant realized that her complications are likely to take time for recovery and that the same require regular care under competent endocrinologist, a facility which is available only at Guwahati where she has her permanent residence, the applicant by an application dated 24.11.2003 submitted before your kind self prayed for her posting at Guwahati on medical ground. In the said application the applicant also made an alternative prayer that in case her prayer for posting at Guwahati on sympathetic consideration does not become possible in that event her application be treated as resignation letter with effect from 1.12.2004. The officiating Assistant Commissioner by his letter dated 1.1.2004 addressed to the Principal KVS No.1 Tezpur informed that prayer for transfer and resignation cannot be interlinked for which different application to different authorities are required to be made. Having come to know about the aforesaid decision of the Assistant Commissioner from her principal the applicant filed a fresh and unconditional prayer for transfer on 10.2.2004 and a reminder on 23.4.2004 praying for transfer to her Guwahati. The authority does not appear to have sympathetically considered the said prayer of the applicant and rather by an order dated 4.8.2004 issued a show cause notice under Article- 81(d)(3) of the Education Code as if the applicant had voluntarily abandoned her service and thereupon asked her to show cause as to why her loss of lien should not be confirmed. In reply thereto the applicant filed her representation on 16.8.2004 and thereby once again reiterated her prayer for posting at Guwahati. Thereafter on 9.9.2004 the Assistant Commissioner issued a memorandum intimating that her prayer for transfer or resignation could not be combined, that her absence from 1.9.2003 stood treated as unauthorized absence and that her prayer for transfer application

was not submitted by due date. Be it mentioned here that in the mean time on 2.7.2004 the Joint Commissioner (Admn) issued transfer guidelines for the academic year 2004-05 whereby sympathetic consideration of prayers of transfer by teachers was assured. The applicant had submitted her prayer for transfer to Guwahati within the purview of the said guide line only. However, by the aforesaid memorandum dated 9.9.2004 issued by the Assistant Commissioner the applicant was given 10 days time to resume duty.

Copies of representation dated 24.11.2003, letter dated 1.1.2004, application dated 10.2.2004, guideline dated 2.7.2004, order dated 4.8.2004, reply dated 16.8.2004 and the memorandum dated 9.9.2004 are annexed hereto and are marked as Annexures- 4, 5, 6, 7, 8, 9 and 10 respectively.

4.4. That your applicant states that the aforesaid memorandum dated 9.9.2004 was forwarded to the applicant by her Principal under forwarding letter dated 14.9.2004 vide registered post. Immediately on receipt of the said letter dated 14.9.2004 and memorandum dated 9.9.2004 the applicant attended the School and submitted her joining report to the Principal on 24.9.2004 at 10.30 AM. The Principal refused to receive the joining letter and asked her to bring a fresh order from the Assistant commissioner. Under such circumstances left with no other alternative the applicant came out of the school and faxed an application to the Assistant Commissioner on the same day bringing all the said developments to the notice of the Assistant Commissioner and also prayed for his intervention in this regard.

Copies of letter dated 14.9.2004, joining report dated 24.9.2004 and faxed application dated 24.9.2004 along with communication report, ^{24.9.2004} are annexed hereto and are marked as Annexures 11, 12 and 13, respectively.

4.5. That your applicant states that thereafter on 8.10.2004 she again submitted an application before the Assistant Commissioner and prayed for his intervention into the matter. But by a

Tanjore Deb Roy

memorandum dated 15.10.2004 sent under registered cover at her residential address at Guwahati which was received by the applicant on 29.10.2004 at the afternoon, the Assistant Commissioner observed that the applicant reported for joining at 12.10 PM at the Vidyalaya and allegedly insisted for treating her joining in the forenoon and that she did not wait for reply by fax from the office of the Assistant Commissioner on 24.9.2004 and further observed that Principal KVS, Tezpur had informed the applicant telephonically on 24.9.2004 and 28.9.2004 asking her to join but the applicant did not join and as such the applicant was directed to report to her duties at KV No.1 Tezpur not later than 29.10.2004 otherwise loss of her lien to the post vide letter dated 4.8.2004 would be confirmed and no correspondence would be entertained thereafter. It would appear from the envelop of the said registered letter dated 15.10.2004 that the same was posted only on 18.10.2004 and same was received by the applicant at 3 pm on 29.10.2004. There is endorsement on the body of the envelop by the post man to the effect that the letter could not be delivered to the applicant as she was out of station. The applicant therefore, by a letter dated 29.10.2004 under registered cover stated the full facts and made a prayer for allowing reasonable time for her joining duty. But by memorandum-dated 2.11.2004 the Assistant Commissioner, Guwahati the Assistant Commissioner observed that the loss of lien of the applicant on her abandonment of her post of PRT stood confirmed.

Copies of letter 29.10.2004 and memorandum dated 2.11.2004 are annexed hereto and are marked as Annexures- 15 and 16 respectively.

4.6. That your applicant states that the applicant having been permitted to join her duties vide letter dated 9.9.2004 and applicant accordingly having reported for joining on 24.9.2004 within 10 days of the receipt of the said letter, the Assistant Commissioner committed injustice in holding that the applicant had abandoned her service and as such the impugned action of throwing the

Anant Deb Roy

Tatyamini Deb Ray

applicant out of service in colourable exercise of the power is arbitrary, illegal and is violative of principles of natural justice.

4.7 That the applicant, thereafter, filed an appeal before the appellant authority against the order dated 2.11.2004 passed by the Respondent no. 5 where by the respondent no.4 upholding that the appellant had abandoned her service and lost her lien against the post of PRT, at KVS-1, Tezpur and also the order dated 4.8.2004 passed by the respondent no. 5 upholding that the applicant voluntarily abundant her service leading to loss of her lien of PRT.

Copy of the appeal is annexed hereto and is marked as Annexure-17

4.8 That the applicant states that after filing the appeal before the appellant authority without considering the case of the applicant and without going through the materials on records of case dismissed the appeal on 1.7.05 holding that there is no merit in the case and confirmed the loss of lien on her post and removed her from service w.e.f. 1.9.2003, vide order dated 2.11.04.

Copy of the order dated 1.7.05 is annexed hereto and is marked as Annexure-18

4.9. That your applicant submits that the Assistant Commissioner having himself observed that the applicant reported for joining at KVS 1, Tezpur on 24.9.2004 at 12.10 PM committed error in holding that the applicant had abandoned her service and as such the impugned action in terminating the service of the applicant is set aside.

4.10. That your applicant submits that she having specifically complained of hostile and discriminatory treatment by the Principal of KVS 1, Tezpur in not accepting her joining report submitted at the forenoon of 24.9.2004, the Assistant Commissioner did not hold any inquiry and presumed that the applicant did not report for duty at the forenoon and as such the impugned decision of the Assistant Commissioner is harsh apart from being vitiated due to violation of the principles of natural justice.

4.11. That your applicant submits that it appears that the Assistant Commissioner has presumed the applicant guilty of not complying with the direction to join merely on alleged claim of the principal that he had telephonically asked the applicant to join whereas no such communication at all made to the applicant and as such the impugned action is liable to be interfered with.

4.12. That your applicant submits that she has been victimized for no fault of her and the appropriate authority has failed to exercise jurisdiction in redressing her grievance against the principal who has personal bias against the applicant for reasons best known to him and does not want her to be in service and as such the impugned action is vitiated by mala fide as well as malice in law.

4.13. That your applicant states that the impugned decision of the Assistant Commissioner to the effect that the applicant had abandoned her service, that she did not report for joining at the forenoon of 24.9.2004, that she did not report for joining thereafter on being asked by the principal telephonically and that she is guilty of not complying with the order dated 15.10.2004 although she did not receive the order dated 15.10.2004 before 29.10.2004, are all perverse and based on no materials whatsoever, the impugned action virtually terminating the service of the applicant is bad.

4.14. That your applicant submits that the impugned decision of the appellate authority upholding the decision of the Assistant Commissioner has been passed without going through the materials on record and without application of mind passed the order on 1.7.05 and as such the appellate order is liable to be set aside and the respondents are liable to be reinstated the applicant as PRT at KVS-1, Tezpur with effect from 24.9.2004.

4.15. That your applicant states that no opportunity of hearing having been afforded to her prior to terminating her service the same is non est in law and as such the impugned action is liable to be set aside and quashed.

4.16. That your applicant states that she has been seriously prejudiced at the impugned action as the same has civil

consequences on her and as such the impugned action is liable to be interfered with in exercise of plenary, appellate and supervisory jurisdiction.

4.17. That your applicant states that she had to go on extra ordinary leave owing to her serious illness which fact is borne out by records and the medical certificates in support thereof were time to time submitted before the authority but the authority has not only failed to stand beside her when she was in need of sympathy and help and rather has penalized her by taking vindictive attitude which is likely to have discouraging effect on the teaching community as a whole who have dedicated themselves for the cause of education braving adverse situations.

4.18. That your applicant states that unless the impugned action of the authority throwing out the applicant out of service is set aside and the applicant is allowed to resume duty she will be put to irreparable loss and injury.

4.19 That the applicant filed an appeal before the appellate authority

5. GROUNDS FOR RELIEF (S) WITH LEGAL PROVISION:

5.1 For that the Assistant Commissioner having himself observed that the applicant reported for joining at KVS 1, Tezpur on 24.9.2004 at 12.10 PM committed error in holding that the applicant had abandoned her service and as such the impugned action in terminating the service of the applicant is set aside.

