

6

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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19.6.2015
SECTION OFFICER (JUDL.)

FORM NO. 4
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :
ORDERSHEET

1. ORIGINAL APPLICATION No : 266 / 2009
2. Transfer Application No : ----- / 2009 in O.A. No. -----
3. Misc. Petition No : ----- / 2009 in O.A. No. -----
4. Contempt Petition No : ----- / 2009 in O.A. No. -----
5. Review Application No : ----- / 2009 in O.A. No. -----
6. Execution Petition No : ----- / 2009 in O.A. No. -----

Applicant (S) : Mr. Bhabilal Mahanta

Respondent (S) : De-0. I. Jones

Advocate for the : K. K. Mahanta, A. Chamsia
(Applicant (S)) K. K. Mahanta, M. Pathak

Advocate for the : N.Y.C.
(Respondent (S))

Notes of the Registry	Date	Order of the Tribunal
This application is filed/C. F. No. 39/A/4425/14 Dated.....(12.12.09) Dy. Registrar <i>N. S. S. 18/12/09</i>	21.12.2009	<p>Applicant has challenged the order dated 19.2.2008 and 26.8.009 by which the absence of Applicant was treated as 'Dies Non' for all purposes.</p> <p>Applicant has also filed Misc.Petition No 159 of 2009 praying for condonation of delay of 83 days.</p> <p>I have heard Mr.M.Pathak, learned counsel for the Applicant. Issue notice to the Respondents.</p> <p>The limitation and legal issue will be decided at the time of final hearing. Respondents are directed to file written statement within four weeks.</p> <p>List the matter on 5th February 2010.</p>
<i>K. Das</i> Issue notice to the Respondents early.		
<i>P. D.</i> <i>22/12/09</i>	/lm/	

(Madan Kumar Chaturvedi)
Member (A.)

2
O.A.266-09

Copies of notices
along with order
dt. 21/12/09 send
to D/Sec. for
issuing to the
respondents by
regd. A/D post.

D/No-123 to 28

4/1/100. Dt- 06-01-2010

05.02.2010

Mr.M.Mahanta, learned counsel

appears for Respondents 2, 3 & 5. Notices to
Respondent Nos.1 & 4 have been received
unserved. Hence issue fresh notice to said
Respondents.

List on 05.03.2010.

JKS
(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)
Member (A) Member (J)

/bb/

Notice received back
unserved from R.No.
1 & 4.

Notice duly served on
R.No. 1

JKS
22/1/2010

05.03.2010

Fresh notice in respect of respondent
nos.1 & 4 remained unserved as they were
dispatched only on 15.02.2010. Applicant to
take steps to effect service on said
respondents. In the meantime Respondent
nos.2, 3 & 5 to file their reply.

List on 22.03.2010.

JKS
(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)
Member (A) Member (J)

/bb/

JKS
Issue fresh notice
to the Respondent Nos
1 and 4 which one
received back as
unserved. Urgently

JKS
8/2/10
15.2.2010

Fresh notices prepared
and send to D.Section
for issuing of the same
to the respondents
No-1 & 4.

Vide D.No- 379 & 380

Date: 15-2-2010 4-3-10

JKS
15-2-10

No WJS filed.

Notes of the Registry	Date	Order of the Tribunal
Fresh steps submitted by the applicant on 17.3.2010. <u>30</u> <u>17.3.2010.</u>	22.03.2010	Mr. M. Mahanta, learned counsel for Respondent Nos. 2, 3 & 5 submitted that written statement would be filed today. Mr. M.K. Boro, proxy Counsel for Mr. K. Konwar, learned counsel for Applicant submitted that he needs some time to file rejoinder. He seeks two weeks time to file rejoinder.
<u>18-3-2010</u> Fresh notices prepared and send to D. Section for issuing of the same to the respondent Nos. /pb/ 18.4. by Registered post with A/D. Vide D. No. 606 & 607 Date:- 17.3.2010 <u>17.3.2010</u> No w/s bilcl. <u>19.3.2010</u>	12.04.2010	List the matter on 12 th April 2010.  (Madan Kumar Chaturvedi) Member (A)
<u>22.3.2010</u> W/S has been filed by the Respondents No. 2, 3 and 5. Copy served. <u>22.3.2010</u> No rejoinder bilcl. <u>22.4.2010</u> Rejoinder not bilcl. <u>22.5.2010</u>	05.05.2010	None appears for the Applicant. Written submission filed on 22 nd March, 2010. Three weeks time is allowed to the Applicant to file rejoinder. List the matter on 05.5.2010.  (Madan Kumar Chaturvedi) Member (A)
		Proxy counsel for Applicant (Sri M.K. Boro) states that Mr. M. Pathak, Counsel for the Applicant who was to argue the matter , has met with an accident and therefore prays for adjournment. Rejoinder has also not been filed. The same may be filed ^{below} the next date of hearing. <u>28-5-2010</u> List the matter on 29 th May 2010.
	/pb/	 (Mukesh Kumar Gupta) Member (J)

O.A 266/09

Notes of the Registry

Date

Order of the Tribunal

28.05.2010

Mr M.K.Boro, learned counsel for the applicant seeks further time to file rejoinder. Since enough time has been granted matter is listed for hearing on 28.6.2010. Rejoinder, if any, be filed well before the next date of hearing with advance copy to the respondents.

 (Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)
Member (A) Member (J)

pg

28.06.2010

Rejoinder has not been filed despite repeated opportunities granted to the applicant to do so. Earliest opportunity was granted on 22.03.2010, thereafter matter had been adjourned to 12.04.2010, 05.05.2010 and 28.05.2010. This in itself would indicate that applicant is not interested to file rejoinder.

 In the circumstances, list for hearing on 07.07.2010.

 (Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)
Member (A) Member (J)

/bb/

Both sides pray for time for one reason or the other. Very reluctantly we adjourn the matter to 02.08.2010, making it clear to both sides that no further adjournment, on any ground, will be allowed.

 (Madan Kumar Chaturvedi)
Member (A)

 (Mukesh Kumar Gupta)
Member (J)

nm

06.08.2010 Mr. M.K. Boro, learned counsel for applicant and Ms R.S. Choudhury, learned counsel for respondents are present.

Order dated 19.02.2008 and 26.09.2008 (Annexures- 15 & 18 respectively) have been challenged by the applicant whereby period from 23.09.2007 to 13.01.2008 was treated as unauthorized absence and consequently dies non respectively. It is not in dispute that applicant was transferred vide order dated 18.09.2007 and deemed relieved on 22.09.2007. Thereafter O.A.No.280/2007 had been preferred and vide order dated 23.10.2007 interim order was granted with certain observations. Thereafter, as the matter had been virtually settled between the parties, the transfer order was modified instead of West Kameng to Ri Bhoi District on 23.11.2007. Applicant joined the new place of posting only on 14.01.2008. In the given circumstances we would like the respondents to consider whether aforesaid period can be regularised by granting due leave without requiring them to release pay as, the applicant had not performed duties in the post in question.

Ms R.S. Choudhury prays for adjournment to obtain appropriate instructions.

List on 23.08.2010.

Copy of this order be handed over to the respondents for compliance.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

nkrm

O.A.266-09

02.08.2010

On the request of Mrs.R.S.Choudhury,
learned counsel for the respondents,
adjourned to 06.08.2010.

(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)
Member (A) Member (J)

/bb/

23.08.2010 In compliance of order dated 06.08.2010, respondents have filed their affidavit today.

Heard Mr K.K. Mahanta, learned counsel for applicant and Ms R.S. Choudhury, learned counsel for the respondents. Hearing concluded. Reserved for orders.

 (Madan Kumar Chaturvedi)  (Mukesh Kumar Gupta)
Member (A) Member (J)

nmk

26.08.2010 Judgment pronounced in open Court.

Kept in separate sheets. Application is disposed of.

 (Madan Kumar Chaturvedi)  (Mukesh Kumar Gupta)
Member (A) Member (J)

/bb/

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**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI:**

O.A. No. 266 of 2009

Date of Decision: 26.08.2010

Mrs.Babita Mahanta

.....

Applicant/s

Mr.K.K.Mahanta & Mr.A.Chamuah

.....

Advocates for the
Applicant/s

- Versus -

Union of India & Ors.

.....

Respondent/s

Mrs. R.S.Choudhury

.....

Advocate for the
Respondents

CORAM :

HON'BLE MR.MUKESH KUMAR GUPTA, MEMBER (J)

HON'BLE MR.MADAN KUMAR CHATURVEDI, MEMBER (A)

1. Whether reporters of local newspapers may be allowed to see the Judgment ?
2. Whether to be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?

Yes/No

Yes/No

Yes/No

Judgment delivered by

Chaturvedi
MEMBER (A)

1

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.266 of 2009

Date of Order: This the 26th Day of August 2010.

**HON'BLE MR.MUKESH KUMAR GUPTA, MEMBER(J)
HON'BLE MR.MADAN KUMAR CHATURVEDI, MEMBER(A)**

**Mrs. Babita Mahanta, Librarian,
wife of Dr.A.K.Mahanta,
office of the Jawahar Navodaya Vidyalaya,
Niangbari,
District-Ri-Bhoi,
PIN-793102, Meghalaya**

Applicant

By Advocate Mr K.K.Mahanta & A.Chamuan

·Versus·

1. **The Union of India, represented by the
Commissioner and Secretary
to the Ministry of Human
Resource Development, Govt. of India, A-39
Kailash Colony, New Delhi-110048**
2. **The Commissioner, Navodaya Vidyalaya Samittee, an
Autonomus organization of Ministry of Human
Resource and Developmeent, Govt. of India,
Kailash Colony, New Delhi-110048**
3. **The Deputy Commissioner,
Navodaya Vidyalaya Samittee,
Regional Office Shillong
Region, Temple Road, Barik Point,
Shillong-793001, Meghalaya**
4. **Sri M.L. Sharma, the then
Deputy Commissioner and Disciplinary Authority,
Navodaya Vidyalaya Samittee,
Regional Office, Shillong Region,
Temple Road Barik Point,
Shillong-793001, Meghalaya**
5. **The Principal, Jawahar Navodaya Vidyalaya,
Banekuchi., Nalbari-781340, Assam**
6. **Sri R.Daniel Retnakumar,
The Principal,
Jawahar Navodaya Vidyalaya,**

Banekuchi, Nalbari-781340, Assam

Respondents

By Advocate Ms R.S.Choudhury.

ORDER

MR MADAN KUMAR CHATURVEDI, MEMBER(A)

The applicant is aggrieved, against the order dated 26.9.2008 by which her absence with effect from 23.9.07 to 13.01.2008 was declared as unauthorized absence and it was treated as dies non for all purposes viz. increment, leave and pension. She was held not entitled for any leave salary and the date of increment was shifted to her rejoining date.

2. Applicant prayed for condonation of delay of 83 days vide M.P.159/09. After hearing both the parties delay is condoned and we proceed to decide the matter on merits.

3. The applicant was working as a Librarian in Jawahar Navodaya Vidyalaya. On 18.9.2007 transfer order of applicant to Kameng was issued and she received the same on 24.9.2007. Against that applicant filed representation to Deputy Commissioner to consider her transfer in a nearby school of her home district along with an application to grant one week earned leave from 4.10.07 to 10.10.07. Owing to non availability of vacancy the request was not acceded to and applicant was advised to join duty immediately.

4. On 12.10.2007 vide O.A.280/07 applicant assailed the transfer order before the Central Administrative Tribunal. It was contended before the Tribunal that this action was taken only to harras her. The O.A was admitted and by way of interim order Tribunal



directed the respondents that applicant may be allowed to continue in the present place of posting till the next date, if she has not been relieved already. As the new incumbent had joined at Nalbari on 24.9.07 which is much prior to the order dated 23.10.07 passed by the Tribunal respondents did not allow to continue the applicant, as the order of the Tribunal was conditional.

5. It was submitted before us that the husband of the applicant who was also working at JNV Nalbari, detected various irregularities and illegalities taking place in that vidyalaya with the full knowledge and consent of the Principal of the school. As such Principal as well as other senior staff of the Vidyalaya became hostile towards her. The night Chowkidar of the Vidyalaya namely, Shri Kamal Deka threatened the husband of the applicant of dire consequences. The transfer was affected to harass the applicant with ill motive. On this factual backdrop mala fide was alleged against the authorities and transfer in question was construed as a punitive transfer.

6. Mr K.K.Mahanta, learned Sr. counsel assisted by Mr M.K.Boro appearing for the applicant vehemently alleged that the transfer was effected with the mala fide exercise of power as such it is bad in law. Ex-consequenti principle of "no work no pay" cannot be applied. Learned counsel prayed that failure to join at the station of transfer should not be treated as dies non and the service of applicant be regularized. Reference was made to the decision of the Hon'ble



Supreme Court rendered in the case of Somesh Tiwari vs. Union of India & Ors. (2009) 2 SCC 592.

7. Ms R.S.Choudhury, learned counsel appearing for the respondents submitted that applicant withdrawn Rs.13000/- on 22.9.07 towards TTA. Thereafter, she applied for leave from 4.10.07 to 10.10.07. The new incumbent had joined at Nalbari on 26.9.07 much prior to interim order of the Tribunal. The applicant was absent from duty with effect from 27.7.07 till she joined in new place of posting at JNV Ri Bhoi at Meghalaya on 14.01.08. Applicant never applied for leave for the said period to regularize her unauthorized absence from duty. Learned counsel further stated that the decision rendered in the case of Somesh Tiwari is on different facts. In the present case applicant failed to establish the alleged factum of mala fide. Reliance was placed on some precedents to buttress the point.

8. We have heard the rival submissions in the light of material placed before us and precedents relied upon. When the matter was listed for final hearing on 6.8.2010 the Bench passed the following order :

"In the given circumstances we would like the respondents to consider whether aforesaid period can be regularized by granting due leave without requiring them to release pay as the applicant had not performed duties in the post in question."

