

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 0.A/160/2007

R.A/C.P No.

E.P/M.A No.

1. Orders Sheet..... 0.APg. 1to 3
2. Judgment/Order dtd. 16.07.2007Pg. xto no. separate order
from 850 withdrawn
3. Judgment & Order dtd.Received from H.C/Supreme Court
4. O.A..... 160/2007Pg. 1to 21
5. E.P/M.P.....Pg.to
6. R.A/C.P.....Pg.to
7. W.S.....Pg.to
8. Rejoinder.....Pg.to
9. Reply.....Pg.to
10. Any other Papers.....Pg.to
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendement Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

Salita
04.10.17

CENTRAL ADMINISTRATIVE TRIBUNAL
CHHATTISGARH

ORDER SHEET

1. Original Application No. 160 2007.

2. Miscellaneous Petition No.

3. Contempt Petition No.

4. Review Application No.

Applicant(s) Sri N.R.K. NAIR VS. Union of India & Ors

Advocate for the Applicant(s) Mr. U.K. Nair

... Mr. B. Samra
... Mr. K.N. Chaudhary
... Mrs. R.S. Choudhary

Advocate for the Respondent(s) Novodaya

Notes of the Registry	Date	Order of the Tribunal
This application is in form is filed/C.F. for Rs. 50/- deposited vide IPO/BD No. <u>364 GS 16317</u> Dated <u>18.6.07</u>	19.6.07.	The applicant is working as Principal, at Jawahar Novodaya Vidyalaya, Nongstoin and he has been transferred to Sheopur, Bhopal vide order dated 22.5.2007 (Annexure 4). The operative Portion of the order is reproduced below:- "The above Principals are directed to hand over the charge of the Vidyalays to the Vice-Principal/Sr. Most PGT as per directions of the Regional Office concerned and report at their new place of posting latest by 15.6.2007. They are entitled for transfer benefits as per rules." The grievance of the applicant is that the Respondent No.3 is not taking steps towards releasing the applicant from the post of Principal, J.N.V., Nongstoin and permitted to join at Bhopal.

19.6.07.

The applicant is working as Principal, at Jawahar Novodaya Vidyalaya, Nongstoin and he has been transferred to Sheopur, Bhopal vide order dated 22.5.2007 (Annexure 4). The operative Portion of the order is reproduced below:-

"The above Principals are directed to hand over the charge of the Vidyalays to the Vice-Principal/Sr. Most PGT as per directions of the Regional Office concerned and report at their new place of posting latest by 15.6.2007. They are entitled for transfer benefits as per rules."

The grievance of the applicant is that the Respondent No.3 is not taking steps towards releasing the applicant from the post of Principal, J.N.V., Nongstoin and permitted to join at Bhopal.

Contd/-

This application is in form is filed/C.F. for Rs. 50/- deposited vide IPO/BD No. 364 GS 16317 Dated 18.6.07

Registrary

no steps

18.6.07

-2-
O.A. 160/07

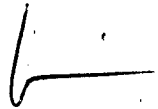
19.6.07.

I have heard Mr. B. Sarma learned counsel for the applicant. When the matter came up for hearing the learned counsel for the applicant has submitted that the transfer order is still hold good and it is not modified or /cancelled. Therefore, the applicant is not entitled for transfer as per transfer order.

Considering the issue involved and urgency of the matter I am of the view that notice may be issued to the respondents. Issue urgent notice to the respondents for which applicant will take emergent steps.

Therefore, I direct the respondents that this will not be a bar for the respondents for consideration of the applicant and to issue of necessary relieving orders so as to enable him to join at Bhopal.

Post the matter on 6.7.2007.


Vice-Chairman

lm

06.07.2007


When the matter came up today Mrs.M.Khound, learned counsel appearing on behalf of Mrs.R.S.Choudhury, learned counsel for the Respondents produced an office order dated 5.7.2007 whereby in partial modification of earlier order dated 22.5.2007 the Applicant is posted to JNV, Kawardha (Chattisgarh) on administrative ground and he is directed to report for joining his new place latest by 20.7.2007 under intimation to the issuing office. Copy of the order shall be kept on record.

Contd...

Notice & order sent
to D/Section for
issuing to resp nos.
1, 2 and 3 by regd.
A/D post.

Cms D/No-625 to 627
22/6/07. DI=26/6/07.

① Service report
awaited.


B-707.

OA. 160/07

- 3 -

3

Contd.
060.7.2007

Mr. U.K. Nair, learned counsel for the Applicant submitted that substantial relief has been granted by the Respondents and therefore he does not want to press the O.A. and prays for a liberty to withdraw the same.

The O.A. is allowed to be withdrawn. Liberty, as prayed, is granted to the Applicant to approach appropriate forum for further grievance, if any.

The O.A. is dismissed as withdrawn.

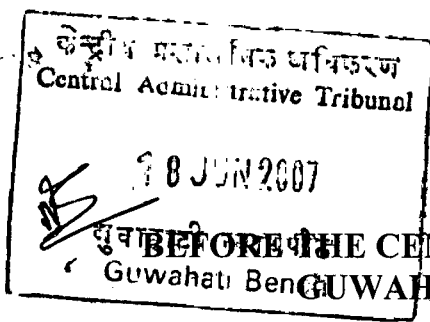
✓

Vice-Chairman

/bb/

11.7.07
Copy of the
order handed
over to the L/Adv.
for the parties.
H.P.

Sharma
22/07/2007



**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH: AT GUWAHATI.**

ORIGINAL APPLICATION NO. 160 /2007.

Sri N. Radha Krishnan Nair

.....Applicant.