5.2 For that applicant having specifically complained of hostile and discriminatory treatment by the Principal of KVS 1, Tezpur in not accepting her joining report submitted at the forenoon of 24.9.2004, the Assistant Commissioner did not hold any inquiry and presumed that the applicant did not report for duty at the forenoon and as such the impugned decision of the Assistant Commissioner is harsh apart from being vitiated due to violation of the principles of natural justice.

5.3 For that the Assistant Commissioner has presumed the applicant guilty of not complying with the direction to join merely

Tarihi Del Roy

Tanjore Deb Roy

on alleged claim of the principal that he had telephonically asked the applicant to join whereas no such communication at all made to the applicant and as such the impugned action is liable to be interfered with.

5.4 For that the applicant has been victimized for no fault of her and the appropriate authority has failed to exercise jurisdiction in redressing her grievance against the principal who has personal bias against the applicant for reasons best known to him and does not want her to be in service and as such the impugned action is vitiating by mala fide as well as malice in law.

5.5 For that the impugned decision of the Assistant Commissioner to the effect that the applicant had abandoned her service, that she did not report for joining at the forenoon of 24.9.2004, that she did not report for joining thereafter on being asked by the principal telephonically and that she is guilty of not complying with the order dated 15.10.2004 although she did not receive the order dated 15.10.2004 before 29.10.2004, are all perverse and based on no materials whatsoever, the impugned action virtually terminating the service of the applicant is bad.

5.6 For that the impugned termination order has been passed without giving any opportunity of hearing having been afforded to applicant prior to terminating her service the same is non est in law and as such the impugned action is liable to be set aside and quashed.

5.7. For that the applicant had to go on extra ordinary leave owing to her serious illness which fact is borne out by records and the medical certificates in support thereof were time to time submitted before the authority but the authority has not only failed to stand beside her when she was in need of sympathy and help and rather has penalized her by taking vindictive attitude which is likely to have discouraging effect on the teaching community as a whole who have dedicated themselves for the cause of education braving adverse situations.

4.18. For that applicant submits that unless the impugned action of the authority throwing out the applicant out of service is set aside and the applicant is allowed to resume duty she will be put to irreparable loss and injury.

6. DETAILS OF REMEDIES EXHAUSTED.

That your applicant states that he has no other alternative and efficacious remedy other than to file this application.

7. Matter has not been previously filed or is not pending with any other court/Tribunal.

That applicant further declares that he has not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any court of any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. Reliefs sought for:

In the premises aforesaid it is prayed that your Lordships may be pleased to admit this original application, call for records and upon hearing the parties be further pleased to allow the original application setting aside the impugned order dated 2.11.2004 (Annexure-) passed by the respondent no.5 and appellate order dated 1.7.2005 passed by the respondent no. 4 and thereby allowing the applicant to reinstate/resume duty as PRT at KVS-1, Tezpur with effect from 24.9.2004 and also granting the applicant Extra ordinary leave for the period of applicant absence since 1.9.2003 till 24.9.2004 and/or may pass such further or other order or orders as your Lordships may deem fit and proper.

9. Interim relief sought for:

During pendency of this be further pleased to stay the operation of the impugned order dated 2.11.2004 and 1.7.2005.

10. That this application is filed through advocate.

11. Particulars of the IPO

- (i) IPO No.....266324567
- (ii) Date of Issue:.....18. 6. 06
- (iii) Issued from: G.P.O. Guwahati.
- (iv) Payable at: G.P.O. Guwahati.

12. List of enclosures:

As stated in the Index.

VERIFICATION

Smti Jayanti Deb Roy W/o Shri Panna Kanti Roy aged about 52 years resident of House No.40 Bassishta Nagar Road,Guwahati-781029 in the district of Kamrup, Assam do hereby verify that the statements made in paragraphs 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 25th day of June 2006 at Guwahati.

Jayanti Deb Roy
Signature

-12-

To
The principal
KV. No.1, Tezpur,
Salmara.

Sub: Request for granting EOL.

Date: 04th September, 2003.

Respected Sir,

With due honour, I would like to inform you that I am going through severe health disorders for which I am availing leave of 14 days. It is of great dismay that, after going through all the tests as per the prescription of the doctors, it has been detected that I am suffering from gastric and giddiness and such other health disorders, for which I had been strictly instructed by my doctor to have these get cured at the earliest and that any negligence on this account would result negatively. So, I request your good-self to kindly grant me 1 month EOL starting from 1st September, 2003, also allow me to remain out of station for the following period.

Looking forward for an early and favourable response.

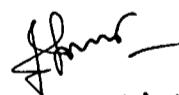
Thanking you,

Medical Certificate Enclosed.

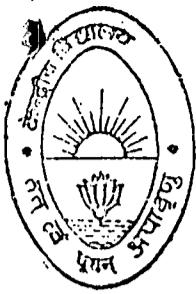
Address:

Mrs. J.D. ROY
C/O P.K. ROY
Natun Bazar, Basistha,
Guwahati-29.

Yours faithfully,


(Mrs. Hayanti D. Roy
P.R.T.
K.V. No.1, Tezpur.

*Affected
part
diagnose*



केन्द्रीय विद्यालय KENDRIYA VIDYALAYA

नो. 1, 123, P.M.

AY

अवकाश के लिए आवेदन-पत्र (आकस्मिक अवकाश के अतिरिक्त)
Application for Leave (other than casual leave)

1. कर्मचारी का नाम (साफ अक्षरों में)

Name of Employee (in block letters)

JAYANTIL DEB ROY

P.R.T.

2. पदनाम Designation

3. संगठन में कार्यभार ग्रहण करने की तिथि

Date of joining the Sangathan

01-08-1982

4. आवेदित छुट्टी की किस्म

Nature of leave applied for

E.O.L.

5. आपेक्षित छुट्टी की अवधि

Period of leave required

1st Sept 03 to 14th Sep 03

Self Medical check up

6. छुट्टी का कारण Ground of leave

7. प्रिरिणत छुट्टियों के मामले में

In case of commuted leave

(Medical Certificate attached)

8. आवेदित छुट्टी का अद्यतन खाता

Up-to-date account of leave applied

9. डाक पता (छुट्टी की अवधि के दौरान)

Postal address (during the leave period)

C/o P.K. Roy

Nature Bazar

Basistha, Cuttack

Orissa 751009

कर्मचारी के हॉ स्लिग. of Employee

दिनांक Dated 29-8-03

कार्यालय उपयोग के लिए FOR OFFICE USE

कृपया प्रार्थी द्वारा आवेदित छुट्टी की किस्म के अद्यतन खाते के साथ उसकी सेवा-पुस्तिका प्रस्तुत करें।

Please furnish the account of the leave of the nature asked for by the applicant alongwith has/her service register duly posted up-to-date.

प्राचार्य Principal

कार्यालय रिपोर्ट OFFICE REPORT

इस दिन तक दिन का अवकाश देय है।

Leave for day due/as on
the date Service Register is submitted.

लिपिक/Clerk

आदेश ORDER

1. दिनांक से तक दिन के लिए
अवकाश स्वीकृत किया जाता है।

Sanctioned leave for days w.e.f. to
.....

2. दिनांक से तक पहले/बाद में छुट्टियां हैं।
Prefixing/Suffixing of w.e.f. to
.....

3. कारणों से रद्द की जाती है।

Rejected for the reasons
.....

4. सभी संगठितों के लिए अलग से स्वीकृत आदेश जारी किए जा रहे हैं।
Separate sanction order is being issued to all concerned.

दिनांक Dated प्राचार्य Principal

Attest
For
Advocate

Dr. Ashok Barkatky
B. Sc. (Dai) M. B. B. S. (Dai)
C. H. A (NIHFW, New Delhi)

Senior Medical & Health Officer
Regd No.: 7282, GUWAHATI
2454918 (RES)

TO WHOM IT MAY CONCERN.

Date: 4.09.2013

This is to certify that Mrs. Jayanta
Debroy wife of Shri P.K. Roy of Beltda, Guwahati-24
is under my treatment since 1st September '2013 as
she is suffering from acute gastritis with giddiness.
She is advised to take rest for 4 (four) weeks only
with strict dietary regimen as advised with drugs
as prescribed for the restoration of her health.
She is further advised to come after regular
check up.

Chirinly
9/10/2013

Senior Medical & Health Officer
Khanapara State Dispensary
Khanapara, Kamrup (Assam).

Please bring this prescription in your next visit
Chamber: SHRI LUMANANDA PHARMACY, Guwahati Club, Guwahati-781 003

*After std
Date: _____
Prescribe*

-15-

To,

The Principal,
K.V.No.1,
Tezpur.

Sub: Prayer for Extension of E.O.L.

Date : The 8th October, 2003.

Respected Sir,

With due honour, I would like to inform you that, I had applied for E.O.L on Medical Ground for 4 weeks, in pursuance to the advice of my doctor. Dated 04/09/2003.

On completion of the stipulated period of 4 weeks, after necessary Medical checkup, doctor strictly advice me to take rest for another 4 weeks, as I have been diagnosise with Infective Hepatitis along with other complications too.

In view of the above, I would like to request your good-self to grant me E.O.L for another 4 weeks, commencing from 1st October 2003, and also allow me to remain out of the station for the above period.

Thanking you,

Yours faithfully,

Shanti D. Roy
08/10/03

(MRS. JAYANTI D. ROY)
P.R.T(On Leave)
K.V. No. 1, Tezpur.