9. In terms of the said order the respondents held a detailed discussion in the matter and directed the applicant to apply for leave of any kind due for the entire period for her absence from duty from



23.9.07 to 13.01.08. Respondent No.3 has filed additional affidavit on 23.8.2010 in this regard.

10. In the case of S.C.Saxena vs. Union of India & Ors., (2006) 4 SCC 589 Hon'ble Apex Court has held that Government servant cannot disobey a transfer order by not reporting at the place of posting and then go to the Court to ventilate his grievances. It is the duty of the Government servant to first report for work when he is transferred and make representation as to what may be his personal problems. Such tendency of not reporting at the place of posting and indulging in litigation needs to be curbed. In the case of Somesh Tiwari decision was rendered in the context of different set of facts. In this case there was an anonymous complaint against the appellant which was investigated by departmental authorities but nothing adverse was found against him, yet he was transferred from Bhopal to Shillong. He resisted his transfer and did not move out of Bhopal. Subsequently another order was passed transferring him to Ahmedabad. He contested this order also. Tribunal dismissed his application but High Court found that the impugned order was not bonafide exercise of power and therefore declared it invalid but the High Court taking note of the fact that the appellant had not obeyed the transfer order and continued to stay in Bhopal, denied him salary for the period commencing fifteen days after the date of transfer order till he rejoined duty at Bhopal station. The direction of the High Court was assailed before the Supreme Court, Apex Court considered validity of appellant's transfer out of Bhopal as well as aspect of the denial of salary. Internal notings in official files

showed Government itself admitted that transfer to Shillong was a harsh posting and second transfer to Ahmedabad was considered as less harsh posting. The question was whether appellant's transfer in the facts and circumstances of the case, was a bona fide exercise of power and whether appellant should have been denied salary for the period he did not obey second transfer order. On this factual matrix it was held that ordinarily transfer is an incident of service which should not be interfered with, but if the mala fide on the part of the authorities is proved in that case mechanical application of normal rules "no work no pay" would not apply. It is made clear that no absolute proposition of law in this behalf can be laid down. Testing the present case on the touchstone of the aforesaid precedent we find that applicant did not produce sufficient evidence to prove the mala fide. Who should be transferred where is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by mala fide or is made in violation of any statutory provisions the Court cannot interfere with it. This proposition was laid down by the Supreme Court in the case of Union of India vs. S.L.Abbas, (1993) 4 SCC 357. The burden of establishing mala fide is very heavy on the person who alleges it. Allegation of mala fide are often very easily made than proved and the very seriousness of such allegation demands proof of high order of credibility.

11. In the facts of present case we find that the applicant failed to establish mala fide as such ratio laid down in the case of Somesh Tiwari cannot be applied. The transfer in question cannot be construed

to be a punitive transfer, as such rule of "no work no pay" will apply in the facts of the present case. However, respondents had agreed to regularize the period of absence by granting due leave without requiring them to release pay as the applicant had not performed duty in the post in question subject to the submission of leave application in this regard by the applicant. We, therefore, decline to make any further comment on this subject.

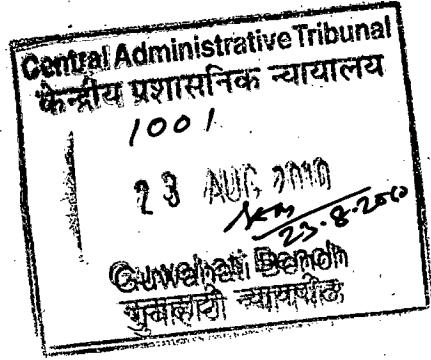
O.A stands disposed of accordingly. No costs.

Chaturvedi
(MADAN KUMAR CHATURVEDI)
ADMINISTRATIVE MEMBER

Mukesh
(MUKESH KUMAR GUPTA)
JUDICIAL MEMBER

/pg/

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH



ORIGINAL APPLICATION NO.266 of 2009

20
Ficed By:
The Respondents
THROUGH:
R.S. Choudhury
Advocate

IN THE MATTER OF:

O.A No.266 of 2009

Mrs. Babita Mahanta.

..... Applicant

-Vs-

Union of India & Ors.

..... Respondents

- AND -

IN THE MATTER OF:

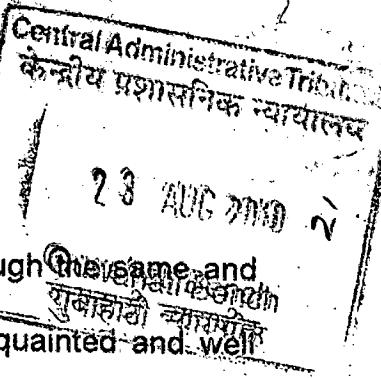
An additional affidavit filed on behalf of the Respondent No.2, 3 and 5 in the aforesaid Original Application in terms of the Order dated 06.08.2010 passed by this Hon'ble Tribunal.

ADDITIONAL AFFIDAVIT

I, Sri V. Venkata Reddy, son of Venkata Reddy (Late),

aged about 57 years, presently serving as the Deputy Commissioner (In-Charge), Navodaya Vidyalaya Samiti do hereby solemnly affirm and state as follows:-

1. That I have been impleaded as Respondent No.3 in the instant Original Application. A copy of the Order dated 06.08.2010 passed by this Hon'ble Tribunal in the aforesaid Original application has been served



upon the answering Respondents. I have gone through the same and understood the contents thereof. I am also fully acquainted and well conversant with the facts and circumstances of the case. Further I am competent and duly authorized by the Respondent Nos.2 and 5 to swear this additional affidavit on their behalf.

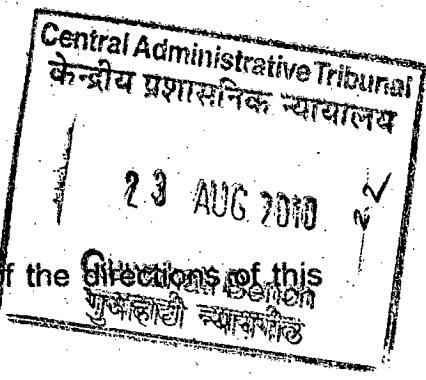
- That the Applicant had approached this Hon'ble Tribunal praying for a direction to the authorities to regularize the period w.e.f 23.09.2007 to 13.01.2008 by treating it as 'On Duty'. The Respondents have duly filed their Written Statement in the matter by contending the averments made in the O.A. However, when the matter was listed for final hearing on 06.08.2010, this Hon'ble Tribunal passed Orders as Under:

"....In the given circumstances we would like the Respondents to consider whether aforesaid period can be regularized by granting due leave without requiring them to release pay as, the Applicant had not performed duties in the post in question"

- That in terms of the said orders passed, the authorities have held a detailed discussion in the matter and vide Letter dated 11.08.2010 under Memo. No. 13-22 / NVS (SHR)/ Admn/1917, the Applicant has been directed to apply for leave of any kind due for the entire period of her absence from duty i.e. from 23.09.2007 to 13.01.2008.

A copy of the said Letter dated 11.08.2010 is annexed herewith and marked as ANNEXURE-H.

- That this Additional affidavit has been filed for the limited purpose of placing on record the said Letter dated 11.08.2010 issued by the



Respondent No. 3 in the said matter, in terms of the ~~directions~~ of this Hon'ble Tribunal.

5. That the statements made in this paragraph and those made in Paragraphs 1,2(Partly), 3(Partly), 4 and 5 are true to my knowledge and those made in paragraph 2(Partly), 3(Partly), being matters of record are true to my information derived therefrom and the rest are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this affidavit on this the 20th day of August, 2010 at Guwahati.

Identified by me:

Rekha Dianthie Choudhury
Advocate

V.Kee ✓
DEPONENT

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2010-08-20

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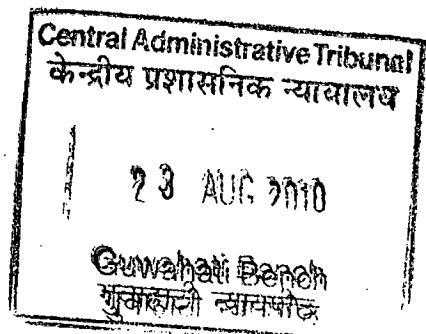
NAVODAYA VIDYALAYA SAMITI
(An Autonomous Organisation under Ministry of HRD)
Dept. of Education, Govt. of India
REGIONAL OFFICE SHILLONG, TEMPLE ROAD, BARIK POINT
LACHUMIERE, SHILLONG - 793001

Dated: 11/8/2010

F.No 13-22/NVS(SHR)/Admn/ 1917

To

✓ Ms. Babita Mahanta
Librarian
JNV Ri-Bhoi distt.
Meghalaya



Madam,

In response to the Hon'ble CAT, Guwahati Bench proposal/suggestion dated 06.08.2010, you are hereby directed to apply for leave of any kind due for the entire period of your absence from duty i.e. from 23.09.07 to 13.01.08. The application duly filled in prescribed format forwarded by the Principal should reach the undersigned immediately so as to regularize the above period of absence.

Yours faithfully,

(V.V. REDDY)
DEPUTY COMMISSIONER I/C

Copy to :-

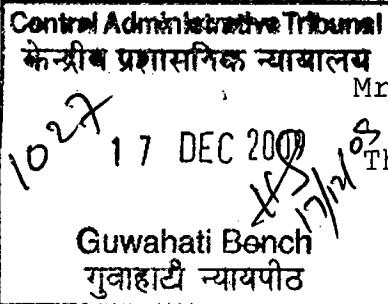
The Principal, JNV Niangbari, Ri-Bhoi for information and necessary action.

Certified to be true Copy

Rekhee Sirauthia Chowdhury
ADVOCATE

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: AT GUWAHATI

O.A. NO. 266 /2009



Mrs. Babita Mahanta -----Applicant

-VS-

The Union of India and others----- Respondents

SYNOPSIS

That the applicant is working as a Librarian in Jawahar Navodaya vidyalaya (JNV in short), Ri-Bhoi, Meghalaya. The applicant was transferred to her present place of posting from JNV, Nalbari, Assam in the month of November, 2007. Before transferring to JNV/Ri-Bhoi/Meghalaya the applicant was transferred with a revengeful attitude to JNV/West Kameng/Arunachal Pradesh in the month of September, 2007 only to harass the applicant. The applicant challenged the transfer order to JNV/West Kameng/Arunachal Pradesh before the Hon'ble CAT, Guwahati Bench, vide O.A. No. 280/07. During pendency of the case before the Hon'ble CAT the respondent authority modified the transfer order and posted the applicant in her present place of working i.e. JNV/Ri-Bhoi/Meghalaya. On being accepted by the applicant to join in JNV/Ri-Bhoi/Meghalaya the O.A.No. 280/07 was accordingly disposed of.

After joining in JNV/Ri-Bhoi/Meghalaya on 14/01/08 a disciplinary action was initiated against the applicant on the alleged ground of insubordination and disobeying the orders of superiors to join in JNV/West Kameng/Arunachal Pradesh.

Applicant duly filed her reply to the memorandum of charges where among others she stated in her defense that as the matter of her transfer to JNV/West Kameng was challenged before the Hon'ble CAT as such the question of joining in JNV/West Kameng does not arise. She also placed the various orders/directions passed by the Hon'ble CAT in this regard before the authority.

17 DEC 2009

Guwahati Bench
গুৱাহাটী ন্যায়পৌঁঠ

Finally the disciplinary authority (respondent No.3/4 herein) in glaring violation of Rule 16(1-A) of C.C.S. (C.C.A.) Rules, 1965 have passed the impugned order dated 19/02/08. Whereby the period from 23/09/07 to 13/01/08 is treated as un-authorised absence and accordingly vide second impugned order dated 26/09/08 it is directed to treat the said period as *dies non* for all purposes, viz. increment, leave and pension.

The applicant preferred an appeal before the Commissioner, Navodaya Vidyalaya Saimiti (respondent No. 2 herein) against the impugned order dated 19/02/08. But the appeal is remain unattended till date even after a reminder representation filed by the applicant.

The applicant has been illegally deprived of her service benefit for the period from 23/09/07 to 13/01/08 and ultimately which has a far reaching adverse affect on the service carrier of the applicant. Hence this applicant is before this Hon'ble Tribunal seeking justice.

Filed by
Malabja Pathak
Advocate

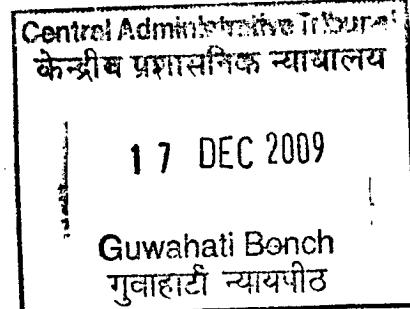
Malabja Pathak

28

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: AT GUWAHATI

O.A. NO. 266 /2009

Mrs. Babita Mahanta -----Applicant
-VS-
The Union of India and others----- Respondents



LIST OF DATES

<u>Date</u>	<u>Events</u>
18/09/07	The transfer order of the applicant to JNV/West Kameng was issued (<u>Annexure-1</u> (series), Page- 19-24.
22/09/07	The official residence vacation order, relieving order etc. was issued (<u>Annexure-1</u> (series), Page-19
24/09/07	The applicant received the transfer order, relieving order etc.
03/10/07	The applicant filed representation to Deputy Commissioner to consider her transfer in a nearby school of her home district along with a application to grant one week Earned Leave from 04/10/07 to 10/10/07. (<u>Annexure-2</u> (series), page- 25
04/10/07	The letter issued by the Deputy Commissioner(respondent No.3/4) in response of representation of applicant dated 03/10/07, which was received by the applicant on 01/11/07 along with a forwarding letter of Principal/JNV/Nalbari (<u>Annexure- 3</u> (series), Page- 29)
12/10/07	The applicant along with her husband filed the O.A. No.280/07 challenging the transfer order dated 18/09/07.
23/10/07	The Hon'ble CAT passed order in O.A.No.279/07 and 280/07 (<u>Annexure-4</u> , page- 32)

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23/10/07 The modification of transfer order of the applicant to JNV/Ri-Bhoi/Meghalaya was issued which was placed by the learned advocate of respondents before the Hon'ble CAT during pendency of the case and then only the applicant came to know about it. (Annexure-9 (series), page-51)

24/10/07 The applicant filed her joining report in JNV/Nalbari along with a copy of order dated 23/10/07 passed by Hon'ble CAT which was refused by the principal to accept (Annexure-5 (series), Page- 36).