VERSUS

The Union of India & Ors.

....Respondents.

SYNOPSIS

That the applicant has by way of this applicant assailed the discriminatory and vindictive attitude adopted by the Respondent authorities, more particularly the Respondent No.3, against him. The applicant who was transferred as Principal, Jawahar Navodaya Vidyalaya, West Khasi Hills vide order dated 30.05.06 (Annexure – 3) had joined as Principal, Jawahar Navodaya Vidyalaya, Nongstoin, West Khasi Hills on 08.07.06. The respondent authorities without any rhyme or reason, proceed to issue an order dated 19.10.06 transferring and posting the applicant to Tawang. There existed no public interest and/or administrative exigency in passing of the impugned order dated 19.10.06. Later on, however, it became evident that the sole reason for passing of the impugned order dated 19.10.06 was to make the post held by the applicant vacant so as to accommodate one R. Medarist Shylla who came to be appointed on direct recruitment basis vide order dated 18.10.06. Poised thus the applicant approached this Hon'ble Tribunal by way of filing O.A. No.274/ 06, assailing the said order dated 19.10.06. This Hon'ble Tribunal upon consideration of the matter was pleased, vide order dated 06.11.06, to dispose of the said original application with a direction to the respondent authorities to consider and dispose of the representation as preferred by the applicant against the order of his transfer dated 19.10.06, with further direction not to disturb the services of the applicant till disposal of the representation.

The Respondent authorities in terms of the directives passed by this Hon'ble Tribunal vide order dated 19.10.06 was pleased to issue

communication dated 11.12.06 keeping in abeyance the transfer order of the applicant dated 19.10.06 until further orders and the applicant continued as the Principal, Jawahar Navodaya Vidyalaya, Nongstoin.

The respondent authorities on consideration of the case of the applicant was pleased vide order dated 22.05.07 to transfer and post him as Principal, Jawahar Navodaya Vidyalaya, Sheopur, Bhopal and it was mandated vide the said order that the applicant was to join against his transferred post by 15.06.07. The applicant was to hand over charge of the post held by him to the person as identified by the Respondent No.3.

The applicant vide his communication dated 06.06.07 requested the respondent no.3 to pass suitable directions in the matter so as to facilitate his joining against his transferred post on or before 15.06.07. The Chairman, Jawahar Navodaya Vidyalaya, Nongstoin, also vide his endorsement dated 06.06.07 requested the respondent no.3 to take expeditious steps in the matter and also identified Shri M. Sudip Paul, PGT, Chemistry, as the person to whom the charge of the post of Principal was to be handed over by the applicant.

In spite of the above developments, the respondent no.3 failed to issue suitable directions in the matter as was required of him and the applicant could not proceed to join against his transferred place of posting. The respondent no.3 has been withholding the release of the applicant without there being any plausible cause or reason to justify the same and he being an authority subordinate to the authority issuing the Transfer order dated 22.05.07, could not have flouted the directives as contained therein.

The post against which the applicant has been posted is a vacant post and is being manned by a Vice Principal on in-charge basis and the order dated 22.05.07 still holds the field and the same has not been revoked and/or modified till this very date. Therefore, it is clear that the respondent no.3 has been acting in the matter with malafide intention and as such the applicant he has come under the protective hands of your Lordships praying for redressal of his grievances.

Filed by:-
Sharma
(B. Sharma)
Advocate.

**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH: AT GUWAHATI.**

ORIGINAL APPLICATION NO. 160 /2007.

Sri N. Radha Krishnan Nair

.....Applicant.

VERSUS

The Union of India & Ors.

....Respondents.

LIST OF DATES

1. 1989 – Applicant appointed as Post Graduate Teacher in English in Jawahar Navodaya Vidyalaya, Amravati, Maharashtra.
2. 1998 – Applicant promoted to the cadre of Vice Principal, Jawahar Navodaya Vidyalaya.
3. 30.05.06 – Applicant posted on promotion as Principal, Jawahar Navodaya Vidyalaya, Ri-bhoi, Meghalaya.
4. 08.06.06 – Representation preferred by the applicant against the order-dated 30.05.06.
5. 08.07.06 – Applicant joins against his transferred post at Jawahar Navodaya Vidyalaya, Nongstoin.
6. 19.10.06- Applicant without any rhyme or reason, transferred and posted to Tawang.

(Annexure – 1, page -15)

7. – Applicant prefers O.A. No.274/06 before this Hon'ble Tribunal assailing the order dated 19.10.06.

8. 06.11.06 - This Hon'ble High Court disposes of the Original Application No.274.06.

(Annexure - 2, Page- 16-18)

9. 11.12.06 - The respondent authorities keep the order dated 19.10.06 in abeyance until further orders.

(Annexure-3, Page- 19)

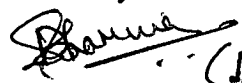
10. 22.05.07- The respondent authorities on consideration of the grievances of the applicant post him on transfer as Principal, Jawahar Navodaya Vidyalaya, Sheopur, Bhopal. The applicant required to join at his transferred post on or before 15.06.07

(Annexure- 4, Page-20)

11. 06.06.07- The applicant prays before the respondent no.3 to issue orders towards relieving him from Shillong to join against his transferred place of posting.

(Annexure-5, Page-21)

Filed by


(B. Sharma)
Advocate

9

**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH: AT GUWAHATI.**

ORIGINAL APPLICATION NO. 160 /2007

Sri N. Radha Krishnan Nair, son of Sri V.P.
Sivarama Kurup, presently working as
Principal of Jawahar Navodaya Vidyalaya,
Nongstoin, West Khasi Hills, Meghalaya.