Medical Certificate Enclosed:

Leave Address :

Mrs. J.D. Roy
C/O Mr. P.K. Roy
Natun Bazar,
P.O. Basistha, Guwahati-29
Phone: 0361-2306430
2302676.

*Alfred
Sarkar
Advocate*

Dr. Ashok Barkatky
B. Sc. (Oam) M. B. B. S. (DIB)
C. H. A (MIIIFW, New Delhi)

-16- 2230261

Senior Medical & Health Officer

Regd No.: 7282, GUWAHATI

¶: 2454918 (NES)

TO WHOM IT MAY CONCERN.

Date: 6 X 2003.

This is to certify that Mrs. Jayanti Debroy, wife of Shri P. K. Roy of Teltola, Guwahati-29 who is under my treatment since 1st September '03 in a case of acute gastritis & giddiness and latter diagnosed to be a case of infective hepatitis with giddiness has been examined by me today again and in my opinion, she is advised to continue with no drugs and to take rest for further 6 (six) weeks only with dietary restriction for the restoration of her health. She is further advised to come for regular check up.

A. Debroy
G.T.I.W.

Senior Medical & Health Officer
Khanapara State Dispensary
Khanapara, Kamrup (Assam).

Please bring this prescription in your next visit
Chamber: SHRI UMANANDA PHARMACY, Guwahati Club, Guwahati-781 003

Attested
Smt.
Advocate

-17-

JAI MATA DI

Dr. R. Baruah, M.B.B.S.
Regd. No. 8851 (AMC)
Senior Medical & Health Officer

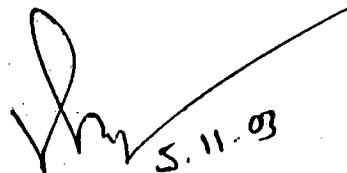
Chamber: APPOLLO MEDICAL
A.R.B. Road, Panbazar
Guwahati-781 001
■ 0361-517051

Date.....5.11.03.....

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(To whom it may concern)

Certified that Mrs Jayanti Debroy
w/o Sri P.K. Roy of Beltola, Guwahati has
been suffering from infective hepatitis with
general debility and under my treatment
since 5.11.03 and she has been
advised to rest for a period of 30
days w/b 5.11.03 to 3.12.03. She has
been further advised to have check-
ups after expiry of this period.


5.11.03

Dr. M. & H. D.
Khetri CHG
Kamrup.

Every Sunday Evening 5.30 to 6.30 p.m. / Weekdays on appointment after

Attested
Frank
Advocate

To,
The Principal,
K.V. No.1,
Tezpur.

Sub: prayer for extension of E.O.L.

Date: The 7th November, 2003.

Respected Sir,

With due honour, I would like to inform you that, I had applied for extension of E.O.L on 08/10/2003 for 4 (four) weeks on Medical ground.

On completion of the above period, after necessary Medical checkup it is found that, I am not completely fit to join my duties immediately.

In view of the above, I would like to request your goodself to extend my leave (E.O.L) for another 4 (four) weeks commencing from 1st November, 2003, and also allow me to remain out of the station for the above period.

Thanking you,

Medical certificate enclosed:

Leave address :-

Mrs. J.D. Roy,
C/O Mr. P.K. Roy
Natun Bazar,
P.O. Basistha, Guwahati-29.
Phone: 0361-2302676
2306430

Yours faithfully,

J.D. Roy
(Mrs. Jayanti D.Roy)
P.R.T (on leave)
K.V. No.1, Tezpur.

*Attest
J.D. Roy
Advocate*

To
The Commissioner
Kendriya Vidyalaya Sangathan
18 Institutional Area
Saheed Jeet Singh Marg
New Delhi - 110016

Through
The Principal
KV. No.1 Tezpur,
Solmara, Assam.

Sub: Prayer for posting at Guwahati and resignation thereof.

Date: 24th November 2003.

Respected Sir,

With due respect and humble submission, I am to lay before you the following for sympathetic consideration.

1. That sir, I am serving in the Sangathan since 1980 with the best of my ability and to the utter satisfaction of the superiors.
2. That sir, I am suffering from Thyroid Complications with various other ailments and need constant medical care under the strict supervision of the specialists at Guwahati for non-availability of better medical facility at Tezpur where I am posted at present.
3. That sir, I am availing leave on Medical Ground from 1st September 2003 till now and undergoing constant medical check up cum treatment at Guwahati. Even then to my utter dismay I am not fully cured.
4. That sir, for facilitating me to complete my treatment without taking further leave, your good self may kindly consider to post me in any of the K.V. School in Guwahati at your earliest convenience.

Against the back drops, the Authority may kindly look into my genuine problems sympathetically and grant my prayer for posting at Guwahati

Further, I would like to mention that, if the authority is not in a position to entertain my prayer then this application may be treated as my Resignation Letter and I may be allowed to resign from service in KVS with effect from the 1st of December 2003.

Thanking you in anticipation.

Yours faithfully

Mrs. Jayanti Deb Roy
PRT (on leave)
KV.No1, Tezpur.

Copy to:

- To the Commissioner, KV. Sangathan, New Delhi in advance for favour of his kind information and necessary action please.
- To the Assistant Commissioner, Guwahati Region, Maligaon for information and necessary action please.

Mrs. Jayanti. Deb Roy
PRT,KV.No.1,
Tezpur.

*Allesd
Law
Advocate*

KENDRIYA VIDYALAYA SANGATHAN

केन्द्रीय विद्यालय संगठन

क्षेत्रीय कार्यालय
मालिगांव चारिआली
गुवाहाटी : ৭৮১ ০১২

Regional Office
Maligaon Chariali
Guwahati - 781 012

Phone : 2571799
2571798
Tele Fax : 2571797

S/01

पत्रांक
No. F. : 2-6/KVS(GR)/2003-04/ 16, 916

दिनांक :
Dated: 01-01-2004

To

The Principal,
Kendriya Vidyalaya,
No. I, Tezpur.

Subject : Application of Mrs. J.D. Roy, PRT regarding
transfer/~~resignation~~ resignation.

Sir,

I am to refer to your letter No.F. 47/PE/KVT/
2003-04/783 dated 3-12-2003 on the subject cited above and to
say that Mrs. J.D. Roy's application for posting at Guwahati
has been considered and to inform you that the request for
transfer and resignation cannot be interlinked as these are
done by different authorities.

Regarding resignation from the services it is to
inform you that conditional resignation cannot be accepted and she
may be advised to apply afresh without any conditions.

Yours faithfully,

(S. RAJAGOPALAN)
EDUCATION OFFICER &
OFFG. ASSISTANT COMMISSIONER

X/1/10
6/1/04

Attested
Sarita
Advocate

-21-

102

To
The Commissioner
Kendriya Vidyalaya Sangathan.
New Delhi.

Through
The Principal
K.V. No.1 Tezpur

Sub:- Prayer for transfer from Tezpur to Guwahati
Dated:- The 10th Feb 2004

Respected Sir,

Please refer to my application dated the 24th Nov 2003, praying for a posting at Guwahati.

Since, my application for posting at Guwahati has been considered as per Asst. Commissioner, Guwahati's letter No. 2-6/KVS(GR)/2003-04/16919 dt 01/01/2004, I would like to request your good self to look into the matter sympathetically and post me in any KVS at Guwahati to enable me to continue my medical treatment and oblige thereby.

And for this act of your benevolence, I will remain ever grateful to you.
Thanking you in anticipation.

Yours faithfully,
(Mrs Jayanti Deb Roy)
P.R.T (ON Leave)
K.V.No.1 Tezpur.

Copy to

- (1) The Commissioner, K.V.S New Delhi, in advance for favour of his kind information and necessary action please.
- (2) The Asstt Commissioner, Guwahati Region, Maligaon in advance for favour of his kind information and necessary action please.

Mrs. J.D.Roy
P.R.T (on leave)

*Attestd
Smt.
Advocate*

- 22 -

Kendriya Vidyalaya Sangathan
18 Institutional Area, Shahid Jit Singh Marg
New Delhi - 110016

Tel: 26533749

Speed Post/ Fax

No.1-1/2004-05/KVS(E.II)

2nd July, 2004

The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
All Regional Offices.

**Subject: Transfer guidelines for the academic
year 2004-05.**

Sir/ Madam,

Large number of representations have been received relating to hardships caused by existing transfer guidelines. It has therefore been decided to issue following set of guidelines for effecting transfers of KVS employees for the academic year 2004-05:

- i. No transfers will be made other than on administrative ground or on requests made by teachers outside the Zone or Region identified for this purpose by KVS;
- ii. The transfers should mostly be done only against vacancies on the basis of requests received for the same;
- iii. As far as possible, where either of the spouses are in the employment of Central Government, KVS employee will not be transferred unless the spouse is also getting transfer. The same principle may also apply in respect of those teachers whose spouses are in Central PSUs, or State Governments;

*Attestd
Smt.
Advocate*

iv. Wherever transfers made in the past for lady teachers to places more than 500 KMs, choice will be given to them to come back to any position within 500 KMs, provided there is a vacancy for the same.

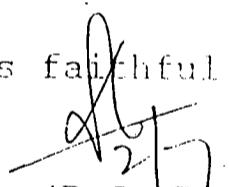
Discretionary powers of Special Dispensation will however continue to be exercised under clause 18(b) of the existing transfer guidelines w.e.f. 01.04.2000.