25/10/07 The applicant wrote a letter to respondent No.3/4 through principal JNV/Nalbari, with registered A/D, to allow the applicant to join in JNV/ Nalbari (Annexure-6, page- 42)

12/10/07 The applicant again filed her joining report in JNV/Nalbari reopening of school after puja vacation. The joining report was not accepted by the Principal. (Annexure-7 (series), page- 44)

13/10/07 Applicant sent the joining report to principal through registered post and a copy to respondent No.3/4. (Annexure-7 (series), page- 44)

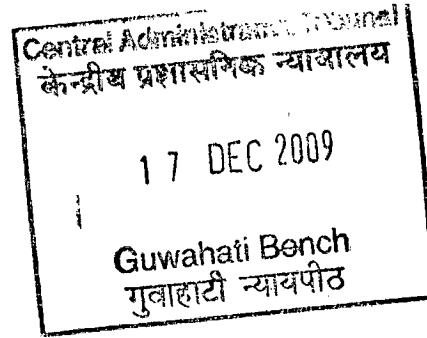
15/11/07 Letter issued by the Deputy Commissioner again directed the applicant to join in JNV/West Kameng (Annexure-8 (series), page- 48)

07/01/08 The Hon'ble CAT disposed of the O.A. No. 279/07, 280/07 and 298/07 (Annexure-10, Page- 53)

20/11/07 The office memorandum asking the explanation from the applicant for not joining in JNV/West Kameng. It was received by applicant on 14/01/08 at JNV/Ri-Bhoi (Annexure- 11, page- 57)

21/01/08 Applicant filed explanation (Annexure-12 (series), page- 58)

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24/01/08 Memorandum of charge issued. (Annexure-13, page-62)

06/02/08 Applicant filed reply (Annexure-14, page- 65)

19/02/08 Impugned order was passed imposing penalty on the applicant (Annexure-15, page-69)

14/03/08 Applicant filed appeal against the impugned order (Annexure-16 page- 70)

18/07/08 Applicant filed representation for early disposal of the appeal (Annexure-17, page- 75)

26/09/08 Impugned order was passed whereby it was directed to treat the period from 23/09/07 to 13/01/08 as dies non for all purposes viz. increment, leave and pension (Annexure-18, page- 76)

Filed by

Malabja Pathak

Advocate

Malabja Pathak
Advocate

17 DEC 2009

Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: AT GUWAHATI

O.A. NO. 266 /2009

Mrs. Babita Mahanta -----Applicant
-VS-
The Union of India and others----- Respondents

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Filed by

Malabya Pathak

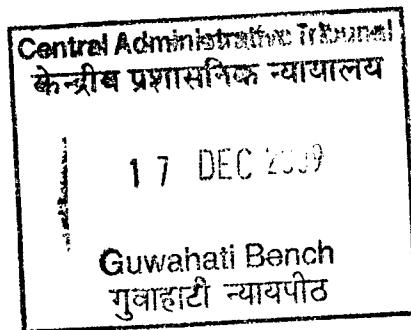
Advocate

Mahanta
Babita

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

O.A. NO. 266 /2009



Mrs. Babita Mahanta, Librarian, wife of
Dr. A.K. Mahanta, office of the Jawahar
Navodaya Vidyalaya, Niangbari,
District- Ri-Bhoi, PIN-793102,
Meghalaya.

-----Applicant

-VS-

1. The Union of India, represented by the Commissioner and Secretary to the Ministry of Human Resource Development, Govt. of India, A-39, Kailash Colony, New Delhi-110048
2. The Commissioner, Navodaya Vidyalaya Samittee, an autonomous organization of Ministry of Human Resource and Development, Govt. of India, Kailash Colony, New Delhi-110048
3. The Deputy Commissioner, Navodaya Vidyalaya Samittee, Regional Office, Shillong Region, Temple Road, Barik Point, Shillong-793001, Meghalaya.
4. Sri M.L. Sharma, the then Deputy Commissioner and Disciplinary Authority, Navodaya Vidyalaya Samittee, Regional Office, Shillong Region, Temple Road, Barik Point, Shillong-793001, Meghalaya.
5. The Principal, Jwahar Navodaya Vidyalaya, Banekuchi, Nalbari-781340, Assam,

Filed by - *Makarla Pathak, Advocate*
17/12/09 8:00
On behalf of the applicant

Makarla Pathak

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

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Guwahati Bench
गुवाहाटी न्यायपीठ

Sri R. Daniel Retnakumar, the
Principal, Jawahar Navodaya
Vidyalaya, Banekuchi, Nalbari-781340,
Assam

-----Respondents

DETAILS OF THE APPLICATION

1. PARTICULARS AGAINST WHICH THIS APPLICATION IS MADE.

(A) The order dated 19/02/08 passed by the respondent No.3/4, whereby the period from 23/09/07 to 13/01/08 is treated as un-authorised absence of the applicant and accordingly withholding the salaries, increments etc. of that period. (Annexure-15, page- 69)

(B) The order dated 26/09/08 passed by the respondent No.3, whereby the period with effect from 23/09/07 to 13/01/08 is declared as unauthorized absence of the applicant and, the same is treated as *dies non* for all purposes, viz. increment, leave and pension of the applicant. (Annexure-18, page- 76)

2. JURISDICTION OF THE TRIBUNAL

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

3. LIMITATION

A misuse application is filed under section 21(3) of the Administrative Tribunal Act, 1985. for condonation of delays.

*Maktabatul
Malika
Advocate*

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4. FACTS OF THE CASE

(A) That the applicant is a permanent resident of district Kokrajhar, Assam and is a bonafide citizen of India by birth. As such the applicant is entitled to the rights and privilege guaranteed under the Part III of the Constitution of India and other legal rights granted by the various Acts, Rules, Statutes etc. framed there under, presently being in force.

(B) That the applicant is presently working as a librarian, in Jawahar Navodaya Vidyalaya (herein after JNV in short), in the district of Ri-Bhoi, Meghalaya. The applicant was transferred from JNV, Nalbari, Assam, along with her husband Dr. A.K. Mahanta, to her present place of posting way back in the month of November/2007.

It is to be mentioned that the husband of the applicant is also working as Physical Education Teacher (PET) in the same institution.

(C) That while the applicant and her husband was working in JNV, Nalbari, they detected various irregularities and illegalities taking place in that vidyalaya with the full knowledge and consent of the Principal of the school, the respondent No. 5/6 herein. Being sincere, dedicated and honest employees of the vidyalaya the applicant and her husband protested about the irregularities and illegalities before the Principal as well as other senior staffs of the vidyalaya for the greater interest of the students and the vidyalaya as a whole. As a result the applicant and her husband became eye shore to the principal, respondent No. 5/6, and he developed enmity towards the applicant and her husband. The principal instead of making up for the anomalies tried to oust the applicant and her husband from the JNV, Nalbari by hook or by crook. The principal started to instigate the then Deputy Commissioner, the respondent No. 3/4 herein, against

Dr. A.K. Mahanta
Nalbari

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the applicant and her husband for fulfillment of his illegal designs to remove the applicant and her husband from the JNV, Nalbari with a revengeful attitude. As a part of this conspiracy the respondent No.4 by his order dated 23/08/07 suspended the applicant's husband without any rhyme or reason on the alleged ground of contemplated Departmental Proceeding against the husband of the applicant. However, the night Chowkidar of the JNV, Nalbari namely Sri Kamal Deka, being instigated by the respondent No. 6, life threatened the husband of the applicant on 10/09/07 without any provocation on his part. The incident was immediately informed by the applicant and her husband to the respondent No.3/4 on that day itself through SMS from the mobile phone of the applicant's husband requesting to take necessary actions.

(D) That instead of taking any action against the said night chowkidar, the respondent No.3/4 vide his order dated 18/09/07 transferred the applicant to JNV, West Kamneg/Arunachal Pradesh. By the same order the husband of the applicant was also attached to JNV, West Kameng. The said order of transfer dated 18/09/07 was received by the applicant along with other order of relieve etc. from the Principal, JNV, Nalbari on 24/09/07. The relieve order, charge hand over order, quarter vacation order etc. are all issued on 22/09/07 by the Principal, respondent No. 5/6, in a most hurried way only to harass the applicant.

It is to be mentioned herein that the applicant was never given the opportunity to hand over her charge following the official formalities properly with ulterior motive. As the service of Librarian bears some extra risk and responsibility therefore the applicant ought to have been given sufficient time to hand over her charge complying all the official formalities properly.

A copy of the transfer order dated 18/09/07 is annexed as Annexure-1 (series).

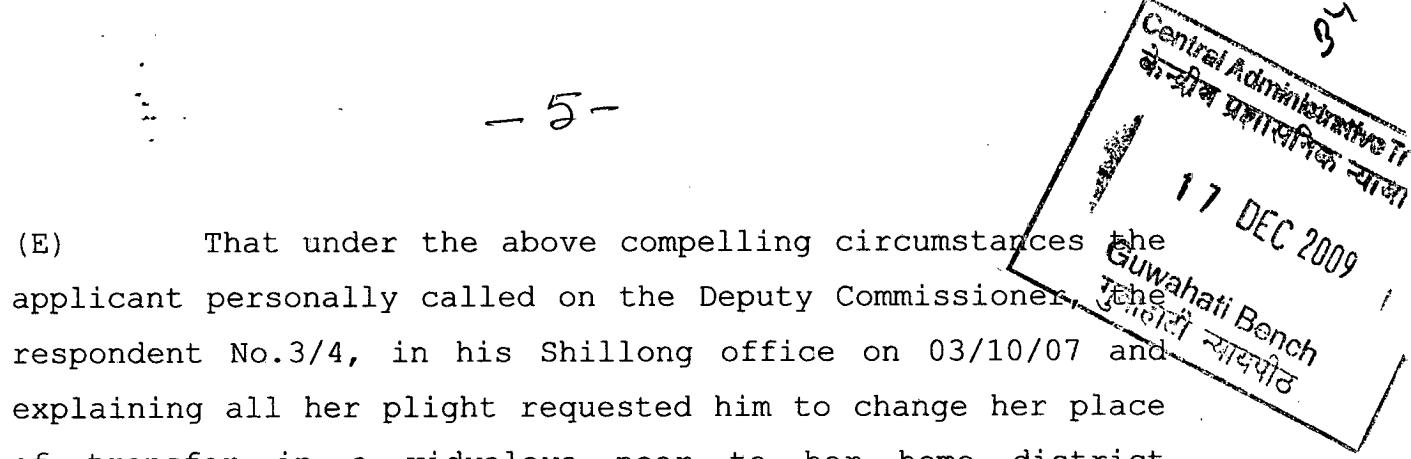
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(E) That under the above compelling circumstances the applicant personally called on the Deputy Commissioner, respondent No.3/4, in his Shillong office on 03/10/07 and explaining all her plight requested him to change her place of transfer in a vidyalaya near to her home district Kokrajhar instead of West Kameng, Arunachal Pradesh which is far way from Nalbari. Having been assured of to consider her request the applicant on the vary day submitted a representation in this regard as advised by the respondent No.3/4. Moreover, on the same day the applicant applied before the respondent No.3/4 for one week Earned Leave w.e.f. 04/10/07 to 10/10/07 to look after her ailing father-in-law. Having not received any response from the respondent No. 3/4 in regard to her representations till 10/10/07 the applicant and her husband on 12/10/07 jointly filed a case bearing O.A. No. 280/07 before this Hon'ble Tribunal challenging the transfer order.

But after one month i.e. on 01/11/07 the applicant in her residence at District-Kokrajhar(Assam) received a letter dated 22/10/2007 from the respondent No. 5/6 which enclosed/forwarded a letter dated 04/10/2007 issued by the respondent No.3/4 in response of the representation of the applicant regarding her transfer whereby it was informed to the applicant that owing to non-availability of vacancy in any JNV located in Assam the request of the applicant for transfer to JNV nearby her home district could not be considered.

Copies of the representation dated 03/10/07 and letter dated 04/10/07 is annexed as Annexure-2(series) and 3(series) respectively.

(F) That under the above compelling circumstances the applicant's husband approached this Hon'ble Tribunal through O.A. No. 279/07 challenging his illegal suspension order; and the applicant along with her husband on 12/10/07 jointly filed the O.A. No. 280/07 challenging the transfer



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Gujarat

order dated 18/09/07. The Hon'ble Tribunal heard both the O.A. No. 279/07 and 280/07 jointly and vide its order dated 23/10/07 admitted both the applications and directed the respondents to file reply statement. By the same order it was further directed that the applicant may be allowed to continue in the present place of posting till the next date, if she has not been relieved already. The next date was fixed on 10/12/07 for further hearing of the cases.

A copy of the order dated 23/10/07 is annexed as Annexure-4.

(G) That on the vary next day i.e. on 24/10/07 the applicant filed her joining report to the Principal, JNV, Nalbari, respondent No. 5/6, along with a copy of the order dated 23/10/07 of Hon'ble Tribunal, but the same was refused by the Principal to accept. The applicant also wrote a representation to the respondent NO.3/4 through the principal stating in details about the order of the Hon'ble Tribunal which was also refused by the Principal to accept and process. The applicant was relieved by the respondent authorities in most harsh and hurries way and she was not given the opportunity to hand over her charge following all official formalities properly. As such it can not be said that her relieving order was legally enforceable.

It is to be mentioned that it was Puja vacation from 14/10/07 to 14/11/07 as per academic calendar of NVS, and the applicant being entitled to the same availed vacation during that period.