.....Applicant.

VERSUS

1. The Union of India, represented by
the Secretary to the Government of India,
Ministry of Human Resources
Development, New Delhi.
2. The Navodaya Vidyalaya Samity,
represented by its Commissioner, A-28,
Kailash Colony, New Delhi - 110048.
3. The Deputy Commissioner,
Navodaya Vidyalaya Samity, Regional
Office – Nongrim Hills, Shillong,
Meghalaya – 793003.

.... Respondents.

Mr.

Filed by:- the applicant
through → Boijesh Sharma
Advocate.

1. **PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION IS MADE:**

This application is directed against the arbitrary and illegal action on the part of the respondent no. 3 in not taking steps towards releasing the applicant from the post of Principal, J.N.V, Nongstoin, West Khasi Hills to enable him to undertake the transfer and posting ordered in his case vide office order dated 22.05.07.

2. **JURISDICTION:**

The applicant further declares that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

3. **LIMITATION:**

The applicant declares that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act, 1985.

4. **FACTS OF THE CASE:**

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges guaranteed under the Constitution of India and the laws framed thereunder.

4.2 That your applicant states that he is presently working as the Principal, Jawahar Navodaya Vidyalaya, Nongstoin, West Khasi Hills and had joined against the said post on transfer on 08.07.06.

4.3 That the applicant states that he was initially appointed as a Post Graduate Teacher (PGT) in English way back in the year 1989. The initial appointment of the applicant was at Jawahar Navodaya Vidyalaya, Amravati,



Maharashtra. The applicant was in the year 1992 transferred and posted as Post Graduate Teacher to Jawahar Navodaya Vidyalaya, Trichur.

4.4 That the applicant was in the year 1998 promoted to the cadre of Vice-Principal and on promotion was posted to Jawahar Navodaya Vidyalaya, Hamirpur, Himachal Pradesh. The applicant joined against his promoted post on 01.11.98.

4.5 That the applicant states that while working as Vice-Principal Jawahar Navodaya Vidyalaya, Hamirpur, the applicant was posted on several occasions to other schools of the Samity situated in the states of Himachal Pradesh and Punjab, as In-Charge Principal of the said schools. The applicant complied with the orders issued reposing upon him higher responsibilities and discharged his duties to the best of his ability and without blemish to any quarter.

4.6 That the applicant was in the year 2002 again reposted as Vice Principal, Jawahar Navodaya Vidyalaya, Hamirpur, Himachal Pradesh. After rejoining as Principal, Jawahar Navodaya Vidyalaya, Hamirpur, and working as such for about 3 months, he came to be placed under suspension, basing on some false and frivolous charges. One of the allegation levelled against the applicant pertained to an incident occurring in Jawahar Navodaya Vidyalaya, Firozpur, Punjab after the applicant had handed over the charge of the post of Principal (held by him on In-Charge basis). A departmental proceeding also came to be instituted against the applicant, which culminated in imposition of a penalty of withholding of one increment. The appeal preferred against the said penalty is still pending disposal. It may be mentioned here that none of the charges levelled against the applicant, could be sustained in the enquiry and the penalty came to be imposed upon him in a most illegal and arbitrary manner.

4.7 That the applicant states that during pendency of the departmental proceedings, he was reinstated in service on 21.02.03 and was posted as Vice Principal to Jawahar Navodaya Vidyalaya, Bari, Paisen, Madhya Pradesh. During the period the applicant was under suspension, his juniors came to promoted to the cadre Principal, however the case of the


applicant was not considered. The nature of the allegations levelled against the applicant and the timing of his suspension and the departmental proceeding makes it clear that the said course of action was initiated only to deprive the applicant of his due promotion to the cadre of Principal and facilitate his supercession by his juniors. On conclusion of the departmental proceedings, the period of suspension of the applicant came to be regularised as on duty.

4.8 That the applicant states that while working as Vice Principal, Jawahar Navodaya Vidyalaya, Bari, he was vide order under no. F.44-106/2005/ NVS/ BPL/ PERS – 5230 dated 08.11.05 temporarily transferred and attached as the In-Charge. Principal, Jawahar Navodaya Vidyalaya, Sagar, Madhya Pradesh. Although the applicant was entitled to be promoted to the cadre of principal on regular basis no orders in this connection came to be issued.

4.9 That the applicant states that faced with the problems confronting him and his family, for the reason of his absence from his native state Kerala w.e.f. 1998, the applicant vide his representation dated 20.04.04 prayed before the authorities for consideration of his case for a posting to Kerala. It may be mentioned here that the applicant in his said representation had highlighted the difficulties faced by him due to his inability to provide for care and attention to his old and ailing parents.

4.10 That the applicant states that belatedly though, the case of the applicant came to be considered for promotion to the cadre of principal. On his such promotion he was vide order under no. F No. 23-1/ 2006- NVS (Pers) dated 30.05.06 posted to Jawahar Navodaya Vidyalaya, Ribhoi, Meghalaya as Principal.

4.11 That the applicant states that on receipt of the order dated 30.05.06 (Annexure – 3) he proceeded vide his representation dated 08.06.06 to request the authorities to modify his order of posting as Principal and to effect his promotion against the vacant post of Principal available at Jawahar Navodaya Vidyalaya, Sagar. The said representation was followed by other appeals of the applicant in this connection.