The existing transfer policy w.e.f. 1.4.2000 would stand modified to that extent.

The aforesaid modifications in the transfer guidelines may be given wide publicity by publishing Notice in the local Newspapers/ local cable. All Principals under your administrative Control may also be directed to circulate the aforesaid guidelines amongst all employees and acknowledgement to the effect should be taken from them and kept for records.

Detailed instructions for calling of fresh applications in view of modified transfer guidelines are being issued separately.

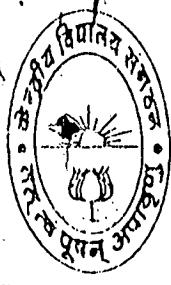
Yours faithfully,


(D.S. Bist)

Joint Commissioner (Admn.)

Copy to:

1. All officers in KVS (HQ)
2. All Sections in KVS (HQ)
3. President/ General Secretary of recognized associations.
4. All Principals - The aforesaid modifications in the transfer guidelines may be circulated amongst all employees and acknowledgement to the effect should be taken from them and kept for records.



KENDRIYA VIDYALAYA SANGATHAN

केन्द्रीय विद्यालय संगठन

क्षेत्रीय कार्यालय
मालिगांव चारिआली
गुवाहाटी : ৭৮১ ০১২

Regional Office
Maligaon Chariali
Guwahati - 781 012

Phone : 2571777
: 2571799
Tele Fax : 2571799

पत्रांक

No. F. :

39-1/2000-KVS (GR) / 6038-39

दिनांक :
Dated :

04-08-2004

Reg. A/D

ORDER

SUB: - ORDER OF PROVISIONAL LOSS OF LIEN ON POST HELD AND SHOW-CAUSE NOTICE UNDER ARTICLE 81(d) (3) OF THE EDUCATION CODE FOR CONFIRMATION THEREOF.

Smt.J.D.Roy, PRT is hereby informed that she has remained absent for a period of fifteen days or more from 01-09-2003 till date without sanctioned leave or beyond the period of leave originally granted or subsequently extended. Smt.Ratulmoni Dass, PRT has neither reported for duty within the aforesaid period of 15 calendar days nor satisfactorily explained the reasons for her absence in terms of sub Clause (1) of Clause (d) of Article 81 of the Education Code, she is deemed to have Voluntarily abandoned her service and thereby provisionally lost lien on her post.

As required under Sub-Clause(3) of Clause(d) of Article 81, this order is hereby made recording the factum of Voluntary abandonment of service by Smt.J.D.Roy and provisional loss of her lien on PRT and the same is hereby communicated to her accordingly.

As further required under Sub-Clause(3) of Clause(d) of Article 81, Smt.J.D.Roy, PRT is hereby given the opportunity to show cause as to why the aforesaid order of provisional loss of lien should not be confirmed.

Smt.J.D.Roy, PRT may make written representation to the undersigned within 10 days of the receipt of this order failing which an order shall be passed confirming loss of lien on the post held by her and in that case, she shall be deemed to have been removed from the service of the Kendriya Vidyalaya Sangathan as per the Provisions of Article 81(d).

[Signature]
(U.N. KHWAREY)
ASSISTANT COMMISSIONER

To

Smt.J.D.Roy, PRT
K.V.No.1,
Tezpur.

*Attestd
Sub Advocate*

From: -Smti Jayanti D.Roy
P.R.T., K.V. Tezpur-1. (On leave)
House no-40
Basisthanagar Road, Ghati-29.

Dated, 16th. August 2004.

To
The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Maligaon, Guwahati.781012

Sub: - Show cause & reply there-of:

Ref: - Your order no 39-1/2000/KVS (GR)/6038-39 dated, 04.08.2004.

Sir,

With due respect and humble submission, I am to lay before your good self the following for favour of your kind perusal and consideration.

1. That sir, I have been suffering from some malignant diseases & undergoing treatment under the super specialist at Guwahati in absence of such facilities at Tezpur.
2. That sir, I applied for EOL for 14 days initially w.e.f. from 1st. September 2003 vide my application dated 04.09.03. Subsequently I applied for 8 weeks leave in two counts vide my petitions dated 08.10.03 & 07.11.03 respectively.
3. That sir, I was not cured completely within the above-mentioned period and my health did not permit me to resume duty at Tezpur and accordingly on 24.11.03. I submitted one petition before the Hon'ble Commissioner of the Sangathan with a copy to your good self through proper channel with a request to consider my posting at any of the schools of Guwahati city taking into consideration of my genuine health problems etc. More over, it was also requested in the same petition that if authority finds constraint to consider my prayer for posting at Guwahati then I should be allowed to resign with effect from 1st. December 2003.
4. That sir, I was extremely delighted in receipt of the copy of the letter-dated 1st. January '04 of the Education officer of the Sangathan, Guwahati region that my prayer for transfer has been considered. But surprisingly which I have not yet received.
5. That sir, I have informed all concerned about my illness and continuation of medical treatment from time to time. In this connection my letter dated 10.02.04. & 23.04.04 me kindly be referred.

*Afterward
Smti.
Advocate*

Under the circumstances stated above, my absenting from duty without information to any authority does not arise and as such, I am not liable for any disciplinary action as communicated vide your order under reference.

Against the backdrop, I would once again request your good self to kindly consider early issue of transfer order for posting at Guwahati in the light of the decision, informed to me vide Saga than letter no 2-6/KVS (GR) 2003-04/16919 dated, 01.01.04. for enable me to serve the esteem organisation with my long experience besides helping me to take medical treatment to restore my health.

In this connection, it may be mentioned that my husband is also suffering from diabetic neuropathy and needs my constant support in day-to-day life. He is also a senior grade state Government servant, but do not have any scope for his posting at Tezpur for want of equivalent post there in his department.

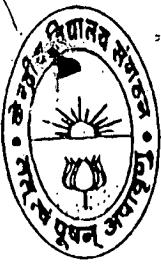
In conclusion, I would like to request you to kindly post me with your decision in this regard at your earliest conveniences for enable me to submit my resignation a fresh on the event of non consideration of my prayer.

Yours faithfully

(J.D.Roy)

Copy forwarded for favour of information & N.A. to;

1. The Commissioner,
Kendriya Vidyalaya Sangathan
18. Institutional Area,
Saheed Jeet Shing Marg.
New Delhi-16.
2. Principal, K.V-1, Tezpur
Sole Mara, Tezpur..



KENDRIYA VIDYALAYA SANGATHAN

केन्द्रीय विद्यालय संगठन

श्रेष्ठीय कार्यालय
गालीगांव चारियाली
गुवाहाटी : ৭৮১ ০১২

Regional Office
Maligaon Chariali
Guwahati - 781 012

Phone : 2571799
: 2571798
Tele Fax : 2571797

पत्रांक
No. F. : 2-6/KVS(GR)/2004-05/ 7258

दिनांक :
Dated: 09-09-2004

MEMORANDUM

With reference to her letter dated 16-08-2004 Smt. J.D. Roy, PRT is hereby intimated that :-

- (a) Request for transfer/Resignation/Leave etc. can't be combined as these are dealt by different authorities.
- (b) Her absence from 01-09-2003 is treated as unauthorised absence.
- (c) As she has not submitted her transfer application in the prescribed proforma by due date, the question of consideration of her transfer at this stage does not arise.
- (d) Resignation based on conditions cannot be considered.

Now, therefore, the undersigned informs that in case she does not resume her duties within 10 days on receipt of this Memorandum, provisional loss of lien issued vide this office letter dated 04-08-2004 shall be confirmed and no further correspondence shall be entertained in this regard.

(U. N. KHWAREY)
ASSISTANT COMMISSIONER

To,
Smt. J.D. Roy, PRT
Kendriya Vidyalaya,
No.1 Tezpur,
House No.40,
Basishthanagar Road,
Guwahati : 29.

SI *checked* *call* *Primary Teacher*
1-9-2004 *102 days*

After 5 days
Advocate



केन्द्रीय विद्यालय, नं० १
Kendriya Vidyalaya No.1
 तेजपुर / Tezpur

पो. ओ. - डेकारगाँव, जिला - शोणितपुर (असम) पिन - 784501
 P.O. - Dekargaon, Dist. Sonitpur (Assam) Pin : 784501

दूरभाष / Phone
 सिविल (Civ) (03712) 258111
 आर्मी (Army) 2377

मानव संसाधन विकास मंत्रालय के अधीन एक स्वायत्तशासी संस्थान, भारत सरकार (शिक्षा विभाग)
 An autonomous body under the ministry of H.R.D. Department of Education (Govt. of India).

रांदर्गी सं० F.PF/JRD/47/KVT/2004-05/731-32
 Ref. No.....

दिनांक
 Dated 14.9.2004

REGD. POST WITH A/D

To

Smt. J.D. Roy,
 PRT
 40, Basisthanagar Road,
 Natun Bazar
 P.O. Basistha
 Guwahati-781029.

Sub:- Forwarding of Memorandum in respect of Mrs. J.D. Roy,
 PRT, K.V. No.1, Tezpur : reg.

Madam,

I am enclosing herewith the Memorandum issued by Assistant Commissioner, KVS, GR, Guwahati vide Memorandum No. F.2-6/KVS(GR)/2004-05/7258 dated 09.09.2004. You are requested to receive the Memorandum as directed.