Copies of the joining report and representation dated 24/10/07 are annexed as Annexure-5(series).

(H) That on being refused by the Principal, respondent No. 5/6, to accept the joining report as well as the representation as stated above the applicant communicated the same through the registered post with A/D

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to the respondent No. 3/4 and respondent No. 5/6 on the next day i.e. 25/10/07 from Nalbari Head Post Office.

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(I) गुवाहाटी बैच

Copies of the joining report and representation dated 25/10/07 are annexed as Annexure-6.

(I) That after completion of the puja vacation the applicant on 12/11/07 again filed her joining report to the Principal, JNV, Nalbari which was again refused. Seeing no other way the applicant again send her joining report to the Principal through registered post with A/D and a copy of the same was also communicated to the respondent No.3/4 for information on 13/11/07 from Nalbari Head P.O.

It is pertinent to be mentioned that during pendency of the O.A. No. 279/07 and 280/07 the suspension of the applicant's husband Dr. A.K. Mahanta was revoked on 13/11/07 and as such the O.A. No. 279/07 was withdrawn. While revoking the order of suspension the husband of the applicant was asked to go and join at JNV, West Kameng, Arunachal Pradesh, for which the husband again separately filed O.A. No. 298/07 challenging the order.

Copies of the joining report dated 12/11/07 and 13/11/07 are annexed as Annexure-7 (series)

(J) That all the joining report and representation submitted by the applicant as stated in paragraph (H) and (I) was responded/replied by the respondent No. 3/4 vide his office memorandum dated 15/11/07 which was received by the applicant on 21/11/07. By the said letter dated 15/11/07 the applicant was again asked to join in West Kameng/Arunachal Pradesh.

Copy of the letter dated 15/11/07 is annexed as Annexure-8 (series).

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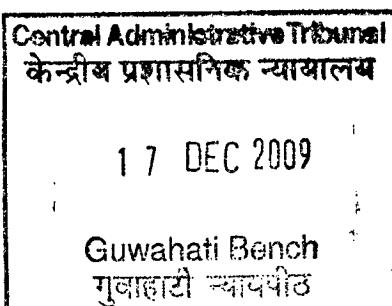
(K) That while the matter of transfer of the applicant as well as her husband was sub-judice before this Hon'ble Tribunal the Deputy Commissioner, respondent No.3/4 vide his order dated 23/11/07 modified the transfer of the applicant as well as her husband and were directed to join in JNV/Ri-Bhoi/Meghalaya. The learned advocate of NVS produced the said order of modification of transfer before this Hon'ble Tribunal during the pendency of the O.A. No. 280/07 and 298/07, and then only the applicant and her husband came to know about the order. Accordingly the applicant and her husband expressed their consent through their learned Advocate before this Hon'ble Tribunal to go and report at the new/present station i.e. JNV/Ri-Bhoi/Meghalaya on 14/01/08 on reopening of the school after winter vacation which was scheduled from 14/12/07 to 13/01/08 as per NVS academic calendar.

Copies of the modification of transfer
order dated 23/11/07 are annexed as
Annexure-9(series).

(L) That finally this Hon'ble Tribunal vide its order dated 07/01/08 disposed of all the O.A. No.279/07, 280/07 and 298/07. In the said order the Hon'ble Tribunal rightly recorded the submissions made by the learned counsel of the Navodaya Vidyalaya Samiti, Mrs. R.S. Choudhury, to the effect that on joining the new station the TA and other transfer benefits claims of both the applicants shall be settled in their favour.

Copy of the order dated 07/01/08 is
annexed as Annexure-10.

(M) That on reopening of the Vidyalaya after completion of the winter vacation the applicant along with her husband reported in their new/present place of posting i.e. JNV/Ri-Bhoi/Meghalaya, on 14/01/08. The applicant also submitted her joining report in JNV/Ri-Bhoi on the same



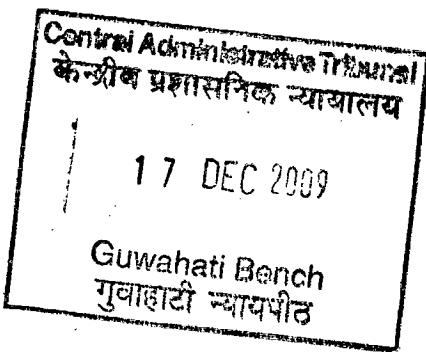
day. But on joining the applicant felt shock when she was handed over/delivered on the same day the Office Memorandum dated 20/11/07 issued by the respondent No.3/4. By the said memorandum it was asked to the applicant Smti Babita Mahanta to explain the reasons for disobeying the orders of superiors and not reporting to the Principal, JNV, West Kameng so far. It is further alleged that the said act of the applicant tantamount to insubordination and disobedience of orders of superiors. The explanation was asked to be submitted within seven days. It was also mentioned in the Memorandum that a disciplinary action will be initiated against her.

It can be perceived from the said letter that it was a pre-planned arrangement of the Deputy Commissioner, respondent No.3/4, to harass the applicant. Whereas, the respondent No.3/4 was well informed that the matter of transfer of the applicant as well as her husband to JNV/West Kameng/Arunachal Pradesh was sub-judice before this Hon'ble Tribunal during the period from 12/10/07 to 07/01/08. The following of the order of the superiors by the applicant in regard to her transfer to West Kameng does not arise as the same was sub-judice before this Hon'ble Tribunal.

Copy of the Office Memorandum dated 20/11/07 is annexed as Annexure-11.

(N) That the applicant filed her reply on 21/01/08 through the Principal/JNV/Ri-Bhoi. In her reply the applicant explained in details about the reasons of her not reporting in JNV/West Kameng and also about the matters which was pending before this Hon'ble Tribunal in this regard. The reply was forwarded by the Principal/JNV/Ri-Bhoi on 22/01/08.

Copy of the reply dated 21/01/08 is annexed as Annexure-12(series).



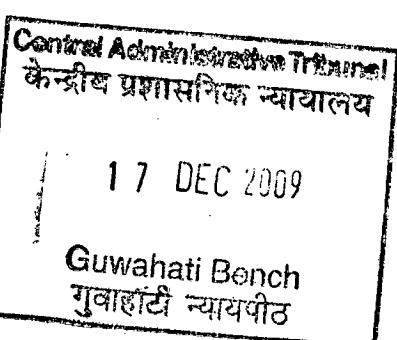
Babita Mahanta

(O) That the respondent No.3/4 without going through the factual details as explained by the applicant in her reply dated 21/01/08 about the reasons for non reporting in JNV/West Kameng, malafide issued the Charge Memorandum dated 24/01/08 just after two days. By the said memorandum dated 24/01/08 it was informed to the applicant that the authority has proposed to take action against the applicant under Rule 16 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. Along with the said memorandum a statement of the imputations of misconduct or misbehavior on which action is proposed to be taken against the applicant was also enclosed/delivered which was marked as Annexure-I.

In the statement of charge it was alleged, among others, that "the applicant was directed to report the Principal/JNV/West Kameng. Neither she applied for any leave nor she reported on duty till 14/01/08. This act of Smti. Mahanta tantamounts to insubordination and disobedience of order of superiors". A list of documents by which the articles of charge framed against the applicant are proposed to be sustained was also supplied along with the charge memorandum which was marked as Annexure-II.

It is to be mentioned that in Charge Memorandum dated 24/01/08 the respondent 3/4 willfully/knowingly avoided in mentioning a single word about the orders passed by this Hon'ble Tribunal in the O.A. No. 279/07, 280/07 and 298/07 in regard to the matter of transfer of the applicant and her husband. It is further to be noted that the charge memorandum dated 24/01/08 was issued only after two days of filing the reply of the show cause notice, which draws the conclusion that the respondent No.3/4 was pre-determined to take disciplinary action against the applicant thereby to jeopardize her service carrier by hook or by crook without her fault/mistake.

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Copy of the Charge Memorandum dated 24/01/08 is annexed as Annexure-13(series).

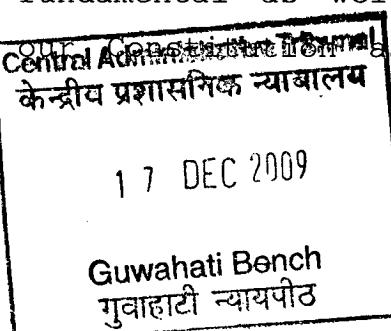
(P) That the applicant after receiving the charge Memorandum on 28/01/08 filed her reply/explanation within stipulated time on 06/02/08 through the Principal/JNV/Ri-Bhoi. In her reply the applicant reiterated the detail facts about the pendency of the matter of her transfer to JNV/West Kameng before this Hon'ble Tribunal and the consequential orders of this Tribunal in this matter at various dates. The applicant also prayed through her reply to exonerate her from the charges leveled against her and also to regularize her service during the period of pendency of the matter of her transfer before the Tribunal.

Copy of the reply dated 06/02/08 is annexed as Annexure-14.

(Q) That without considering the explanation/reply filed by the applicant, the respondent no.3/4 with most mechanical and arbitrary way violating all the principles of Natural Justice and fair play in action has passed the **impugned Memorandum/Order dated 19/02/08** just after two weeks of filing the representation by the applicant.

In the first paragraph of the said order it is stated to the effect that the applicant was served with Memorandum No. 4409 dated 24/01/08 regarding disobeying the given order to report to JNV/West Kameng on transfer and bringing out side influence to bear upon the superior authority to change her place of posting.

It is to be mentioned that the allegation of bringing out side influence to change the place of posting was newly added in the said impugned order dated 19/02/08, which never been mentioned in the charge Memo. Dated- 24/01/08. However the actual fact was that the applicant neither tried nor brought outside influence to prevail upon the superior authority to change her place of posting except filing the O.A. No. 280/07 before this Tribunal in this regard and the applicant by doing so rightfully exercised her fundamental as well as other legal rights guaranteed by ~~our Constitution~~ Central Administration as well as other Statues etc.



In the second paragraph of the impugned order dated 19/02/08 it was stated to the effect that the explanation filed by the applicant through the Principal JNV/Ri-Bhoi vide letter No. 1028 dated 22/01/08 was found vague and no point is suitably replied and hence rejected with caution. This shows that the authority did not consider the explanation of the applicant by applying its free mind and acted with a pre-determined mind.

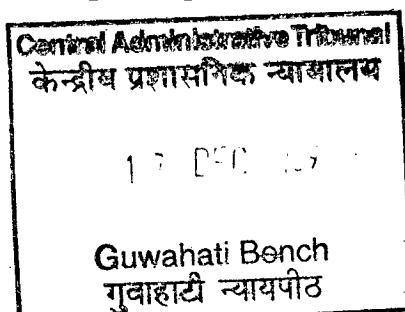
Finally in the last /third paragraph of the impugned order dated 19/02/08 it was ordered to the effect that non-reporting period of Smt. B. Mahanta from 23/09/07 to 13/01/08 is treated as un-authorised absence and the representation for releasing salary for the above period stands rejected.

It is pertinent to be mentioned herein that the impugned order/Memorandum dated 19/02/08 was issued/passed by the respondent No. 3/4 in a most high handed and arbitrary way violating all the prescribed provisions of the C.C.S.(C.C.A.)Rules 1965 in regard to the holding/conducting the inquiry by the disciplinary authority before making any order imposing on the Govt. Servant the penalty prescribed in the Rules.

Copy of the impugned order dated 19/02/08 is annexed as Annexure-15.

(R) That being aggrieved the applicant preferred an appeal against the order dated 19/02/08 before the respondent NO. 2 vide appeal dated 14/03/08. But till dated the appeal has not been disposed of.

However the applicant made another representation/reminder on 18/07/08 before the Commissioner, NVS, the respondent No.2, vide letter dated 18/07/08 praying early disposal of her appeal and also to



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regularize her service during the period of 23/09/07 to 13/01/08, during which the judicial proceeding was pending in CAT, and to release the service benefits of this period.

But the authority has given a deaf ear to the hardships/injury of the applicant which she has been suffering from in relation to her service.

Copies of the appeal dated 14/03/08 and reminder dated 18/07/08 are annexed as Annexure- 16 and 17 respectively.

(S) That pending disposal of her appeal before the Commissioner/NVS, respondent No. 2, the respondent No. 3 wrote a letter dated 26/09/08 to the Principal/JNV/Ri-Bhoi to the effect that since the absence of the applicant with effect from 23/09/07 to 13/01/08 is declared to be unauthorized absence, and the same willful absence will be treated as 'dies-non' for all purposes, viz. increment, leave and pension. And that the applicant will not be entitled for any leave salary and her date of increment will be shifted to her rejoining date.

Copy of the letter dated 26/09/08 is annexed as Annexure-18.

(T) That the applicant has been illegally deprived of her service benefit by the respondent authority during the period w.e.f. 23/09/07 to 13/01/08, during which the judicial proceeding was pending before this Hon'ble Central Administrative Tribunal in regard to her transfer.

The impugned orders dated 19/02/08 and 26/09/08 prejudicially affected the service carrier of the applicant. The impugned orders have a direct adverse affect on the various service benefits of the applicant viz. salary, increment, leave, pension etc. The respondents authority have passed the impugned orders in glaring violation of Rule 16(1-A) of C.C.S.(C.C.A.) Rules, 1965.

Mahanta
Bhattacharya

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The respondents authority did not hold any inquiry in the manner laid down in Sub-Rules (3) to (23) of Rule 14 of C.C.S.(C.C.A.) Rules, 1965 which is mandatory before imposing any penalty as mentioned in the impugned orders.

Hence the applicant is before this Hon'ble Tribunal seeking justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

(i) For that the action of the respondents are highly illegal, unjust, unfair, malafide, bias, arbitrary and whimsical and as such non-sustainable in law and as such the impugned order are liable to be quashed and/or set aside.

(ii) For that the impugned orders dated 19/02/08 and 26/09/08 are highly illegal, unjust, unfair, malafide, arbitrary and as such cannot sustain a judicial scrutiny and are liable to be quashed and/or set aside.