4.12 That the applicant states that on his appeals for modification of his order of transfer dated 30.05.06 (Annexure – 3) having failed to evoke any response, the applicant proceeded to report before the respondent no. 3. However, the place of posting of the applicant as ordered vide order dated 30.05.06 was modified and he came to be posted to Jawahar Navodaya Vidyalaya, Nongstoin, West Khasi Hills. The applicant joined as Principal, Jawahar Navodaya Vidyalaya, Nongstoin on 08.07.06. The respondent no. 3 vide order dated 10.07.06 also accepted the joining of the applicant.

4.13 That the applicant states that on joining as Principal, Jawahar Navodaya Vidyalaya, Nongstoin, he started his duties in right earnest and initiated steps for the all round development of the school and the children studying therein. However, due to a misunderstanding about the steps initiated by the applicant, protests erupted against him. The applicant was threatened with dire consequences. The developments as occasioning lead the applicant to prefer representation dated 26.09.06 praying for a transfer outside the region.

4.14 That the misunderstanding that had arisen due to the various measures initiated by the applicant in the school came to be removed with the passage of time and on a better understanding by all concerned about the bonafide behind the measures initiated by the applicant. The parents-teachers council of the school convened a meeting on 05.10.06 wherein all misunderstanding were removed. The meeting also requested the authorities not to transfer the applicant in the near future. It may be mentioned here that all threats held out to the applicant also vanished and he was able to discharge his duties in a more relaxed and conducive environment. The said aspect of the matter is to the knowledge of the authorities.

4.15 That the applicant states that in continuation of the discriminations being meted out to the applicant, the respondents proceeded to issue order dated 19.10.06 transferring and posting the applicant to Tawang (Arunachal Pradesh) and that too within 3 months from his joining as Principal, Jawahar Navodaya Vidyalaya, Nongstoin. The illegality committed in transferring the applicant within 3 months of his joining against the post,

held by him was sought to be couched by terming the order to one issued in public interest.

A copy of the order dated 19.10.06 is annexed as Annexure – 1.

4.16 That the applicant states that he received the copy of the order dated 19.10.06 on 27.10.06 by fax. On receipt of the copy of the order dated 27.10.06, the applicant proceeded vide his representation dated 30.10.06 to pray before the authorities for revocation of his order of transfer dated 10.10.06. The applicant raised the following contentions;

(a) The misunderstanding arising at the time of the joining having been removed, the work atmosphere was conclusive and he was able to discharge his duties in the best possible manner.

(b) The preparation by his daughter for her class XII exams stated to be held in the month of February-March, 2007 would be adversely.

In view of the applicant prayed for his continuance as Principal, Jawahar Navodaya Vidyalaya, Nongstoin at least till 31.03.07.

4.17 That the applicant states that being constrained by the circumstances, the applicant approached this Hon'ble Tribunal by way of filing O.A. No. 274/ 06 assailing the said order dated 30.05.06. This Hon'ble Tribunal on consideration of the matter was pleased vide its order dated 06.11.06 to direct the respondent no. 2 to consider and dispose of the representation preferred by the applicant and pending disposal of the said representation not to disturb the applicant from the post of Principal, Jawahar Navodaya Vidyalaya, Nongstoin.

A copy of the said order dated 06.11.06 is annexed as Annexure – 2.

M.

4.18 That the applicant states that the respondent authorities vide communication dated 11.12.06, in terms of the directives passed by this Hon'ble Tribunal in O.A. No. 247/ 06 proceeded to keep the order of transfer of the applicant to Jawahar Navodaya Vidyalaya, Tawang in abeyance until further orders.

A copy of the said communication dated 11.12.06 is annexed as Annexure – 3.

4.19 That the applicant states that the case of the applicant was considered by the competent authorities, and he was vide order dated 22.05.07 transferred and posted to Jawahar Navodaya Vidyalaya, Sheopur, Bhopal. The said order warranted the respondent no. 3 to identify the person to whom the applicant was required to handover charge so as to facilitate his joining at his new place of posting as ordered vide the transfer order dated 22.05.07.

A copy of the order dated 22.05.07 is annexed as Annexure – 4.

4.20 That the applicant states that on receipt of the order dated 22.05.07, he vide his communication dated 06.06.07 requested the respondent no. 3 to issue suitable direction as to whom he should hand over charge so as to report to his transferred place of posting by 15.06.07. The Chairman, Jawahar Navodaya Vidyalaya, Nongstoin, vide his endorsement dated 06.06.07 made on the body of the said communication, observed for reliving the applicant at the earliest so as to facilitate admission of his children in college and school. Further, M. Sudip Paul, PGT Chemistry was identified as the person to whom charge was to be handed over by the applicant.

A copy of the communication dated 06.06.07 is annexed as Annexure – 5.

4.21 That the applicant states that inspite of the fact that the transfer order dated 22.05.07 was issued by authorities higher in status and position than that of the respondent no. 3 directing the applicant to join at his new place

of posting and also the endorsement of the Chairman, Jawahar Navodaya Vidyalaya, Nongstoin on the body of the representation dated 06.06.07 preferred by the applicant to issue necessary orders towards reliving the applicant facilitating his joining at his transfer place of posting, the respondent no. 3 has not issued any order towards the handing over of the charge of the post of Principal of Jawahar Navodaya Vidyalaya, Nongstoin held by the applicant and thereby facilitate issue of necessary reliving order in his favour. The said action on the part of the respondent no. 3 in not taking appropriate action to facilitate the handing over of charge of the post of the Principal by the applicant and also towards issue of necessary reliving orders in favour of the applicant in defiance of the orders passed by his superior authorities is in clear violation of official decorum and is uncalled for on the part of the respondent no. 3 and has rendered himself liable for disciplinary action.