The acknowledgement of this memorandum is highly solicited.

Yours faithfully ,

ChSP
 (Ch. Sreenivasulu)
 Offg. Principal
 Principal

Encl:- Memorandum event
 dated 09.09.2004.

Copy for information to :-
 Kendriya Vidyalaya No.1, Tezpur

1) The Assistant Commissioner, KVS, GR, Guwahati-12.

28/8/04
 (Ch. Sreenivasulu)
 Offg. Principal

*Attest
 Law
 Advocate*

✓ To,

The Principal,
Kendriya Vidyalay - N 0
Tezpur.

Date :- 24-09-2004.

Subject:- Joining report.

Ref. :- Your letter NO.F-PF/JRD/47/KVT/2004-5/173132
Dated -14-09-2004.

Sir,

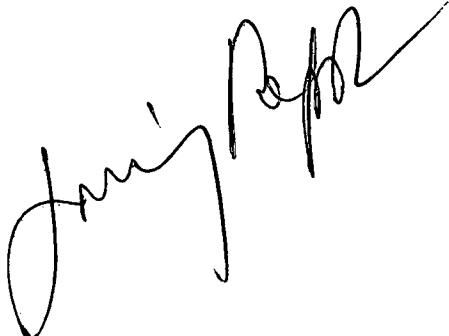
In inviting a reference to the letter cited above on the subject, I do hereby submit my joining report on this the 24th day of September, 2004 in the forenoon in pursuance to the memorandum issued by the Assistant Commissioner, (K.V.) Guwahati vide No.2-6/KVS(GR)2004-5/7258 dtd.09/9/2004.

In this connection, I am also enclose a Medical fitness Certificate in Original for favour of information & necessary action.

Yours faithfully,


(Jayanti Deb Roy)
P.R.T.
KV- M I - Tezpur.

Dated, Tezpur
the 24th Sept, 04.




Attested
Law Advocate

ANNEXURE 13
FAX NO :
0361-2571799
257181

-30-

To

Shri U.N. Khawarey.
Assistant Commissioner
K.V.S. Guwahati Region.
Majigaon.

Sir, dated, Tezpm - 26-09-2004.

In pursuance to your order
communicated vide no 2-6/KVS(GR)
2004-05/7258 dt 09-09-2004. I submitted
my journey report along with medical
fitness certificate to principal KV-NO-1
Tezpm on this 26th day of September
2004 in the forenoon.

But unfortunately he did not
allow me to resume duty for the
reason best known to him

Grateful, if suitable instructions
are given to him for allowing me
to resume duty without spoiling any
further time.

Yours faithfully
JAYANTIDEB

JAYANTIDEB
PRT-KVNO-1
Tezpm

Copy to Principal
K.V. NO. 1 Tezpur
for info & ref.

FAX - 03712-258111

Affestd
JAYANTIDEB
Advocate

To,

The Principal
Kendriya Vidyalay - NO 1
Tezpur.

Date :- 24-09-2004.Subject:- Joining report.

Ref. :- Your letter NO.F-PP/JRD/47/KVT/2004-5/173132
Dated -14-09-2004.

Sir,

In inviting a reference to the letter cited above on the subject, I do hereby submit my joining report on this the 24th day of September, 2004 in the forenoon in pursuance to the memorandum issued by the Assistant Commissioner, (K.V.) Guwahati, vide No.2-6/KVS(GR)2004-5/7258 dtd.09/9/2004.

In this connection, I am also enclose a Medical Certificate in Original for favour of information & necessary action.

Yours faithfully,

J.D.R.

(Jayanti Deb Roy)
P.R.T.
KV- NO 1 Tezpur.

Dated, Tezpur
the 24th Sept. 04.

Principal
Kendriya Vidyalaya No. 1
Tezpur

Endorsement
Date 14-09-2004
Kendriya Vidyalaya
Principal
J.D.R.

Affected
Lalit
Advocate

Regd.A/D

Dated: 29th of October 2004

From:
 Smti. J.D.Roy
 House No. 40
 Basistha Nagar Road
 Guwahati-781029

To
 The Assistant Commissioner
 Kendriya Vidyalaya Sangathan
 Guwahati Region

Sub: Joining report and non acceptance by the Principal thereof

Ref: Order no. F-2-6/KVS/(GR)/2004-05/8748-49 dated 15/10/04

Sir,

I am to inform you that on receipt of your Memorandum no. F-2-6/KVS (GR)/2004-05/8748-49 dated 15/10/04, I am left in a state of total surprise. I am shocked about the state of misunderstanding and communication gap that is prevailing in between us.

With a heavy heart I'm to inform you that Memorandum no. 2-6/KVS(GR)/2004-05/7258 dated 09/09/04 was forwarded to me by the Offg Principal of KV No. 1 Tezpur, Mr. Ch. Srinivasulu on 14/09/04 which reached to me on 17/09/04 and counting the time period of 10 days that was allowed to me from the date of receipt of the Memorandum I went to Tezpur KV No.1 on 24/09/04 at about 11:50 am with a n intention to resume my duties.

But unfortunately, the Principal of KV No.1 Tezpur, Mr. K.S. Muralikrishna did not permitted me to join my duty. Being disappointed by his behaviour and finding no other way out, I faxed a letter from Tezpur GPO to the Regional Office seeking instruction for my joining and then returned to Guwahati.

On non receipt of any written communication since then, ultimately on 08/10/04, I sent another letter to the Regional Office seeking instructions for my joining but then too no correspondence has been made to me except the Memorandum dated 15/10/04 which came to me on 29/10/04 at 3 pm. It is very obvious that it is not humanly possible to join on the same that within the stipulated time.

Therefore, I request your goodself to give me reasonable time to join my duty.
 Looking in anticipation.

Thanking you

Yours faithfully

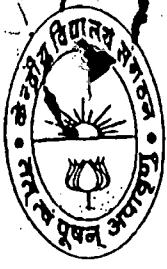
Mrs. J.D.Roy
 P.R.T

Copy To:

- The Commissioner, KVS New Delhi for his kind information
- The Principal, KV No.1 Tezpur for his kind information

Mrs. J.D.Roy

*Affessa
 Law Advocate*



KENDRIYA VIDYALAYA SANGATHAN

केन्द्रीय विद्यालय संगठन

क्षेत्रीय कार्यालय
मालीगांव चारिआली
गुवाहाटी : ৭৮১ ০১২

Regional Office
Maligaon Chariali
Guwahati - 781 012

Phone : 2571799
2571798
Tele Fax : 2571797

पत्रांक

No. F. : No.F.39-1/KVS (GR)/2004-05/ ৯৭৬।

दिनांक :
Dated : 02.11.2004

MEMORANDUM

पंजीकृत डाक
REGISTERED POST

WHEREAS Smt. J.D.Roy, PRT Kendriya Vidyalaya No. 1, Tezpur has remained absent for a period of fifteen days or more from 01.09.2003 to date without sanctioned leave or beyond the period of leave originally granted or subsequently extended.

AND WHEREAS as required under Sub-clause (3) of clause (d) of Article 81, of the Education code the factum of voluntary abandonment of service was communicated to Smt. J.D.Roy vide letter No.F.39-1/2000-KVS (GR)/ dated 04-08-2004.

WHEREAS under Sub-clause (3) of clause (d) of Article 81, Smt. J.D.Roy was given an opportunity to show cause as to why the aforesaid order of Provinced loss of lien should not be confirmed.

WHEREAS Smt.J.D.Roy was given another opportunity to join her duties vide this Office Memorandum dated 9.9.2004 in response to her letter dated 16.8.2004 inter-alia explaining the position regarding the transfer/resignation/leave etc.

WHEREAS Smt.J.D.Roy was given one more opportunity to join her duties by 29.10.2004 vide this Office Memorandum dated 15.10.2004 in response to her letter dated 8.10.2004.

WHEREAS Smt. J.D.Roy has not joined by 29.10.2004 at K.V. No.1, Tezpur. On careful consideration of all the relevant facts and circumstances of the case the undersigned has come to the conclusion that she is deemed to have voluntarily abandoned her service of Kendriya Vidyalaya Sangathan and provisionally lost lien on her post and the communication sent vide this office letter No. F.39-1/2000-KVS (GR)/ dated 04.08.2004 was in order.

AND NOW, THEREFORE, the undersigned being the competent authority hereby confirms the loss of lien on her abandoned post of PRT. Thus Smt. J.D.Roy, Kendriya Vidyalaya No. 1, Tezpur has been removed from the Service of Kendriya Vidyalaya Sangathan with effect from the date of her remaining absent from duties i.e. with effect from 01.09.2003.

To

Smt. J.D.Roy,
House No.40,
Basishtanagar Road,
GUWAHATI - 781 029.

1/9/03
V.O.C. 1/7/04
ASSISTANT COMMISSIONER

Attested
Jai
Advocate

Jayanti Deb Roy

BEFORE THE COMMISSIONER, KENDRIYA VIDYALAYA
SANGATHAN, AT NEW DELHI

In the matter of:-

An appeal against the memorandum No.F.39-1/KVS (GR)/2004-2005/9761 dated 2.11.2004 issued by the Asst.Commissioner, Kendriya Vidyalaya Sangathan,Guwahati holding that the appellant had abandoned her service and lost her lien against the post of PRT,at KVS-1, Tezpur.