(iii) For that the impugned orders are vitiated by arbitrariness and caprices of the authority and are devoid of any legal force.

(iv) For that the impugned orders being contrary to and violative of Rule 16(1-A) of C.C.S.(C.C.A.) Rules 1965 are liable to be struck down.

(v) For that the authority failed to consider that the applicant offered a reasonable explanation to the charges brought against her explaining the circumstances which prevented her from joining in the place of posting by the impugned transfer. However, the authority with a pre-conceived mind brass aside the said explanation and issued the impugned order dated 19/02/08 on being influenced by irrelevant and extraneous consideration.

63
Babita Mahanta

17 DEC 2009

Guwahati Bench
गुवाहाटी न्यायालय

-15-

(vi) For that the authority failed to consider that to seek legal remedy is a fundamental right of an employee and that when the issue of transfer of the applicant was pending before the Hon'ble CAT and the CAT having passed order to allow the applicant to continue in her post at JNV/Nalbari if she has not been relieved in the meanwhile; and the applicant having not relieved legally she cannot be denied the benefit of the said order and/or the authority cannot negate the said order of Hon'ble CAT more particularly when the authority never prayed for vacating/modification of the said order dated 23/10/07 of Hon'ble CAT.

(vii) For that the various order passed by the Hon'ble CAT from the beginning to the last order dated 07/01/08 it would appear clearly that the applicant was protected and being under the shelter of the CAT she had reasonably did not join at West Kameng/Arunachal Pradesh. And that the Hon'ble CAT having this aspect in consideration passed the final order disposing of the case. As such the authority is wrong in finding fault with the applicant and in victimizing her on a non-existence ground.

(viii) For that the authority has committed a serious mistake in law as well as fact in construing the order of the Hon'ble CAT as an outside influence on the authority to reconsider the order of transfer.

(ix) For that the authorities failed to consider the correspondences made with it by the applicant during that period, like praying for leave, seeking review of the transfer order, arbitrary refusal by the Principal/JNV/Nalbari, the respondent No.5/6, to receive her joining report in accordance with the order of Hon'ble CAT etc. etc. and also the facts that the applicant received the letter dated 04/10/07 of the Deputy Commissioner, respondent No.3/4, rejecting the prayer for

Mahanta
Kumar

reconsideration of the place of transfer only on 01/11/07 along with the forwarding report of the Principal/JNV/Nalbaridated 22/10/07. Whereas the Hon'ble CAT already passed the order dated 23/10/07 in O.A. No. 280/07 whereby the transfer order was challenged. As such the impugned orders of the authority are absolutely baseless, illegal and bad in law.

(x) For that the impugned order is vitiated by the doctrine of principle of Natural Justice in as much as the applicant has been punished without providing her a reasonable opportunity of being heard and defended.

(xi) For that the impugned orders has resulted serious injury to the service carrier of the applicant dehors the rules.

(xii) For that the impugned punishment is highly excessive, disproportionate, unjust and cannot sustain a judicial scrutiny.

6. DETAILS OF REMEDY EXHAUSTED

The applicant preferred appeal challenging the impugned order dated 19/02/08 before the respondent No.2, but the same is remain unattended till date. Now this Hon'ble Tribunal is the only remedy.

7. MATTER NOT PENDING WITH ANY COURT

The applicant declares that there is no case pending before any other Court/Tribunal in this regard.

Mahanta
Mukherjee

Central Administrative Tribunal केन्द्रीय प्रशासनिक न्यायालय
17 DEC 2009
Guwahati Bench गुवाहाटी न्यायपीठ

8. RELIEF SOUGHT FOR

In the above facts and circumstances of the case the applicant prays before this Hon'ble Tribunal for the following relief(s)-

(A) The impugned orders dated 19/02/08 and 26/09/08 (Annexure-15 and 18 respectively) be quashed and set aside.

And

(B) The period w.e.f. 23/09/07 to 13/01/08 be treated as on duty by the applicant and be regularized the service of the applicant of that period.

And

(C) To pass appropriate order(s)/directions to the respondents authority to release all the service benefits of the applicant during the period from 23/09/07 to 13/01/08 treating her to be in regular service for that period.

9. INTERIM RELIEF

As above.

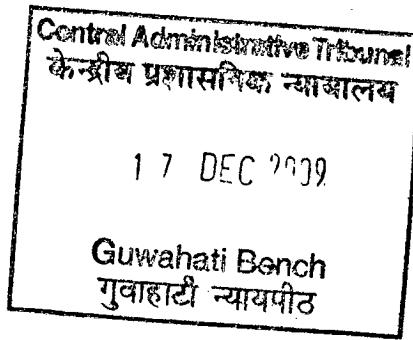
10. PARTICULARES OF I.P.O

IPO NO.- 396 443514

Date of issue- 16.12.09

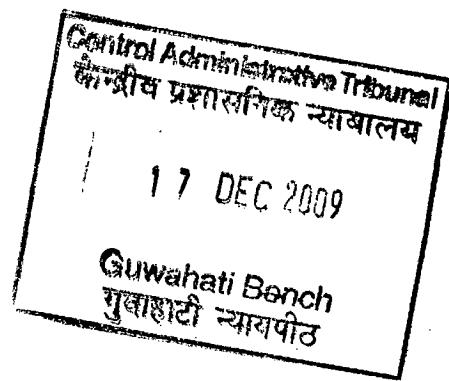
Issued from- G.P.O.

Payable at- Guwahati.



11. LIST OF ENCLOSURES

As per index.



I Smt. Babita Mahanta, Librarian, wife of Dr. A.K. Mahanta, presently residing at the Jawahar Navodaya Vidyalaya, Niangbari, District- Ri-Bhoi, PIN-793102, Meghalaya do hereby declare that I am the applicant in the instant application before this Hon'ble Tribunal and also hereby solemnly affirm and verify that the statements made in the paragraphs of the accompanying application are true to the best of my knowledge, belief and information and I have not concealed anything material there from.

And I put my signature unto this verification on this
17th day of December, 2009 in Guwahati.

Babita Mahanta
Signature of the applicant

18-SEP-2007 14:43

NAVSAM SHILLONG

03642500335

P.01



NAVODAYA VIDYALAYA SAMITI
REGIONAL OFFICE, SHILLONG
TEMPLE ROAD, BARKI POINTE,
LACHUMIREE, SHILLONG - 793001
Ministry of Human Resources and Development,
Dept. Of Education, Govt. of India
Tel: 0364-2500331/2500332
E-mail: nayashillong@sancharnet.in
nayashillong.org.in
Website: www.nayashillong.gov.in

F.2-7/PP/NVS(SHR)/Pers/

Dated: 18th Sept. 07

OFFICE ORDER

Whereas, Dr. A.K. Mahanta, PET, JNV Nalbari has been placed under suspension vide this office letter no.2-44/NVS(SHR)/Pers/2663 dated 23/8/07.

Whereas, Dr. A.K. Mahanta sent message through SMS on 10/9/07 to the undersigned and to the Cluster I/c stating thereby that there was threat to his life and his family in JNV, Nalbari.

Now, therefore, considering his request Dr. A.K. Mahanta, PET (U/S) is attached to JNV, W. Kameng. His wife Mrs. B. Mahanta, Librarian, JNV, Nalbari is also hereby transferred to JNV, W. Kameng on administrative ground so that the family may stay together.

They are entitled for TTA/TA/DA benefits as per NVS rules.

To,

Dr. A.K. Mahanta,
PET(U/S),
Mrs. B. Mahanta,
Librarian,
JNV, Nalbari.

Central Administrative Tribunal केन्द्रीय प्रशासनिक न्यायालय
17 DEC 2009
Guwahati Bench गुवाहाटी न्यायपीठ

M.L. Sharma
(M.L. SHARMA) 18/9/07
DEPUTY COMMISSIONER

Copy to :-

1. The Principal JNV, Nalbari to relieve the concerned persons immediately.
2. The Principal JNV, W. Kameng with request to submit reporting/joining immediately.

certified to be true copy
Mr. L. Sharma
Advocate

M.L. Sharma
DEPUTY COMMISSIONER 18/9/07



Jawahar Navodaya Vidyalaya :: Banekuchi : Nalbari Dist
[Under Ministry of HRD, Department of Secondary and Higher Education, Government of India]
ASSAM

No. F.2-6/JNV(NLBRI)/2007-08/CONF/ 08

DATED : 22.09.2007

OFFICE ORDER

Consequent upon of the NVS, Regional Office, Shillong vide Office Order No. F.2-7/PF/NVS(SHR)/Pers/ dated the 18th September, 2007 [copy enclosed], Mrs B.Mahanta TGT/Librarian is transferred and posted at JNV, West Kemeng on administrative ground.

Mrs B.Mahanta TGT/Librarian is, hereby, relieved of her duties on the FN of the 22nd September, 2007 with a direction to join her new place of posting with immediate effect. Her Last Pay Certificate will be dispatched by post in due course of time.

She is entitled for TTA/TA/DA benefits as per NVS rules.

[R.Daniel Retnakumar]

Principal

PRINCIPAL

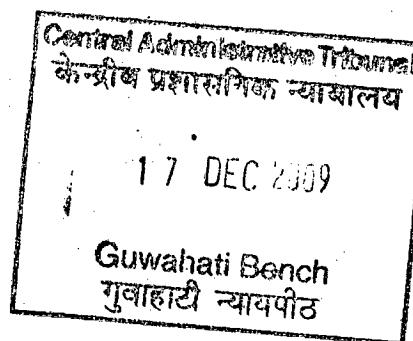
J.N.V., NALBARI

Copy to:-

1. The Deputy Commissioner, NVS, Shillong Region for inf. Please.
2. The DC-Cum-Chairman [VMC], Nalbari for inf. Please.
3. The Principal, JNV, West Kemeng with a request that her Service Book and other service records will be dispatched in due course of time.
4. Mrs B.Mahanta; TGT/Librarian for strict compliance.
5. Office Copy.

[Signature]
22/09/07

PRINCIPAL
PRINCIPAL
J.N.V., NALBARI
Assam





— 21 —

Jawahar Navodaya Vidyalaya :: Banekuchi : Nalbari Dist

[Under Ministry of HRD, Department of Secondary and Higher Education, Government of India]
ASSAM

No F.1-17/JNV(NLBR)/2007-08/ CONF/11

DATED : 22.09.2007

OFFICE ORDER

In pursuance of the NVS, Regional Office, Shillong vide Office Order No. F.2-7/PF/NVS(SHR)/Pers/ dated the 18th September, 2007 [copy enclosed], Dr A.K.Mahanta TGT/PET[M] under suspension is, hereby, attached to JNV, West Kemeng with immediate effect.

Now, therefore, the said Dr A.K.Mahanta, PET [U/S] is, hereby, relieved from this establishment on the FN of the 22nd September, 2007 with a direction to report to The Principal, JNV, West Kemeng with immediate effect.

He is eligible for the TA/DA as per NVS rules.

S. ✓

[R.Daniel Retnakumar]

Principal
PRINCIPAL

J.N.V., NALBARI
Assam

Copy to:-

1. The Deputy Commissioner, NVS, Shillong Region for inf. Please.
2. The DC-Cum-Chairman [VMC], Nalbari for inf. Please.
3. The Principal, JNV, West Kemeng for inf. and n/a please.
4. Dr A.K.Mahanta, PET [U/S] for immediate compliance.
5. Office Copy.

6. P/P by minia

2. 22/9/07
PRINCIPAL
PRINCIPAL
J.N.V., NALBARI
Assam

Central Administrative Tribunal केन्द्रीय प्रशासनिक न्यायालय	
17 DEC 2009	
Guwahati Bench गुवाहाटी न्यायपीठ	



Jawahar Navodaya Vidyalaya :: Banekuchi : Nalbari Dist
Under Ministry of HRD, Department of Secondary and Higher Education, Government of India
ASSAM

No F.1-17/JNV(NLBR)/2007-08/CONF/10

DATED : 22.09.2007

OFFICE ORDER

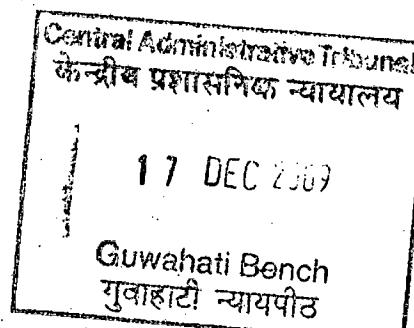
Consequent upon the transfer and posting of Smt. B.Mahanta TGT/Librarian to JNV, West Kemeng with immediate effect vide NVS, Regional Office, Shillong Office Order No. F.2-7/PF/NVS(SHR)/Pers/ dated the 18th September, 2007 and her subsequent relieving from this establishment vide Office Order No F.1-17/JNV(NLBR)/2007-08/CONF/08 dated 22.09.07, she is directed to vacate the official residence allotted to her in this establishment with immediate effect enabling this office to allot the said quarter to next official on seniority.

✓
[R.Daniel Retnakumar]
Principal
PRINCIPAL
J.N.V., NALBARI
Assam

Copy to:-

1. The Deputy Commissioner, NVS, Shillong Region for inf. Please.
2. The DC-Cum-Chairman [VMC], Nalbari for inf. Please.
3. ~~✓~~ B.Mahanta, TGT/Librarian for strict compliance.
4. Office Copy.