4.22 That the applicant states that the sole intention behind not facilitating the handing over of the charge of the post of Principal held by him thereby enabling issue of necessary reliving orders in his favour is to somehow harass the applicant who was not in the good book of the respondent no. 3. The respondent no. 3 is duty bound to comply with the directions issued by his superiors authorities vide the order of transfer dated 22.05.07 towards facilitating the handing over of charge of the post of Principal held by the applicant and non compliance of the said directives as contained in the order of transfer dated 22.05.07 vindicates defiance of the orders passed by superior authorities on the part of the respondent No. 3.

4.23 That the applicant states that the order of transfer dated 22.05.07 transferring and posting him to Sheopur, Bhopal is still holding the field, he cannot be denied issue of necessary reliving orders facilitating his joining at his transferred place of posting. The non issue of reliving order enabling the applicant to join at his transferred place of posting at Sheopur, Bhopal in addition to having the effect of harassing the applicant who is burdened with the responsibility of securing admission for his children's education immediately so as to prevent losing a valuable year for not being able to pursue for admission in appropriate time, is also hampering the educational prospects of the students of school to which he has been transferred to, which is running


without a Principal at present. In view of the said position, necessary reliving order is required to be issued immediately facilitating the joining by the applicant at his transferred place of posting. The respondent authorities having failed to discharge their duties towards mitigating the grievances of the applicant and he having exhausted all other options towards securing necessary reliving order in his favour, having left with no other alternative, has approached this Hon'ble Tribunal seeking appropriate relief/ reliefs.

4.24 That the applicant states that in view of the facts and circumstances stated above it is a fit case wherein your lordship would be pleased to pass an interim direction as has been prayed for, failing which the applicant stands to face irreparable loss and injury.

4.25 That the applicant states that in the event of your Lordship's being pleased to pass an interim direction as has been prayed for, the balance of convenience would be maintained in favour of the applicant, inasmuch as, the order of transfer dated 22.05.07 still holding the field and it has not been cancelled/altered/modified and the respondent authorities are duty bound to issue necessary orders reliving the applicant facilitating his joining at his transferred place of posting. Further, the post of Principal in the school wherein the appellant has been transferred to is still lying vacant and no other person has been appointed against the said post of Principal on regular basis till date. The post of Principal of Jawahar Navodaya Vidyalaya, Sheopur, Bhopal is currently held by an incumbent in the cadre of Vice Principal on in-charge basis.

4.26 That the applicant states that he has no any other appropriate, equally efficacious alternative remedy available to him and the remedy sought for herein when granted would be just, adequate, proper and effective.

4.27 That this application has been filed bonafide for securing the ends of justice



5. **GROUND FOR RELIEF WITH LEGAL PROVISIONS:**

5.1 For that the impugned action/ inaction on the part of the respondent authorities in not facilitating the handing over of charge of the post of Principal by the applicant thereby enabling him to obtain necessary reliving orders in his favour for joining his duties at his transferred place of posting is bad in law as well as in facts.

5.2 For that the respondent authorities having vide the order, dated 22.05.07 transferred and posted the applicant at Sheopur, Bhopal they are duty bound to facilitate the joining by the applicant at his said transferred place of posting.

5.3 For that the order of transfer dated 22.05.07 having directed the regional office to facilitate the handing over the charge of the post of Principal by the applicant and the Chairman, Jawahar Navodaya Vidyalaya, Nongstoin having vide his endorsement dated 06.06.07 made on the body of the communication dated 06.06.07 preferred by the applicant, observed for reliving of the applicant at the earliest and having identified Mr. M. Sudip Paul as the person to whom the charge was to be handed over by the applicant, it was required of the respondent no. 3 to issue necessary orders facilitating the handing over of the charge of the post of Principal by the applicant in terms of the order transferred dated 22.05.07 and failure on the part of the respondent no. 3 to take necessary action in terms of the said order of transfer dated 22.05.07 and the endorsement of the Chairman, Jawahar Navodaya Vidyalaya, Nongstoin on the body of the communication dated 06.06.07 is in clear defiance of the directives passed by the superior authorities of the respondent no.3.

5.4 For that action/ inaction on the part of the respondent no. 3 in not issuing necessary reliving orders in favour of the applicant facilitating the joining at his transferred place of posting in addition to causing harassment to the applicant is also hampering the educational prospects of the children's of the applicant for whom he is required to secure admissions into college/ school

immediately so as to prevent losing of a valuable year for being unable to pursue for their admission in appropriate time.


5.5 For that the non issuance of necessary reliving orders in favour of the applicant facilitating his joining at his transferred place of posting is hampering the proper management and administration of the transferee school which is being run without a permanent Principal and in turn is seriously affecting the educational prospects of the students studying therein.

5.6 For that the transfer order dated 22.05.07 still holding the field and the said order having not been cancelled/ modified till date, a duty is cast upon the respondent authorities to implement the said order in its right earnest and appropriate actions are required to be taken towards issue of necessary reliving orders enabling the applicant to join at his transferred place of posting facilitating implementation of the said order dated 22.05.07.

5.7 For that the respondent no. 3 having not acted in compliance of the directives as contained in the order of transfer dated 22.05.07 towards handing over of charge of the post of the Principal by the applicant and issuing necessary reliving orders in his favour, has acted in clear defiance of the directives passed by his superior authorities and has rendered himself liable for initiation of disciplinary action against him.

5.8 For that in any view of the matter the action/ inaction on the part of the respondent authorities in not facilitating the handing over of charge of the post of Principal and issuing necessary reliving orders in favour of the applicant in compliance of the directives contained in the order of transfer dated 22.05.07 is not sustainable in the eye of law and is liable to be interfered with by this Hon'ble Tribunal.