And

In the matter of:-

Memorandum No.F.2-6/KVS (GR)/2004-2005/8748-49 dated 15.10.2004 issued by the Asst.Commissioner, Kendriya Vidyalaya Sangathan, Guwahati which was served on the appellant on 29.10.2004 at her residence at Guwahati at the afternoon whereby the appellant was directed to report for join on 29.10.2004 at Tezpur.

And

In the matter of:-

Order No.39-1/2000-KVS(GR)/2004-2005/6038-39 dated 4.8.2004 issued by the Asst.Commissioner, Kendriya Vidyalaya Sangathan, Guwahati holding that the appellant voluntarily abundant her service leading to loss of her lien of PRT.

And

In the matter of:-

Arbitrary and discriminatory action of the Principal KVS NO.1 Tezpur refusing to allow the appellant to join her duty on 24.9.2004 in the forenoon although she was directed to report for duty by the Assistant Commissioner vide letter no. 2-6/KVS(GR)/2004-05/7258 dated 9.9.2004.

And

In the matter of:-

Smti Jayanti Deb Roy , PRT
House No. 40, Basishthanagar Road
Guwahati- 781029

....Appellant

Attest
Smti Jayanti Deb Roy
Advocate

Tanjarki Secy Roy

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The humble appeal petition on behalf of the appellant above named

Most Respectfully Sheweth:

1. That your appellant joined the Kendriya Vidyalaya Sangathan (hereinafter referred to as 'the KVS') on 1.8.1980 as PRT and was posted at Tezpur KVS-1. In October 1982 the appellant was transferred to KVS, Khanapara where she worked till June 2000 and thereafter she joined KVS Digaru on 1.7.2000 on transfer. On 21.4.2003, the appellant joined KVS, Tezpur on transfer.
2. That while working at Tezpur the appellant fell seriously sick owing to various chronic ailments, which necessitated her to go on Extra Ordinary Leave (for short, EOL) initially for 1 month on medical ground since 1.9.2003. But her condition did not improve in the meantime and as such she had to make prayer for extension of leave on medical grounds from time to time vide applications dated 4.10.2003, 3.11.2003, 3.12.2003.

Copies of leave applications dated 4.9.2003, 8.10.2003, 7.11.2003 along with medical certificates are annexed herewith and are marked as Annexures 1,2 and 3 respectively.

3. That as the appellant realized that her complications are likely to take time for recovery and that the same require regular care under competent endocrinologist, a facility which is available only at Guwahati where she has her permanent residence, the appellant by an application dated 24.11.2003 submitted before your kind self prayed for her posting at Guwahati on medical ground. In the said application the appellant also made an alternative prayer that in case her prayer for posting at Guwahati on sympathetic consideration does not become possible in that event her application be treated as resignation letter with effect from 1.1.2004. The officiating Assistant Commissioner by his letter dated 1.1.2004 addressed to the Principal KVS No.1 Tezpur informed that prayer for transfer and resignation cannot be interlinked for which different application to different authorities

Tanjani Del Ray
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are required to be made. Having come to know about the aforesaid decision of the Assistant Commissioner from her principal the appellant filed a fresh and unconditional prayer for transfer on 10.2.2004 and a reminder on 23.4.2004 praying for transfer to her Guwahati. The authority does not appear to have sympathetically considered the said prayer of the appellant and rather by an order dated 4.8.2004 issued a show cause notice under Article- 81(d)(3) of the Education Code as if the appellant had voluntarily abandoned her service and thereupon asked her to show cause as to why her loss of lien should not be confirmed. In reply thereto the appellant filed her representation on 16.8.2004 and thereby once again reiterated her prayer for posting at Guwahati. Thereafter on 9.9.2004 the Assistant Commissioner issued a memorandum intimating that her prayer for transfer or resignation could not be combined, that her absence from 1.9.2003 stood treated as unauthorized absence and that her prayer for transfer application was not submitted by due date. Be it mentioned here that in the mean time on 2.7.2004 the Joint Commissioner (Admn) issued transfer guidelines for the academic year 2004-05 whereby sympathetic consideration of prayers of transfer by teachers was assured. The appellant had submitted her prayer for transfer to Guwahati within the purview of the said guide line only. However, by the aforesaid memorandum dated 9.9.2004 issued by the Assistant Commissioner the appellant was given 10 days time to resume duty.

Copies of representation dated 24.11.2003, letter dated 1.1.2004, application dated 10.2.2004, guideline dated 2.7.2004, order dated 4.8.2004, reply dated 16.8.2004 and the memorandum dated 9.9.2004 are annexed hereto and are marked as Annexures- 4, 5, 6, 7, 8, 9 and 10 respectively.

4. That your appellant states that the aforesaid memorandum dated 9.9.2004 was forwarded to the appellant by her Principal under forwarding letter dated 14.9.2004 vide registered post. Immediately on receipt of the said letter dated 14.9.2004 and memorandum dated 9.9.2004 the appellant attended the School and submitted her joining report to the Principal on 24.9.2004 at

Jayanti Deb Roy.

10.30 AM. The Principal refused to receive the joining letter and asked her to bring a fresh order from the Assistant commissioner. Under such circumstances left with no other alternative the appellant came out of the school and faxed an application to the Assistant Commissioner on the same day bringing all the said developments to the notice of the Assistant Commissioner and also prayed for his intervention in this regard.

Copies of letter dated 14.9.2004, joining report dated 24.9.2004 and faxed application dated 24.9.2004 along with communication report are annexed hereto and are marked as Annexures 11, 12 and 13 respectively.

5. That your appellant states that thereafter on 8.10.2004 she again submitted an application before the Assistant Commissioner and prayed for his intervention into the matter. But by a memorandum dated 15.10.2004 sent under registered cover at her residential address at Guwahati which was received by the appellant on 29.10.2004 at the afternoon, the Assistant Commissioner observed that the appellant reported for joining at 12.10 PM at the Vidyalaya and allegedly insisted for treating her joining in the forenoon and that she did not wait for reply by fax from the office of the Assistant Commissioner on 24.9.2004 and further observed that Principal KVS, Tezpur had informed the appellant telephonically on 24.9.2004 and 28.9.2004 asking her to join but the appellant did not join and as such the appellant was directed to report to her duties at KV No.1 Tezpur not later than 29.10.2004 otherwise loss of her lien to the post vide letter dated 4.8.2004 would be confirmed and no correspondence would be entertained thereafter. It would appear from the envelop of the said registered letter dated 15.10.2004 that the same was posted only on 18.10.2004 and same was received by the appellant at 3 pm on 29.10.2004. There is endorsement on the body of the envelop by the post man to the effect that the letter could not be delivered to the appellant as she was out of station. The appellant therefore, by a letter dated 29.10.2004 under registered cover stated the full facts and made a prayer for allowing reasonable time for her joining duty. But by memorandum-dated 2.11.2004 the Assistant Commissioner,

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Guwahati the Assistant Commissioner observed that the loss of lien of the appellant on her abandonment of her post of PRT stood confirmed.

dated 8.10.2004,

Copies of letter, 29.10.2004 and memorandum dated 2.11.2004 are annexed hereto and are marked as Annexure- 15 and 16 respectively.

Annexure-14,

6. That your appellant states that the appellant having been permitted to join her duties vide letter dated 9.9.2004 and appellant accordingly having reported for joining on 24.9.2004 within 10 days of the receipt of the said letter, the Assistant Commissioner committed injustice in holding that the appellant had abandoned her service and as such the impugned action of throwing the appellant out of service in colourable exercise of the power is arbitrary, illegal and is violative of principles of natural justice.

7. That your appellant submits that the Assistant Commissioner having himself observed that the appellant reported for joining at KVS 1, Tezpur on 24.9.2004 at 12.10 PM committed error in holding that the appellant had abandoned her service and as such the impugned action in terminating the service of the appellant is set aside.

8. That your appellant submits that she having specifically complained of hostile and discriminatory treatment by the Principal of KVS 1, Tezpur in not accepting her joining report submitted at the forenoon of 24.9.2004, the Assistant Commissioner did not hold any inquiry and presumed that the appellant did not report for duty at the forenoon and as such the impugned decision of the Assistant Commissioner is harsh apart from being vitiated due to violation of the principles of natural justice.

9. That your appellant submits that it appears that the Assistant Commissioner has presumed the appellant guilty of not complying with the direction to join merely on alleged claim of the principal that he had telephonically asked the appellant to join whereas no such communication at all made to the appellant and as such the impugned action is liable to be interfered with.

10. That your appellant submits that she has been victimized for no fault of her and the appropriate authority has failed to exercise

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jurisdiction in redressing her grievance against the principal who has personal bias against the appellant for reasons best known to him and does not want her to be in service and as such the impugned action is vitiated by mala fide as well as malice in law.

11. That your appellant states that the impugned decision of the Assistant Commissioner to the effect that the appellant had abandoned her service, that she did not report for joining at the forenoon of 24.9.2004, that she did not report for joining thereafter on being asked by the principal telephonically and that she is guilty of not complying with the order dated 15.10.2004 although she did not receive the order dated 15.10.2004 before 29.10.2004, are all perverse and based on no materials whatsoever, the impugned action virtually terminating the service of the appellant is bad.

12. That your appellant states that no opportunity of hearing having been afforded to her prior to terminating her service the same is non est in law and as such the impugned action is liable to be set aside and quashed.

13. That your appellant states that she has been seriously prejudiced at the impugned action as the same has civil consequences on her and as such the impugned action is liable to be interfered with in exercise of plenary, appellate and supervisory jurisdiction.