✓ 2.11.07 22.9.07
PRINCIPAL
PRINCIPAL
J.N.V., NALBARI
Assam





Jawahar Navodaya Vidyalaya :: Banekuchi : Nalbari Dist

(Under Ministry of HRD, Department of Secondary and Higher Education, Government of India)

ASSAM

NO F. 1-17/JNV(NLBR)/2007-08/CONF/09

DATED : 22.09.2007

OFFICE ORDER

Consequent upon the transfer and posting of Smt. B. Mahanta TGT/Librarian to JNV, West Kengmeng with immediate effect vide NVS, Regional Office, Shillong Office Order No. F.2-7/PF/NVS(SHR)/Pers/ dated the 18th September, 2007 and her subsequent relieving from this establishment vide Office Order No F.1-17/JNV(NLBR)/2007-08/CONF/08 dated 22.09.07, a board is, hereby, constituted to take over the full charges of the Library with the officials as under :-

Sri K.Zalal, PGT/English	Presiding Officer
Sri P.K.Singh PGT/Hindi	Member
Sri S.S.Shubham, S/Keeper	Member
Smt M.M.Roy, TGT/Music	Member
Smt D.Deka, TGT/Hindi	Member

The board will check and verify the ground stock with the ledger stock and discrepancies, if any, are found, a report to be submitted to this office for further necessary action at this end. On taking over of the Library charges, the Library is to be sealed and handed over to the Librarian whoever is going to join the institution against the vacant post. The necessary handing/taking over of charges to be completed latest by 1700 hours on the 22nd September, 2007 enabling the relieved official to join her new place of posting at her earliest.

SD
[R. Daniel Retnakumar]

Principal
PRINCIPAL
J.N.V., NALBARI
Assam

Copy to:-

1. The Deputy Commissioner, NVS, Shillong Region for inf. Please.
2. The DC-Cum-Chairman [VMC], Nalbari for inf. Please.
3. Smt B.Mahanta, TGT/Librarian for strict compliance & necessary coordination with the board members.
4. Officials concerned with a direction that discrepancies, if any, are found in future, they will be held responsible for the consequences there-of.
5. Office Copy.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

17 DEC 2009

Guwahati Bench
गुवाहाटी न्यायालय

SD
PRINCIPAL
PRINCIPAL
J.N.V., NALBARI
Assam

—24—



Form,

JAWAHAR NAVODAYA VIDYALAYA
जवाहर नवोदय विद्यालय

(भानुव संस्थापन विलास मंत्रालय, भारत सरकार, शिक्षा विभाग)

बानेकुची, ज़िला:- नल्हारी (असम) पिन- 781 340

(Ministry of Human Resource Development
Govt. of India, Deptt. of Education)

Banekuchi :: Dist.- Nalbari Pin-781 340 (Assam)

• 03624-240332 :: Fax No.- 03624-240332

e.mail-jnvnalbari@sify.com

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

17 DEC 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

① F-2-6/JNV(NLB/R)/2007-08/Conf/08 Dt. 22.9.07
 ② F-2-7/PF/NVS(SHB)/P-02/ Dt. 18.9.2007
 ③ F-1-7/JNV(NLB/R)/2007-08 Conf/09 Dt. 22.9.07
 ④ A-1-17/JNV(NLB/R)/2007-08 Conf/10 Dt. 22.9.07

To,

Mrs. Batabita Mahanta

TGT (Librarian)

JNV, Nalbari

(True typed copy)

ANNEXURE-2 (SERIES)

To

The Honourable Deputy Commissioner
Regional Office, Shillong
Navodaya Vidyalaya Shillong

Subject : Regarding Transfer Order

Respected Sir,

Shillong
3rd Sept' 07

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

17 DEC 2009

Guwahati Bench
गुवाहाटी न्यायालय

With due respect and humble submission, I would like to state that I Mrs. B. Mahanta, TGT(Leb) got my transfer order F.2-7/PF/NVS(SHR)/Pers/ dted 18th Sept.07 on 24th Sept.07 where I have been transferred to JNV Kameng along with my husband Dr. A.K. Mahanta(attached). But Sir, JNV Kameng is far away from my home district and previous posting area JNV Nalbari where all my inventory and household items were kept and it will be the place where we will find difficult to look after my old parents in law (who are suffering from heart having pace maker) and the study of small son.

So, please Sir, do necessary steps sympathetically that we could be posted in near by JNV of Assam which is nearest to my home district Kokrajhar.

Thanking you

Yours faithfully

B. Mahanta

TGT (Librarian)

JNV, Nalbari

Certified to be true copy

Mrz
Advocate

Shillong

3rd Sept 07

The Honorable Deputy Commissioner

Regional office Shillong

Navodaya Vidyalaya Shillong

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

17 DEC 2009

Guwahati Bench
गुवाहाटी न्यायालय

Subject: Regarding Transfer Order

Respected Sir,

With due respect and humble submission, I would like to state that I Mrs B. Mahanta, TGT(Lib) got my Transfer Order F.2-7/ PF/INVS(SHR)/Per/ dated 18th Sept 07 on 24th Sept. 07 where I have been transferred to JNV Kating along with my husband Dr. A. K. Mahanta (Attached). But Sir, JNV Kating is far away from my home district and previous posting area JNV Nalbari where all my inventory and house hold items were kept and it will be the place where we will find difficult to look after my old parents in law (who are suffering from heart and having pace maker) and the study of small son.

So, please Sir, do necessary steps sympathetically that we could be posted in near by JNV of Assam which is nearest to my home district Nekemayganj.

Thanking You.

Yours faithfully,

B. Mahanta

TGT (Librarian)
JNV Nalbari

Re
B. Mahanta
JNV Nalbari

(True typed copy)

Central Administrative Tribunal Shillong
केन्द्रीय प्रशासनिक न्यायालय

3/10/07

17 DEC 2009

Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

To
The Deputy Commissioner
Navodaya Vidyalaya Samity
Regional Office Shillong

Subject: Regarding joining the new school after transfer

Sir,

With due respect and humble request I beg to state that I am not bale to join JNV West Kameng because of my father in laws illness where nobody is not there to look after him. SO you please extend my joining period upto 10th Oct '07 and grant my EL from 4th Oct. to 10th Oct afternoon.

Thanking you

Your's faithfully

B.Mahanta

TGT (Librarian)

Received

Sd/- illegible

03/10/07

Shillong
3/10/07

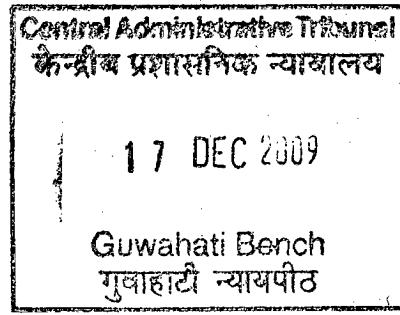
Jo.

The Deputy Commissioner
Navodaya Vidyalaya Samiti
Regional Office Shillong

Subject : Regarding joining the new school
after treatment.

Sir, With due respect and humble request I
beg to state that I am not able to join SNV West
because of my father's illness while
nobody is not there to look after him. So you
please extend my joining period upto 10th Oct '07
and grant my EL from 4th Oct 10th Oct afternoon

Thanking You.



Recd
by 2/10/07

Yours faithfully
B. Malanti
TGT (Librarian)



NAVODAYA VIDYALAYA SAMITI
REGIONAL OFFICE, SHILLONG
TEMPLE ROAD, BARIK POINT,
LACHUMERE, SHILLONG - 793001
(Ministry of Human Resource and
Development, Deptt. of Education,
Govt. of India)
Tel : 0364-2500331 Fax: 25003358
E-mail : nvss@vsnl.net.in
Website : www.nvssshillong.gov.in

F.No. 2-8/2007/NVS(SHR)/Per/

Dated : / 10/2007

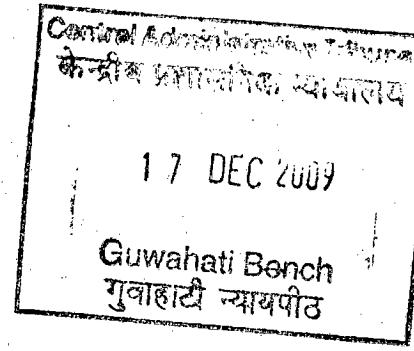
To

Smt. B.Mahanta, Librarian
JNV- West Kameng
Ar. Pradesh.

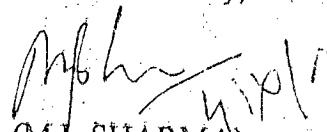
Sub: Request transfer of Smt. B.Mahanta-Librarian, JNV West Kameng to a JNV
nearby home dist. Kokrajahar (Assam) of Dr. A.K.Mahanta-PET(U/S).

Sir/Madam,

It is regrettfully conveyed that your request for transfer to a JNV nearby your home dist. was considered sympathetically, but owing to non-availability of vacancy in any JNV located in the state of Assam, it could not be acceded to. You are advised to join your duty immediately.



Yours faithfully,


(M.L. SHARMA)
DEPUTY COMMISSIONER

Copy to :-

1. Dr. A.K. mahanta, PET(U/S) JNV West kameng (Ar. Pradesh) with reference to his representation dated 4/10/2007
2. The Principal JNV West Kameng / JNV Nalbari for information necessary.
3. Personal file

12541 10.12.5 DEPUTY COMMISSIONER
Box No. 407
9/11/07

certified to be true copy
H. S. Mehta
Advocate



Jawahar Navodaya Vidyalaya :: Banekuchi :: Nalbari District

[Under Ministry of HRD, Department of Secondary and Higher Education, Government of India]
ASSAM [781 340]

No F.17/JNVNLBR/2006-07/Conf/ 14

Dated: 22.10.2007

Regd. Post/AD

To

Mr A.K.Mahanta
S/O Subal Chandra Mahanta
Ward No.10, Near T.V.R.C
P.O.Kokrajhar
Kokrajhar District [783370]

SUB:- Forwarding of official letters – Reg.

Sir,

Enclosed herewith two official letters from NVS(SHR) letter Nos F. 2-7/2001/NVS(SHR)/ Pers/2805 dated 13.09.2007 and F.2-8/2007/ NVS(SHR)/Pers/ dated 04.10.2007 in r/o Mr A.K.Mahanta PET(M) under suspension and presently attached at JNV, West Kameng and Mrs B.Mahanta Ex-Librarian of this vidyalaya and presently posted to JNV, West Kemeng for their information.

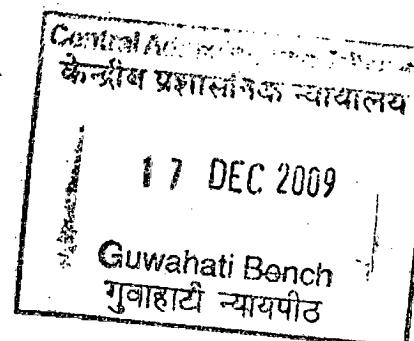
Thanking you,

Yours faithfully

✓ R.Daniel Retnakumar
[R.Daniel Retnakumar]

PRINCIPAL
PRINCIPAL
J.N.V., NALBARI
Assam

Enclos: Xerox Copies A.S.A



31

60

Regd. Post (AD.)

RL 3727
22-10-07

Form,

JAWAHAR NAVODAYA VIDYALAYA

जवाहर नवोदय विद्यालय

(मानव संसाधन प्रिकास मंत्रालय, भारत सरकार, शिक्षा विभाग)

बानेकुची, जिला:- नलबारी (असम) पिन- 781 380

(Ministry of Human Resource Development

Govt. of India, Deptt. of Education)

Banekuchi :: Dist.- Nalbari Pin-781 340 (Assam)

03624-240332 :: Fax No.- 03624-240332

e.mail-jnvnalbari@sify.com

To,

Mr. Ashwin Kumar Mahanta,
S/O Subal Chandra Mahanta
Kokrajhar Ward No. 10

Near T.V.R.C, P.O. Kokrajhar
Dist- Kokrajhar, (Assam)

Pin- 783370

Central
केन्द्रीय प्रशासन

17

Guwahati Bench
गुवाहाटी न्यायपीठ

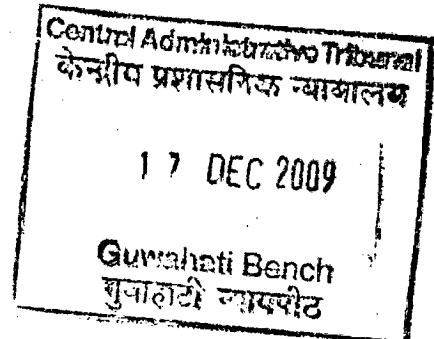


ANNEXURE - 4

(True typed copy)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

1. Original Application No. 279/0
2. Misc. petition No. /
3. Contempt petition No. /
4. Review Application No. /



Applicant(s) - Ashwin Kr. Mhanta -Vs- Union of India & Ors.

Advocate for the applicant - K.K. Mahanta, R. Duwarah,
K. Konwar,

Advocates for the Respondent(s) -----

Notes of the Registry- Central Administrative Tribunal
(Seal)

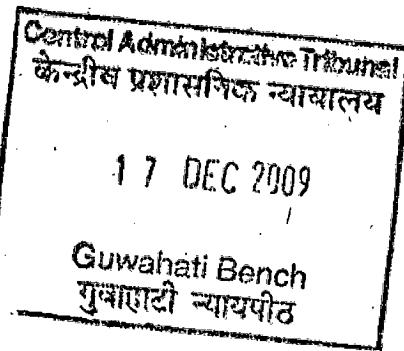
Date - 23/10/2007

Order of the Tribunal-

Heard Mr. K.K.Mahanta learned counsel for the
Applicants in O.A. No. 279/07 & 280/2007

The Applicant in O.A.279/2007 contends that he was suspended from service w.e.f. 23/08/2007 but so far he has not been issued any charge sheet which normally should have been issued within 45 days otherwise suspension stands revoked as per rules. If the contention of the Applicant is correct then he is directed to resubmit his joining report along with representation to the concerned authority pointing out relevant Rules and the concerned authority is directed to dispose of the representation within 15 days from the date of receipt of the representation. Meanwhile, Applicant would have right to join his duties if he has not been issued any charge sheet within the times stipulated in the Rules.

certified to be true copy
Mrs
Advocate



Applicant No.2 Mrs. Bobita Mahanta, wife of the first Applicant (in O.A. No. 280/2007), who has been transferred out on 18.9.2007 and has been asked to vacate the residential quarter. Learned counsel for the Applicant contends that this action has been taken only to harass the Applicant and his wife i.e. second Applicant.