The applicant craves leave of the Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of the case.



6. **DETAILS OF THE REMEDIES EXHAUSTED:**

That the applicant declares that he has exhausted all the remedies available to him and there is no alternative remedy available to him. The urgent nature of the relief's as sought for in this application has forced the applicant to approach this Hon'ble Tribunal at the earliest possible instance.

7. **MATTER NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:**


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

8. **RELIEF SOUGHT FOR:**

Under the facts and circumstances stated above, the applicant most respectfully prayed that the instant application be admitted, records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be pleased to grant the following relief's to the applicants:

8.1 To direct the respondent authorities to issue necessary orders towards handing over of charge of the post of Principal by the applicant and to issue of necessary reliving orders in his favour so as to enable him to join at his transferred place of posting in compliance of the directives contained in the order of transfer dated 22.05.07. (Annexure - 4).

8.2 Cost of the application.



8.3 Any other relief/ relief's to which the applicant is entitled to under the facts and circumstances of the case and as may be deemed fit and proper by this Hon'ble Tribunal upon consideration of the matter.

9. **INTERIM ORDER PRAYED FOR:**

Pending disposal of this application, it is most respectfully prayed that your Lordship would be pleased to direct the respondent authorities not to cancel/ alter/ modify the order of transfer dated 22.05.07. (Annexure – 4).

10.

11. **PARTICULARS OF THE POSTAL ORDER:**

- i) I.P.O No. -
- ii) Issued from -
- iii) Payable at - Guwahati.

12. **DETAILS OF INDEX:**

An Index showing the particulars of documents is enclosed

13. **LIST OF ENCLOSURES:**

As per Index.



VERIFICATION

I, Sri N. Radha Krishnan Nair, aged about 51 years, Son of Sri V. P. Sivarama Kurup, presently working as Principal of Jawahar Navodaya Vidyalaya, Nongstoin, West Khasi Hills, Meghalaya, do hereby solemnly affirm and verify that I am the applicant in this instant application and conversant with the facts and circumstances of the case, the statements made in paragraph 1, 2, 3, 4 (1 to 14, 16, and 21 to 27), 5 to 13 are true to my knowledge; those made in paragraphs 4 (15, 17, 18, 19, 20) are true to my information derived from the records and the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the 18th day of June, 2007.



(N. RADHA KRISHNAN NAIR)

DEPONENT



NAVODAYA VIDYALAYA SAMITI
(An Autonomous Organization
under Ministry of HRD)
Dept. of Sec. Edn. & Hr. Edn., Govt. of India
A-28, Kailash Colony,
New Delhi - 110048

F.No.10-1/2006-NVS(Pers.)

Dated: 19/10/2006

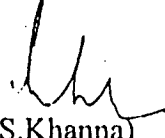
OFFICE ORDER

Following transfer of Principals are hereby ordered on public interest with immediate effect.

S.No	Name of the Principal	From	To
1	Sh. R.K. Nair	West Khasi Hills	Tawang
2	Sh. M. Raghmani Singh	Tamenglong	Thoubal
3	Sh. N. Dhiran Singh	Thoubal	Imphal West
4	Sh. E. Umapathi Reddy	Imphal West	Golaghat
5	Smt. B. Naik	Golaghat	Howrah

The individuals indicated above are directed to hand over the charge of the Vidyalaya to Vice-Principal/senior most PGT as per the direction of the Regional Office concerned and report for joining at their new place of posting latest by 10.11.2006 under intimation to this office.

The individuals are entitled for TTA and other transfer benefits as per the rules.


(M.S.Khanna)
Joint Commissioner(Pers.)

Copy to:-

- 1 The individual concerned.
- 2 The Deputy Commissioner, NVS, RO-Shillong/Patna- for n.a.
- 3 The Principal of the JNV concerned- for compliance.
- 4 Guard file.

Certified to be true Copy


Advocate



-15- ANNEXURE- 1

2

NAVODAYA VIDYALAYA SAMITI
(An Autonomous Organization
under Ministry of HRD)
Dept. of Sec. Edn. & Hr. Edn., Govt. of India
A-28, Kailash Colony,
New Delhi - 110048

F.No.10-1/2006-NVS(Pers.)

Dated: 19/10/2006

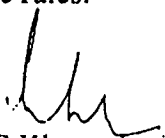
OFFICE ORDER

Following transfer of Principals are hereby ordered on public interest with immediate effect.

S.No	Name of the Principal	From	To
✓ 1	Sh. R.K. Nair ✓	West Khasi Hills	Tawang
2	Sh. M. Raghmani Singh	Tamenglong	Thoubal
3	Sh. N. Dhiran Singh	Thoubal	Imphal West
4	Sh. E. Umapathi Reddy	Imphal West	Golaghat
5	Smt. B. Naik	Golaghat	Howrah

The individuals indicated above are directed to hand over the charge of the Vidyalaya to Vice-Principal/senior most PGT as per the direction of the Regional Office concerned and report for joining at their new place of posting latest by 10.11.2006 under intimation to this office.

The individuals are entitled for TTA and other transfer benefits as per the rules.


(M.S.Khanna)
Joint Commissioner(Pers.)

Copy to:-

- 1 The individual concerned.
- 2 The Deputy Commissioner, NVS, RO-Shillong/Patna- for n.a.
- 3 The Principal of the JNV concerned- for compliance.
- 4 Guard file.

Certified to be true Copy


Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 274 of 2006.

Date of Order : This the 6th Day of November 2006.

The Hon'ble Sri K.V. Sachidanandan, Vice-Chairman.