14. That your appellant states that she had to go on extra ordinary leave owing to her serious illness which fact is borne out by records and the medical certificates in support thereof were time to time submitted before the authority but the authority has not only failed to stand beside her when she was in need of sympathy and help and rather has penalized her by taking vindictive attitude which is likely to have discouraging effect on the teaching community as a whole who have dedicated themselves for the cause of education braving adverse situations.

15. That your appellant states that unless the impugned action of the authority throwing out the appellant out of service is set aside and the appellant is allowed to resume duty she will be put to irreparable loss and injury.

16. That this appeal is filed bona fide and in the interest of justice.

In the premises aforesaid it is prayed that

your honour may be pleased to admit the appeal, call for records and upon hearing the appellant and on consideration of the records be further pleased to allow the same setting aside the impugned order dated 2.11.2004 passed by the Assistant Commissioner, Guwahati and thereby allowing the appellant to resume duty as PRT at KVS1, Tezpur with effect from 24.9.2004 and also granting her Extra ordinary leave for the period of her absence since 1.9.2003 till 24.9.2004 and or may pass such further or other order or orders as you honour may deem fit and proper.

And the appellant as in duty bound shall ever pray.

Jayanti Deb Ray.

By Speed Post/Confidential

KENDRIYA VIDYALAYA SANGATHAN

18, Institutional Area,

Shaheed Jeet Singh Marg,

New Delhi-110016.

F. 9-01/2005-KVS (Vig.)

Dated

-06-2005

01-7-05

ORDER

WHEREAS Smt. Jayanti Deb Roy, PRT, Kendriya Vidyalaya, No.1, Tezpur had been removed from the service w.e.f. 01.09.2003 under the provisions of Article 81(d) of the Education Code for Kendriya Vidyalayas vide order dated 02.11.04 by the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Guwahati being the Disciplinary Authority.

WHEREAS the said Smt. Jayanti Deb Roy has preferred an appeal dated Nil to the undersigned being aggrieved by the above said order of the Disciplinary Authority and made the following submissions:-

1. The appellant joined KVS on 1.8.80 as PRT and on subsequent transfers she joined Kendriya Vidyalaya, Tezpur on 21.04.2003.
2. While working at Tezpur she fell seriously sick owing to various chronic ailments which necessitated her to go on EOL initially for one month on medical ground since 1.9.2003. She had to make prayer for extension of leave on medical grounds from time to time due to her condition was not improving vide applications dated 4.10.2003, 03.11.2003 & 03.12.2003.
3. Realizing that her complications are likely to take time for recovery she applied for her posting at Guwahati on medical ground vide application dated 24.11.03 and in case her prayer does not become possible in that event her application be treated as resignation letter w.e.f. 1.12.2003. The Assistant Commissioner has informed her vide office letter dated 1.1.2004 that request for transfer and resignation cannot be combined together. The appellant filed a fresh & unconditional prayer for transfer to Guwahati on 10.02.04 & 23.4.04. The authority does not consider her prayer sympathetically rather a show cause notice dated 04.08.2004 under the provisions of Article 81(d) of the Education Code for Kendriya Vidyalayas was issued to her. She submitted her representation. After considering her representation she was asked to report within 10 days vide Memorandum dated 09.09.2004. A-4
4. Immediately on receipt of the Memorandum dated 9.9.04 the appellant attended the school and submitted her joining report to the Principal on 24.9.04 at 10.30 AM but he refused to receive the joining letter and asked her to bring a fresh order from the Assistant Commissioner. Then she faxed an application to the Assistant Commissioner on the same day and prayed for his intervention in this regard.

*After this
Satyajit
Advocate*

Enclosure No. 1

5. She again prayed before the Assistant Commissioner on 8.10.04 for his intervention into the matter. But by a Memorandum dated 15.10.04 sent to her, the Assistant Commissioner has observed that the appellant reported for joining at 12.10 PM at the Vidyalaya and allegedly insisted for treating her joining in the forenoon and the Principal had informed telephonically to join but she did not join. As such she was directed to report to her duties not later than 29.10.04 otherwise loss of her lien to the post vide letter dated 4.8.04 would be confirmed. The appellant stating the full facts that she received the letter only on 29.10.04 prayed for allowing reasonable time for her joining duty. But by Memorandum dated 02.11.04 the Assistant Commissioner confirmed the loss of lien on her abandoned post of PRT.
6. The Assistant Commissioner himself observed that the appellant reported for joining at Kendriya Vidyalaya, No.1, Tezpur on 24.9.04 at 12.10 PM committed error in holding that the appellant had abandoned her service.
7. The appellant specifically complained of hostile and discriminatory treatment by the Principal in not accepting her joining report submitted at the FN of 24.9.04, the Assistant Commissioner did not hold any inquiry and presumed that the appellant did not report for duty at the FN.
8. She has been victimised for no fault of her and the appropriate authority has failed to exercise jurisdiction in redressing her grievance against the Principal who has personal bias against the appellant for reasons best known to him and does not want her to be in service.
9. No opportunity of hearing was afforded to her prior to terminating her service. The same is no est. in law and as such the impugned action is liable to be set aside and quashed.

AND WHEREAS, the under-signed being the Appellate Authority based on the consideration of facts and circumstances of the case on records/appeal has come to the conclusion that:-

1. She was granted Earned Leave from 16.7.2003 to 26.7.2003 on medical ground. She applied for E.O.L. from 1.9.03 to 30.9.03 and extended her E.O.L. from 01.10.2003 to 31.10.2003 on medical grounds. She again applied for E.O.L. for another 30 days i.e. from 1.11.2003 to 30.11.2003 by sending a telegram. The EOL from 1.11.2003 to 30.11.2003 was not granted and the Disciplinary Authority directed her to join her duty immediately vide telegram dated 10.11.2003 & again on 17.02.2004.

2. She sent a conditional letter dated 24.11.2003 i.e. either for posting her in any Kendriya Vidyalaya, at Guwahati or to accept her resignation w.e.f. 1.12.2003. She was informed vide letter dated 1.1.2004 that request for transfer and resignation cannot be combined together. She applied for transfer vide her letter dated 10.2.2004 but applied in the prescribed format circulated by KVS for Annual transfers.
3. A Show cause notice under the provision of Article 81(d) of the Education Code for Kendriya Vidyalayas was issued to her vide Memorandum dated 04.08.2004.
4. After considering her representation she was asked to join her duties within 10 days vide Memorandum dated 9.9.2004. She reported for duty on 24.9.2004 at 12.10. P.M. and insisted that the reporting time be written as forenoon which was not acceded to by the Principal. She faxed a letter to Assistant Commissioner's office seeking directions to Principal to allow her to join and on the same day the Principal was informed by fax to allow her to join. She was informed telephonically by the Principal on 24.9.04 & 28.09.04 to join her duties but she did not join her duties.
5. She was given one more opportunity to join her duties by 29.10.2004 by the Assistant Commissioner vide Memorandum dated 18.10.2004 but she did not join her duties by 29.10.2004.
6. The Assistant Commissioner being the Disciplinary Authority confirmed the loss of lien on her post and removed her from service w.e.f. 01.09.2003, vide Order dated 02.11.04.

NOW THEREFORE, the undersigned after careful consideration of the case & records has come to the conclusion that there is no merit found in the appeal of Smt. Jayanti Deb Roy and hence confirms the order dated 02.11.2004 of the Disciplinary Authority, the Assistant Commissioner, KVS, Regional Office, Guwahati and rejects the appeal preferred by Smt. Jayanti Deb Roy.

The appeal of Smt. Jayanti Deb Roy stands disposed of accordingly.



(Pragya Richa Srivastava)
Joint Commissioner (Admn.)
AND APPELLATE AUTHORITY

Copy to: -

1. Smt. Jayanti Deb Roy, Ex-PRT, Kendriya Vidyalaya, No.1, Tezpur-House No. 40, Basishthanagar Road, Guwahati-781029.
2. The Assistant Commissioner, KVS, Regional Office, Guwahati.
3. The Principal, Kendriya Vidyalaya, No.1, Tezpur.
4. Guard file.

31 MAY 2005

गुवाहाटी न्यायपीठ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

O.A. NO. 194 of 2006

Smti. Jayanti Deb Roy,
..... Applicant.
- Vs -

The Union of India & Ors.,
..... Respondents.

IN THE MATTER OF:
Written Statement filed by the Respondents.

- AND -

IN THE MATTER OF:
The Assistant Commissioner, Kendriya Vidyalaya
Sangathan Guwahati Region, Guwahati.