Considering the facts and circumstances of the case, the O. As. are admitted. Issue Notice to the Respondent. Respondents are directed to file reply statement. Looking to the circumstances of the case, as explained by the learned counsel for the Applicants, if Mrs. Babita Mahanta may be allowed to continue in the present place of posting till the next date if she has not been relieved already.

Post the case on 10/12/2007. Copy of this order shall be sent to the Respondents directly also.

Sd/- Khushiram
Member (Admn.)

Sd/- illegible
Section officer
23/10/07
C.A.T. Guwahati Bench

CHINESE ALTERNATIVE THERAPY
CHINESE MEDICINE

1. Original Application No. 0111767
2. Miss Partition No.
3. Corrected Partition No.
4. Review Application No.

Applicant(s) ... (Signature) Mr. M. S. J.

Advocacy for the Respondent(s): K. K. KENNEDY

Notes of the Registry. Date.

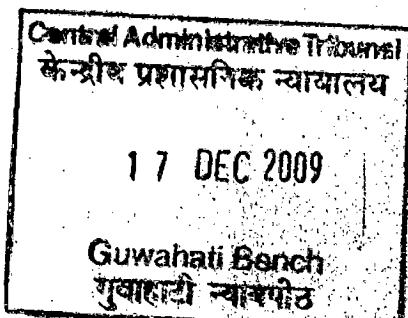
Order of the Tribune
23.10.2007 Heard Mr. K. M. Venkateswaran

1. **RECORD - MR.K.R.MANOHAR,** **Advocate**
2. **counsel for the Applicants in O.S.A.**
3. **File No.279/2007 & 280/2007.**

the Applicant in O.A.274/2007 contends that he was suspended from service w.e.f. 23.08.2007 but so far he has not been issued any charge sheet which normally should have been issued within 15 days, otherwise suspension stands invalid as per rules. If the contention of the Applicant is correct, then he is directed to submit his joining report along with representation to the concerned authority pointing out relevant rules and the concerned authority is directed to dispose

of the representation within 15 days from the date of receipt of the representation. Meanwhile, Applicant would have right to join his dues if he has not been issued any charge sheet within the times stipulated in the rules.

Combining

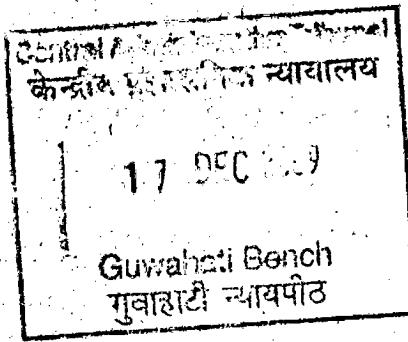


Conld
23.10.2007

Applicant No.2 Mrs. Bobilla Mohinder wife of the first Applicant (in O.A. No.280/2007) who has been transferred out on 18.9.2007, and has been asked to vacate the residential quarter. Learned counsel for the Applicant contends that this action has been taken only to harass the Applicant and his wife i.e., second Applicant.

Considering the facts and circumstances of the case, the O.A. is admitted. Issue notice to the Respondents. Respondents are directed to file reply statement. Looking to the circumstances of the case, as explained by the learned counsel for the Applicants, if Mrs. Bobilla Mohinder may be allowed to continue in the present place of posting till the next date, if she has not been relieved already.

Post the case on 10.12.2007. Copy of this order shall be sent to the Respondents directly also.



58-
K. Pushkin
Member (Admin.)
Date of Application : 23/10/07
Date on which copy is ready : 23/10/07
Date on which copy is delivered : 23/10/07
Certified to be true copy

Section Officer (J.D.L)
C. A. T. Guwahati Bench
Guwahati
23/10/07

ANNEXURE-5 (series)

(True typed copy)

Dated- 24/10/07

To

The Principal
JNV, Nalbari (Assam)

Subject :- Joining in duty

Dated - 24th Oct, 07 at JNV Nalbari (Assam)

Sir,

As per order served by the Honourable CAT Ghy benchon dated 23/10/07 (Order No. 279/07), I hereby join my duty today dated 24/10/07 F/N. Further, I pray your good self to kindly take appropriate necessary steps in this regard.

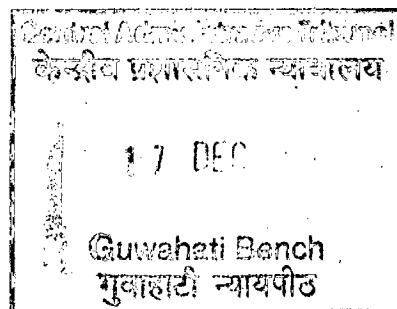
Thanking you.

Your faithfully

Babita Mahanta

TGT (Librarian)

JNV Nalbari



certified to be true copy
Huz
Advocate

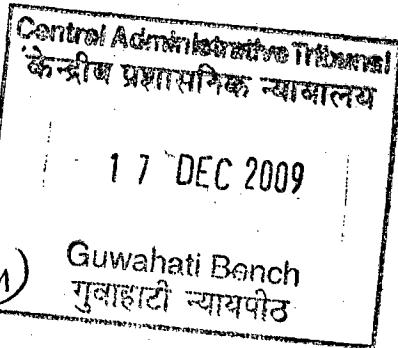
Dated 24/10/07

-37-

To

The Principal

JNV Nalbari (Assam)



Subject: Coming in duty

Dated - 24th Oct, 07 at JNV Nalbari (Assam)

Sir,

As per as order served by the Honourable
 CAT Guwahati bench on dated 23/10/07 (order no 277/07),
 I hereby rejoin my duty today dated 24/10/07 P/N.
 Further, I pray your good self to kindly take appropriate
 necessary steps in this regard.

Thanking you.

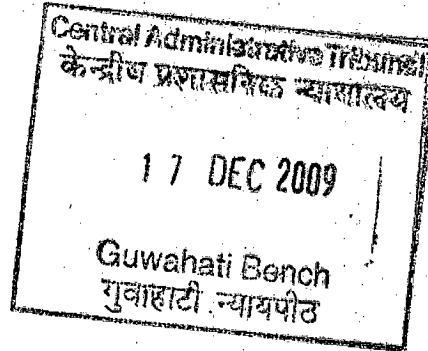
Yours faithfully

Babita Mahanta

TGT (Librarian)

JNV Nalbari

(True typed copy)



To

The Principal
JNV Nalbari (Assam)

Subject : To avail vacation period

Dated : 24th Oct, 07 at JNV Nalbari (Assam)

Sir,

As I resume my duty today dated 24/10/07 in the time/period of vacation as per NVS. As I am a vocational staff I am going to avail vacation from 24/10/07 till re-open of the school.

This is for your kind information and necessary action.

Thanking you

Your's faithfully
Babita Mahanta
TGT (Librarian)
JNV, Nalbari

36.

The Principal

JNV Nalbari (Assam)

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

17 DEC 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

Subject: To avail vacation period

Dated : 24th Oct, 07 at JNV Nalbari (Assam).

SIR,

As I resume my duty today dated 24/10/07 in the time / period of vacation as per NVS. As I am a vacational staff I am going to avail vacation from 24/10/07 till re open of the school.

This is for your kind information and necessary action. Thanking You.

Yours faithfully
Babita Mahanta,
TGT (Librarian)
JNV Nalbari.

(True typed copy)

Dated-24/10/07

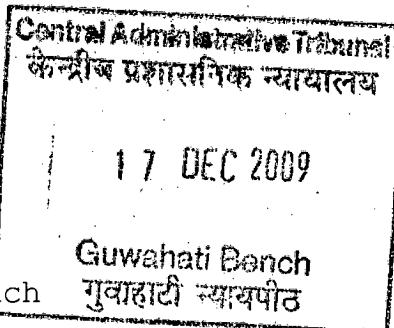
To

The Deputy Commissioner
NVS Regional Office, Shillong

Through- Principal, JNV, Nalbari (Assam)

Subject : Joining in duty

Reference: (I) Honourable CAT order, Guwahati Bench
(II) Transfer Order



Sir,

Challenging the order of my transfer order F.2-7/PF/NVS(SHR)/Pers/dated 18.09.09, I approached the honourable CAT Ghy bench through 280/07. The honourable CAT passed an interim order on 23/10/07 copy of which enclosed herewith for your perusal and necessary action. The learned CAT has ordered that I be allowed to continue in the place of posting (JNV, Nalbari, Assam). Till the next dated (10/12/07) if I have not been relieve already.

I received the transfer order along with other 4 orders including your order dated 22/09/07 all contains in one closed envelop, whereby I was reportedly relieved from the school. Since, practically I have not been relieved and I have not handed over the charges and charges have not been taken over from me by the committee so constituted by the principal, I am infact continuing/deemed to continuing in service here and as such as per honourable CAT's order, I am hereby reporting for duty to day dated 24/10/07 F/N and I should be allowed to continue here in this school by honouring the honourable CAT's order and necessary order in this regard may kindly be issued from your end with kind regards.

Thanking you

Enclosed :

- (i) A copy of honourable CAT, Ghy bench
- (ii) Photocopy of transfer order

Yours faithfully
Babita Mahanta
TGT (Librarian)
JNV, Nalbari

To,

The Deputy Commissioner
NVS Regional office, Shillong
Through Principal, JNV Nalbari (Assam)

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
17 DEC 2009

Subject: - Joining in duty

Reference: (i) Honourable C.A.T order, Guwahati Bench
(ii) Transfer Order

Sir,

challenging the order of my transfer order F. 22/1/07
/NVS (SHR) /Pens/Dated 18.09.07, I approached the honourable C.A.T
Guwahati bench through 28/09. The honourable C.A.T passed
an interim order on 23/10/07 copy of which enclosed here-
With for your perusal and necessary action. The learned
C.A.T has ordered that I be allowed to continue in the place
of posting (JNV Nalbari, Assam) till the next date (10/12/07) if
I have ~~been~~ ~~not~~ not been relieved already.

I received the transfer order along with other 4
orders including your order dated 22.09.07 all contained in
one closed envelop, whereby I was reportedly relieved from
the school. Since, practically I have not been relieved
and I have not handed over the charges and charges have
not been taken over from me by the committee so
constituted by the principal, I am in fact continuing I am
allowed to continue in service here and as such as per
the honourable C.A.T's order, I am hereby reporting for
duty to day dated 24/10/07 F/H and I should be
allowed to continue here in this school by honouring
the honourable C.A.T's order and necessary order in this
regard may kindly be issued from you and with best
regards.

Thanking You.

Enclosed: (i) A copy of honourable C.A.T
Guwahati bench
(ii) Photocopy of transfer
order.

Yours faithfully,
Babita Mahanta,
TGT (Kishanpur)
JNV Nalbari

Central Administrative Tribunal केन्द्रीय प्रशासनिक न्यायालय
17 DEC 2009
Guwahati Bench गुवाहाटी न्यायपीठ

ANNEXURE-6

(True typed copy)

Nalbari

25/10/07

To

The honourable Deputy Commissioner
NVS, Regional Office, Shillong

Through- Principal
Jawahar navodaya Vidyalaya, Nalbari (Assam)
Subject : Regarding handing over the order along with other
Applications

Sir,

I Babita Mahanata, TGT(Librarian) JNV Nalbari (Assam) most respectfully and truly would like to state you that as per as order delivered by the honourable CAT Ghy bench order No. 280/07 dated 23/10/07 I went to JNV Nalbari where I was posted on 24/10/07 F/N to hand over the said order along with other relevant applications. I informed the office people to call the principal namely Mr. Ratnakumar. But, I am in great regret to inform you that since morning I was waiting for the principal to handover the said order. He was not responding and in office hour he stayed in his residence without giving any information to me. Then I requested Mr. Hazarika, office superintendent (OS) of the said school to receive the said. Again, I was waiting for the response. In the last hour of office, Mr. Hazarika refused to accept the order and closed the office and he left.

Now as a sincere and faithful employee of the samity I have no option but to deliver/hand over the said order along with other relevant application through registered post with A/D keeping the photocopy of each and every copy in my hand.

I shall be ever grateful if you consider the said.

Enclosed:

1. Honourable CAT order
2. Joining report
3. Application to avail

Vacation

Yours faithfully

Babita Mahanta

JNV Nalbari

TGT (Librarian)

certified to be true copy

Mr.
Advocate

25/10/07
Nalbari

To, the Deputy Commissioner
NVS, Regional office, Shillong

Subject:- Regarding handing over the order along
with other applications.

Sir,

I am Balita Mahanta, TGT (librarian), SNV Nalbari. I am most respectfully and truly would like to state you that as per as order delivered by the honourable CAT, Gauhati bench OA No. 280/07 dated 23/10/07, I went to SNV Nalbari where I was posted on 24/10/07 FM to handover the said order along with other relevant applications. I informed the office people to call the principal namely Mr. D. Retnakumar. But, I am in great regret to inform you that since morning I was waiting for the principal to handover the said order. He was not responding and in office time he stayed in his residence without giving any information to me. Then I requested Mr. Hazarika, Office Superintendent (Os) of the said school to receive the said. Again, I was waiting for their response. In the last hour of office Mr. Hazarika, Os refused to accept the order and closed the office and he left.

Now, as a sincere and faithful employee of the ministry I have no option but to deliver/hand over the said order along with other relevant applications through registered post with AD keeping the photocopy of each and every in my hand.