Sri N. Radha Krishnan,
Son of Sri V.P. Sivarama Kurup,
Presently working as Principal,
Navodaya Vidyalaya, Nongstoin
West Khasi Hills, Meghalaya.

... Applicant

By Advocates : Mr U.K. Nair, Mr B. Sarma and Mrs. A. Chakrabarty,
Advocates.

Versus -

1. The Union of India, represented by the
Secretary to the Government of India,
Ministry of Human Resources Development
New Delhi.

The Navodaya Vidyalaya Samity
represented by its Commissioner, A-28,
Kailash Colony, New Delhi - 110 048.

3. The Deputy Commissioner,
Navodaya Vidyalaya Samity,
Regional Office - Nongrim Hills,
Shillong, Meghalaya - 793 003.

... Respondents.

By Advocate : Mr G. Baishya, Sr. C.G.S.C. for the Respondent No. 1.

.....

ORDER (ORAL)

K.V. SACHIDANANDAN (V.C.)

The Applicant, who is presently working as Principal, Navodaya Vidyalaya, Nongstoin, West Khasi Hills, Meghalaya was transferred on promotion as Principal, Jawahar Navodaya Vidyalaya, Ri-bhoi, Meghalaya vide order dated 30.05.2006 (Annexure - 3). The Applicant preferred a representation on

Certified to be true Copy

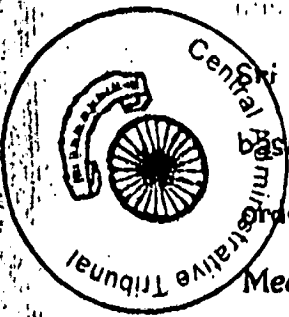
Advocate

08.06.2006 against the transfer order dated 30.05.2006 and joined on 08.07.2006 as Principal, Jawahar Navodayalaya, Nongstoin. The Applicant stated that there was some mis-understanding amongst the local people, which forced him to make request for transfer and filed representation dated 26.09.2006. (Annexure - 6). Subsequently the situation melted and the Applicant continued in the said school and even shifted his daughter to the said school and she is preparing for the CBSE Class XIIth science examination. Vide impugned order dated 19.10.2006, the Applicant has been transferred to Tawang, Arunachal Pradesh. Mr U.K. Nair, learned Counsel for the Applicant brought to my notice the order dated 18.10.2006 by which one Sri R. Medarist Shylla has been appointed on Direct Recruitment basis as Principal in the said school and contended that the transfer order dated 19.10.2006 is really meant to accommodate said Sri R. Medarist Shylla. Therefore, the impugned transfer order dated 19.10.2006 cannot be in public interest and great hardship would be caused to the Applicant if the said transfer is given effect to. The Applicant submitted representation on 30.10.2006 for cancellation of the impugned transfer order dated 19.10.2006, to the Commissioner, Navodaya Vidyalaya Samity. Aggrieved by the transfer order dated 19.10.2006, the Applicant has filed this Application seeking the following reliefs:-

8.1 To set aside and quash the impugned order dated 19.10.2006 (Annexure - 8) in so far as it concerns the applicant.

8.2 To direct the respondent to forbear from giving effect to the impugned order dated 19.10.2006 (Annexure - 8), in so far it concerns the applicant.

8.3 To direct the Respondent authorities to consider the case of the applicant for a posting to Kerala after 31.03.07.



[Handwritten signature]

8.4 Cost of the application.

8.5 Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and as may be deemed fit and proper by this Hon'ble Court upon consideration of the matter."

2. Mr. U.K. Nair, learned Counsel for the Applicant submitted that he will be satisfied if a direction is given to the 2nd Respondent to consider the representation dated 30.10.2006 within a time frame. Mr. G. Balshya, learned Sr. Central Government Standing Counsel appearing for the Respondent No. 1 submitted that since Respondent Nos. 2 and 3 are the contesting Respondents, he does not have anything to say in the matter.

3. Considering the issue involved, I direct the 2nd Respondent and/or any other competent authority to consider and dispose of the representation dated 30.10.2006 submitted by the Applicant and pass a speaking order and communicate the same to the Applicant within a period of three months from today. The Applicant is also directed to send a copy of the O.A. alongwith other documents to the 2nd Respondent within a period of seven days from today. Considering the entire aspect of the matter, this Court also directs that the Applicant should not be disturbed by the Respondents from the post currently held by him, i.e. Principal, Jawahar Navodaya Vidyalaya, Nongstoin, till the disposal of the representation.

4. The O.A. is disposed of as above at the admission stage itself. No order as to costs.

Date of Application : 6.11.06

Date on which copy is received : 6.11.06

Date on which copy is delivered : 6.11.06

Certified to be true copy

Sd/VICE CHAIRMAN

Section Officer (Jd)

C. A. T. G. Chhaty Borch

NAVODAYA VIDYALAYA SAMITI
REGIONAL OFFICE
NONGRIM HILLS SHILLONG-793003
(Ministry Of Human Resource Dev.
Department of Education)



Phone No. : 0364 -521363
Fax No. : 0364 -521362
email :navsam@sancharnet.in
nvsroshillong@rediffmail.com

F. No.11-184/NVS(SHR)/Admn/06

Dated : // Dec. '06

To

Sh. R.K. Nair,
Principal,
JNV, Distt. West Khasi Hills.

Sub: Your representation dtd. 30.10.06 & 10.11.06 - reg.

-Enclosed herewith please find a copy of NVS, HQ order dtd. 1.12.06 vide which your transfer to JNV Tawang has been kept in abeyance, you will continue at JNV Distt. West Khasi Hills until further orders.

Yours faithfully,

Encl:- As stated.