The humble Written Statement on behalf of the
Respondents are as follows :-

1. That I Sri Uday Narayan Khaware, the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Guwahati Region being served the copy of the Original Application, I have gone through the content thereof. I am competent to file this Written Statement, on being supplied with para-wise comments from the Head Quarter, on behalf of the Respondents they being official Respondents. I am fully acquainted with the facts and circumstances of the case.
2. That the deponent states that the allegations / averments which are not borne out of records are denied and not admitted. Any averments / allegation which is not specifically admitted hereinafter is deemed to be denied.
3. That the deponent begs to apprise that the grievance of the Applicant is that Smti. J. Deb Roy, Ex. PRT K.V. No. 1 Tezpur was conveyed with a memorandum dated 2.11.2004 under Sub-Clause (3) of Cl. (d) of Article 81 of the Education Code (Annexure 16 at P 33) by which the competent Authority confirmed the Loss of Lien on her abandoned post of PRT and thereby she has been removed from Service with effect from the date of her remaining absent from duties i.e. from 1.9.03. She represented against the memorandum before the Commissioner Kendriya Vidyalaya Sangathan at New Delhi by filing an Appeal dated 11.07.05 the Appellate authority vide order dated 01.07.05 issued a reasoned order stating that after careful consideration of the case and records has come to the conclusion that there is no merit found in the

Filed by the Respondent
Through M.K Majinder 1/5
Standing Counsel K.V. Sangher
31. 5. 05

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appeal of Smti. Jayanti Deb Roy and hence confirms the order dated 02.11.2004 of the Disciplinary Authority and reject the appeal. (Annexure 18 p-41). Aggrieved by this order dated 01.07.05 the applicant filed this O.A. No. 194 / 06.

Therefore there is no merit in the applicant's case which may be dismissed. The Para-wise comments of the O.A. are submitted as under :-

PARA-WISE COMMENTS

4. That with regard to the statement made in para 4.1 the respondents says that these are matter of record and does not forward any comment.
5. That with regard to the statements made in para 4.2 the respondent states that the contention is derived. The respondent projects the time fact as follows :-

A

Mrs. Jayanti Deb Roy, Ex. PRT, joined K.V. No. 1 Tezpur on 21.4.03. On 23.6.03 she made application for voluntary retirement followed by another Letter dtd. 3.7.03 only due to domestic reasons. She was granted E.L. from 16.7.03 to 26.7.03 on Medical ground and she resumed duty on 28.7.03. On 4.8.03 she was conveyed the decision against her application for voluntary retirement (vide Application dated 29.8.03) which could not be allowed. Thereafter she applied for 15 days E.O.L. from 1.9.03 to 14.9.03. Thereafter (on the strength of medical certificate dated 4.9.03) she applied for 1 months EOL w.e.f. 1/9/03. Thereafter again (on the strength of medical certificate dated 6.10.03) she again applied for E.O.L. vide application dated 8.10.03 to avail leave w.e.f. 1.10.03 to 31.10.03 on medical ground. She again applied for E.O.L. for another 30 days i.e. from 1.11.03 to 30.11.03 by sending a Telegram. The E.O.L. for these period was not granted and a Telegram was sent on 10.11.03 asking her to join duty immediately. Another telegram was sent on 1.7.04 asking her to join. But she did not join and remained absent without grant of leave.

B

6. That with regard to statement made in para 4.3 the respondent states that the contention is denied. The applicant, as stated above, as conveyed the decision against her application for allowing voluntary retirement, which could not be allowed, initially availed earn leave and thereafter absented herself without permission and irrespective of the telegram dated 11.10.03 asking her to join duty immediately. Another telegram was sent to her again on 01.7.2004 asking her to join duty. She did not joined duty and remained absent without granting leave. The Applicant had applied through her letter dated 24.11.2003 for posting in any

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M. K. Ghoshal
24/11/07

Kendriya Vidyalaya at Guwahati or the letter may be treated as resignation w.e.f.01.12.2003. She was informed vide this office letter dated 1.1.2004 that request for transfer and resignation can not be combined together.

Mrs. Roy applied for transfer vide her letter dated 10.2.2004 to a Kendriya Vidyalaya in Guwahati. But she did not apply for transfer in the prescribed format circulated by KVS for Annual Transfer. Her case was considered by the competent authority and disposed of vide this office memo dtd. 9.9.2004. (Enclosed). *Answered?*

one more opportunity to join duties by 29.10.2004 by the Assistant Commissioner, KVS, (GR), vide Memo dated 18.10.2004 but she did not join duties by 29.10.2004.

7. She That with regard to the statement made in para 4.4, 4.16 and 4.19 the respondent

does not admit the same in toto and state as under –

The applicant reported for duty on 24.9.2004 at 12.10 P.M. and insisted that the reporting time be written as forenoon which was not accepted by the Principal and on that ground she was not allowed to join duty on that day. Thereafter she faxed a letter to the Regional Office at 1.41 P.M. seeking directions to Principal to allow her to join duty. On the same day i.e. on 24.9.2004 from this office reply was sent by fax to the Principal Kendriya Vidyalaya No. I, Tezpur to allow her to join duty. The Principal informed her telephonically on 24.9.2004 and 28.9.2004 to join duties but she did not join duty. The averment made by the applicant is denied. She was given was given reasonable time and opportunities to join her duties, but she chose not join. In view of the above, the competent authority has come to the conclusion that she has voluntarily abandoned her service of KVS and action taken as per article 81 (d) of the Education Code of KVS.

The statement made by the petitioner is agreed that the applicant filed an appeal before the appellant authority against the order dated 2.11.2004, passed by the Respondent No, 5. The appellant authority after careful consideration of the case and records has come to the conclusion that there was no merit in the appeal and confirmed the order dated 02.11.2004 vide order dated 01.7.2005.

8. That with regard to the statement made in para 4.17 the respondent states that the averment made by the petitioner is not correct. She was granted E.L. from 16.7.2003 to 26.7.2003 on Medical Ground. She applied for E.O.L. from 1.9.2003 to 30.9.2003 and extended her E.O.L. from 1.10.2003 to 31.10.2003 on Medical Ground. She again applied from 1.11.2003 to 30.11.2003 by sending a telegram. The E.O.L. from 1.9.2003 to 30.11.2003 was not granted and the disciplinary authority directed her to join duty immediately vide telegram dated 10.11.2003 and again on 17.2.2004.

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Mallikarjun
Advocate
21/11/07

9. That with regard to the statement made in para 4.18 the respondent submits that under the above circumstances the application does not warrant any further consideration defeating the application of fair administrative decision under Article 81 (d) of the Education Code.
10. That with regard to the grounds made in application from Para 5.1 to 5.7 the respondents state that the ground made by the petitioner in the said application are not tenable in law. The fact already stated in preceeding paras 4.1 to 4.19. It appears that she was not interested to join duties and remained absent. The action taken as per provision of article 81 (d) of Education Code is in order and there was no malafide intention and discrimination in this action.
11. Under the facts and circumstances stated above it is stated that the relief sought by the applicant can not be granted and this Hon'ble Tribunal may be pleased to dismiss the application being merits.

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, Khanapara, Guwahati, do hereby solemnly affirm and declare as follows:

1. That I am the Assistant Commissioner of the Kendriya Vidyalaya Sangathan, Khanapara, Guwahati, as such I am acquainted with the facts and circumstances of the case. By virtue of my office I am competent to swear this affidavit.
2. That the statements made in this affidavit and in the accompanying application in paragraph 1, 2, 4, 5, 6, 7, 8 paragraphs being matter of records are true to my knowledge, those made in paragraphs 3, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 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केन्द्रीय द्रष्टव्य नियन्त्रण बोर्ड Central Administrative Tribunal 21 NOV 2007 IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH गुवाहाटी न्यायालय AT GUWAHATI Guwahati Bench

O.A.No. 194 of 2006

Smti Jayanti Deb Roy

.....Applicant

-Vs-

The Union of India & Ors.

.....Respondents

In the matter of :

Inserting of Annexure in the written statement

- And -

In the matter of :

The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Guwahati Region, Guwahati.

..... Petitioner
Respondent

The humble petition of the Petitioner above
named

Most Respectfully sheweth

1. That the petitioner have filed written statement in this Original Application on 31.5.07.
2. That the petitioner could not annex a copy of Annexure as mentioned in para 6 i.e. Memorandum dated 9.9.2004.
3. That this Honble Tribunal vide order dated 15.11.07 have observed the matter.
4. That the petitioner now crave leave of this Hon'ble Tribunal to insert the said annexure and correct the mistake committed at the time of filing written statement.
5. That this petition is made bonafide for the ends of justice.

In the circumstances it is prayed to
allow the petitioner/respondent to insert the
missing Annexure and further be pleased to
treat it as a part of the written statement filed
on 31.5.07.

And for this act of kindness your petitioner shall ever pray.

Filed by the Respondent
 Through Mr. Mohinder
 Standing Counsel Mr. Sanjeev
 21/11/07

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TYPED COPY OF ANNEXURE

KENDRIYA VIDYALAYA SANATHAN

Regional Office
Maligaon Chariali
Guwahati-781012.

No.2-6/KVS(GR)/2004-05/7258

Dated 09-09-2004

MEMORANDUM

With reference to her letter dated 16.8.2004 Smt. J.D.Roy, PRT is hereby intimated that :-

- (a) Request for transfer/Resignation/Leave etc. can't be combined as these are dealt by different authorities.
- (b) Her absence from 01-09-2003 is treated as unauthorized absence.
- (c) As she has not submitted her transfer application in the prescribed proforma by due date, the question of consideration of her transfer at this stage does not arise.
- (d) Resignation based on conditions cannot be considered.

Now therefore, the undersigned informs that in case she does not resume her duties within 10 days on receipt of this Memorandum, provisional loss of lien issued vide this office letter dated 04-08-2004 shall be confirmed and no further correspondence shall be entertained in this regard.

(U.N. KHWAREY)
ASSISTANT COMMISSIONER

To

Smt. J.D. Roy, PRT
Kendriya Vidyalaya,
No.1 Tezpur,
House No.40,
Basisthanagar Road,
Guwahati-29.

*Certified below
MK Majinder
2/11/04*