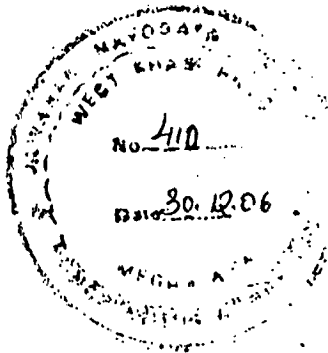
[Signature]
11/12/06
(K.C. DAS)

DEPUTY COMMISSIONER I/C.

Copy to:-

1. Joint Commissioner (Pers) NVS New Delhi- for information.
2. The Principal JNV West Khasi Hills.
3. The Principal JNV Tawang.
4. Smt. Rakhee Choudhury Advocate & CHSC High Court Guwahati - a copy of the NVS HQ order dtd. 1.12.06 is enclosed herewith for necessary submission in Hon'ble C.A.T. Guwahati for their information.

DEPUTY COMMISSIONER I/C.



Certified to be true Copy

[Signature]
Advocate



NAVODAYA VIDYALAYA SAMITI
(An Autonomous Organization under Ministry of
HRD, Department of Secondary & Higher Education),
Government of India
A-28, Kailash Colony, New Delhi - 110048

10-1/07-NVS(Pers.)

Dated: 22/5/2007

OFFICE ORDER

Following Principals are hereby transferred to the JNVs indicated against each -

Sr. No.	Name of Principal	From		To	
		JNV	Region	JNV	Region
1	Sh. R.K. Nair	West Khasi Hills	Shillong	Sheopur	Bhopal
2	Ms. Razia Begum	Mahoba	Lucknow	Ambala	Jaipur
3	Sh. Devender Singh	Hathras	Lucknow	Mahoba	Lucknow
4	Ms. Anita Kumari	Hardoi	Lucknow	Firozabad	Lucknow
5	Sh.K.V. Singh	Bijnore	Lucknow	Rudraprayag	Lucknow
6	Sh.Tej Sagar	Aurangabad	Patna	West Tripura	Shillong
7	Dr.R S. Sharma	Nawada	Patna	Udalgiri	Shillong
8	Sh Y. Dennisson	Supaul	Patna	Senapati	Shillong
9	Sh. M. Ahmed	Araria	Patna	Kupwara	Chandigarh
10	Dr. T.N. Tripathi	Jamui	Patna	Pakur	Patna
11	Sh.S.N Biswas	Pakur	Patna	Jamui	Patna
12	Sh.Dinesh Kumar	Giridh	Patna	Nalanda	Patna
13	Sh. Mahendra Prasad	Nalanda	Patna	Giridh	Patna

The above Principals are directed to hand over the charge of the Vidyalaya to the Vice-Principal/Sr. Most PGT as per directions of the Regional Office concerned and report at their new place of posting latest by 15.6.2007. They are entitled for transfer benefits as per rules.

(M.S. Khanna)

Joint Commissioner (Pers.)

Copy to:

- ✓ 1. The individual concerned.
2. The Deputy Commissioner of the Region concerned - With the request to implement the above. The date of the relief of the individuals from their present place of posting and date of joining of the individuals at their new place of posting may be intimated to this office in a consolidated manner latest by 20/6/2007.
3. The Principal of the JNV concerned - for information and n.a.
4. The Distt. Magistrate-cum-Chairman, VMC, Distt. Concerned - for information pl.

Certified to be true Copy

Advocate

JAWAHAR NAVODAYA VIDYALAYA



Ministry of Human Resource Development
Govt. of India (Deptt. Of Education)
Mawlongphlang, Nongstoin (West Khasi Hills)
Meghalaya : 793119

Ph : 03654-214126

06 June 2007

F.2-07-08/Adm/ 686

To
The Deputy Commissioner
Navodaya Vidyalaya Samiti
Regional Office Shillong]

Sub : Request for relieving regarding
REF. 10-1/07-NVS(Pers) Dated 22.5.07

Honourable Sir,

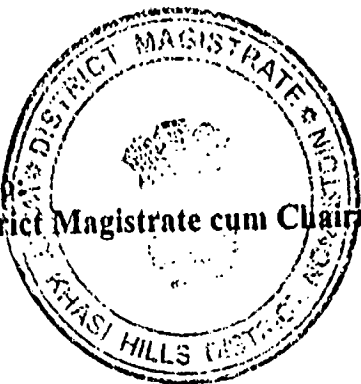
As per order issued by the Honourable Joint Commissioner NVS (Pers) dated 22.5.07 I stand transferred to JNV Sheopur, Bhopal Region. It has been further directed in the above said order to handover charge of the Vidyalaya to the Vice Principal/Senior most PGT as per direction of the regional Office concerned and report at their new place of posting latest by 15.6.2007 (Order of the copy enclosed). May I request your good self to kindly issue suitable direction as to whom I should hand over the charge so that I may be relieved to report latest by 15.6.07 to the new place of posting JNV Sheopur, Bhopal Region as per the order dated 22.5.07.

Kindly relieve me at the earliest to enable
for the admission of my daughter for higher study.
Thanking You

Yours faithfully

(R.K.NAIR) 6/6/02
PRINCIPAL

Copy to
1. District Magistrate cum Chairman V.M.C West Khasi Hills ✓



As per the order he may be relieved
at the earliest to enable to admit his
children in the college and school which are
going to open shortly and to settle his family.
As such, Shri M. Sudip Paul, PGT Chemistry
can be entrusted the charge till some one
joins.

Certified to be true Copy

Advocate

Shri M. Sudip Paul
District Magistrate
West Khasi Hills District
Nongstoin