I shall be ever grateful if you consider the said

Enclosed:

1. Honourable CAT order
2. Joining Report
3. Application to avoid vacant

Central Administrative Tribunal केन्द्रीय प्रशासनिक न्यायालय	17 DEC 2009
Guwahati Bench गুৱাহাটী ন্যায়পীঠ	

Yours faithfully
Balita Mahanta
SNV Nalbari
TGT (librarian)

ANNEXURE-7 (series)

(True typed copy)

Nalbari

12th Nov' 07

To

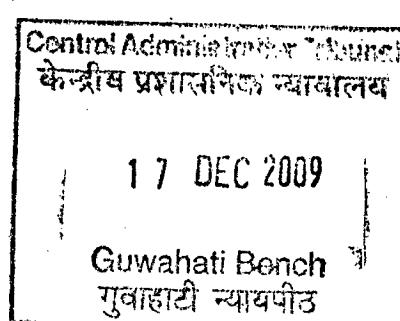
The Principal
JNV Nalbari
Subject : Joining report

Respected Sir

With due respect I beg to state that I am rejoining on my duty on dated 12th Nov' 07 (F/N) at JNV Nalbari after availing puja vacation.

This is for your kind information and necessary action.

Thanking you



Yours faithfully

Babita Mahanta

TGT (Librarian)

JNV Nalbari

certified to be true copy
Hem
Advocate

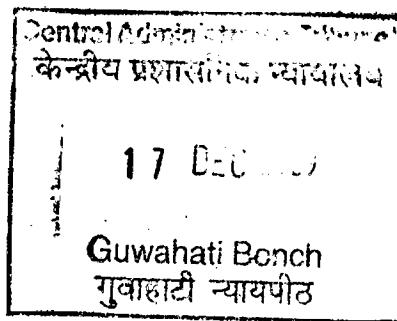
Nalbari
12th Nov '07

To : The Principal
JNV Nalbari

Subject : Joining Report

Respected Sir,

With due respect I beg to state that I am rejoining on my duty on dated 12th Nov '07 (F/N) at JNV Nalbari after availing pujavacation. This is for your kind information and necessary action. Thanking you.



Yours faithfully
Babsila Mahanta
TGT (Librarian),
JNV Nalbari

(True typed copy)

Central Administrative Tribunals
केन्द्रीय प्रशासनिक न्यायालय

17 DEC 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

Nalbari
13th Nov' 07

To

The Principal
JNV Nalbari (Assam)

Subject : Submission of joining report

Sir,

As per as direction given by honourable CAT Ghy bench I resumed on my duty on 24th Oct, 07 in JNV Nalbari (Assam) with enclosing relevant documents along with CAT order. Yesterday i.e. (12/11/07) once again I resumed on my duty after availing vacation. But I am in great regret to state you that you and your office people did not give me the receive of the said joining letter. So, I am in no way but to submit the letter through registered post. So I am hereby submitting the joining letter through registered with A/D by Nalabari, Post Office.

I shall be even grateful if you consider the said.

Thanking you.

Yours faithfully
Babita Mahanta
TGT (Librarian)
JNV Nalbari

Copy to-

Honourable Deputy Commissioner
R/O (Shillong Region) for information

Nalbari
13th Nov '07

17

Control Action Team
केन्द्रीय प्रशासन नियन्त्रण

17 DEC. 09

Guwahati Bench
गुवाहाटी न्यायालय

The Principal
JNV Nalbari (Assam)

Subject: Submission of joining report

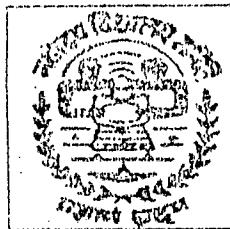
Sir,

As per as direction given by Honourable CAT Bench I resumed on my duty on 24th Oct, 07 in JNV Nalbari (Assam) with enclosing relevant documents along with CAT order. Yesterday i.e (12/11/09) once again I resumed on my duty after availing vacation. But, I am in great regret to state you that you and your office people did not give me the receive of the said joining letter. So I am in no way but to submit the letter through registered post so, I am hereby submitting the joining letter through registered with A.D by Nalbari Post office.

I shall be even grateful if you consider the said. Thanking you.

Yours faithfully
Babita Mahanta
TGT (Librarian)
JNV Nalbari

Copy to - Honourable Deputy Commissioner
R.O (Shillong Region) for information



NAVODAYA VIDYALAYA SAMITI
REGIONAL OFFICE, SHILLONG
TEMPLE ROAD, BARIK POINT,
LACUMIERE, SHILLONG -- 793 001
(Ministry of Human Resource and
Development, Deptt. Of Education,
Government of India)
Tel : 0364-2500331 Fax - 25003358

No F.2-7PIF/NVS(SHR)/Pers/ 3.6.8-6/2

Dated : 15.11.2007

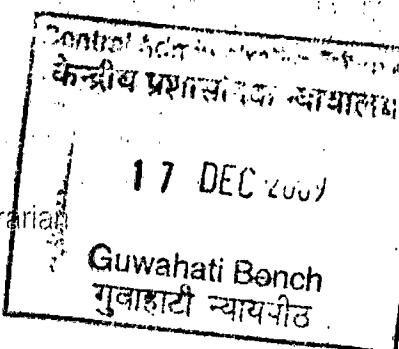
OFFICE MEMORANDUM

Whereas, Smt B.Mahanta, Librarian, JNV, Nalbari was transferred to JNV, West Kameng, Arunachal Pradesh on ground that there is threat to her life in JNV, Nalbari and she was relieved on 22.09.2007 and has availed Rs13,000/- as TTA grant.

Whereas, she has appealed to Hon. CAT, Guwahati for her continuation in JNV, Nalbari, and the Hon. CAT has directed to dispose off her representation within 15 days and to allow her if she was not relieved of from JNV, Nalbari.

Whereas, she has represented on 25.10.2007 to join in JNV, Nalbari that was received in this office on 01.11.2007.

Now therefore, considering that she has already been relieved from her duties on ground of her own security on 22.09.2007 with TTA advance of Rs13,000/- and that Sri R.K.Pandey has already joined as Librarian against the said post; it is not possible to accommodate her in JNV, Nalbari. She is once again directed to join in JNV, West Kameng immediately as that vidyalaya is suffering without Librarian.



M.L. Sharma
Deputy Commissioner

To

Smt B.Mahanta, Librarian
JNV West Kameng,
Arunachal Pradesh

Copy to:-

1. The Principal, JNV, Nalbari West Kameng [A.P] for N/A.
2. Office Copy.

DEPUTY COMMISSIONER

certified to be true copy
Muz
Advocate



Jawahar Navodaya Vidyalaya:: Banekuchi:: Nalbari Dist
[Under Ministry of HRD, Department of Secondary and Higher Education, Government of India]
ASSAM [781 340]

No F.1-17/JNV (NLBR)/2007-08/ (CONF/25-28)

Dated: 19.11.2007

OFFICE ORDER

To

Mrs. B. Mahanta, Librarian
JNV West Kameeng (Nafra)
Arunachal Pradesh.

Sub: - Handing over of letter no. F.2-7/PF/NVS (SHR)/Pers/3686(a) dated 15-11-2007 regarding.

Sir,

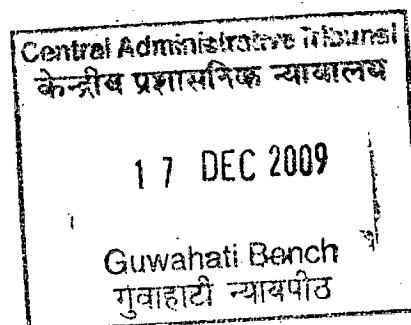
01. Enclosed here with NVS, RO, vide letter no. F.2-7/PF/NVS (SHR)/Pers/3686(a) dated 15-11-2007.
02. This is for your information and for strict compliance.

Copy to:-

01. The Deputy Commissioner Navodaya Vidyalaya Samiti, Regional Office, Shillong for information please.
02. The Deputy Commissioner cum Chairman VMC, Nalbari for information.
03. The Principal JNV, West Kameeng, Arunachal Pradesh for information.
04. Office copy.

PRINCIPAL
J.N.V. NALBARI

PRINCIPAL
PRINCIPAL
J.N.V., NALBARI
Assam

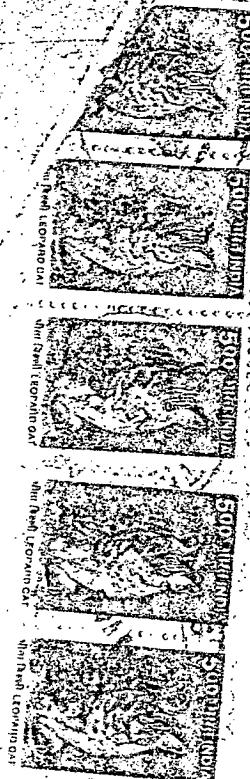


Reg - past AID

PL 3737
19-11-07



Received on
21/11/07



Form,

JAWAHAR NAVODAYA VIDYALAYA जवाहर नवोदय विद्यालय

(मानव संसाधन विकास मंत्रालय, भारत सरकार, शिक्षा विभाग)
बानेकुची, जिला - नलबारी (असम) पिन- 781 340
(Ministry of Human Resource Development
Govt. of India, Deptt. of Education)
Banekuchi :: Dist. - Nalbari Pin-781 340 (Assam)
03624-240332 :: Fax No. - 03624-240332
e-mail-jnvnalbari@sify.com

To,

Mrs. Babita Mahanta (Librarian)

JNV West Kameng (Nabbar)

Armedal Pradesh

Camig - JNV Nabbar

781346

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

17 DEC 2007

Guwahati Bench
गुवाहाटी न्यायपरिष

Annexure-9 (Series)

- 51 -



Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
17 DEC 2009
Guwahati Bench
गुवाहाटी न्यायपीठ

Navodaya Vidyalaya Samiti,
Regional Office, Shillong,
Temple Road, Birla Point,
Lachumière, Shillong-793001
Tel : 0364-2500331/2500332
Email : regreshillong@rediffmail.com
Website: www.navaroshillong.gov.in

NAVODAYA VIDYALAYA SAMITI

R. 2-7/PF/BM-NVS(SHR)/Pers /37-61

Dated: 23 Nov'2002

OFFICE ORDER

Transfer of Mrs. B. Mohanta, Librarian, JNV, West Kameng Arunachal Pradesh is hereby modified on request to JNV, Ri Bhoi, Meghalaya.

She is directed to report on duty in JNV, Ri Bhoi, Meghalaya with immediate effect.

M.L. SHARMA 28/11/02

DEPUTY COMMISSIONER

To,

Mrs. B. Mohanta,
Librarian
JNV, West Kameng,
Arunachal Pradesh

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
17 DEC 2009
Guwahati Bench
गुवाहाटी न्यायपीठ

Copy to :

1. The Principal, JNV, West Kameng, Arunachal Pradesh.
2. The Principal, JNV, Ri Bhoi, Meghalaya

M.L. SHARMA 28/11/02

DEPUTY COMMISSIONER

certified to be true copy

Mez

Advocate

Navodaya Vidyalaya Samiti,
Regional Office, Shillong,
Temple Road, Barik Point,
Lachumiere, Shillong-793001
Tel : 0361-2500331/2500332
Email : nvso@shillong.igdmsmail.com
Website: www.nvso@shillong.gov.in

NAVODAYA VIDYALAYA SAMITI

F. 2-7/PP/BM-NVS(SHR)/Pers 17-6-2

Dated: 23 Nov'2007

OFFICE ORDER

Sh. A.K. Mohanta, PET, who was posted to JNV, West Kameng Arunachal Pradesh after revocation of suspension is now posted on request to JNV, Ri Bhoi, Meghalaya

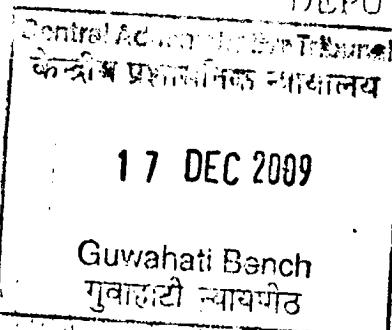
He is directed to report on duty in JNV, Ri Bhoi, Meghalaya with immediate effect.

(M.L. SHARMA) 23/11/07

DEPUTY COMMISSIONER

To,

A.K. Mohanta,
PET
JNV, West Kameng,
Arunachal Pradesh



Copy to :

1. The Principal, JNV, West Kameng, Arunachal Pradesh.
2. The Principal, JNV, Ri Bhoi, Meghalaya

(M.L. SHARMA)

DEPUTY COMMISSIONER

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Date of Order: This the 7th Day of January, 2008

HON'BLE MR. MONORANJAN MOHANTY, VICE-CHAIRMAN
HON'BLE MR. KHUSHIRAM, ADMINISTRATIVE MEMBER.

1. Dr. Ashwin Kumar Mahanta
Son of Sri Subal Chandra Mahanta
Teacher, Physical Education
Jawahar Navodaya Vidyalaya
Nalbari, District - Nalbari, Assam
(Applicant in O.A. No. 298 of 2007)

By Advocate Mr. K.K. Mahanta, Mr. P.K. Das

2. Dr. Ashwin Kumar Mahanta
Son of Sri Subal Chandra Mahanta
Teacher, Physical Education,
Jawahar Navodaya Vidyalaya,
Nalbari, District - Nalbari, Assam.
(Applicant in O.A. No. 279 of 2007)

By Advocate Mr. K.K. Mahanta, R. Durnah, Mr. K. Konwar,
Mr. M. Pathak

3. (i) Dr. Ashwin Kumar Mahanta
Son of Sri Subal Chandra Mahanta
Teacher, Physical Education,
Jawahar Navodaya Vidyalaya,
Nalbari, District - Nalbari, Assam.

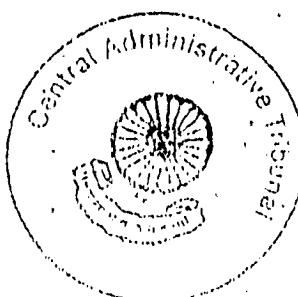
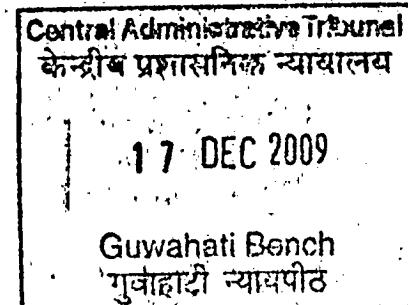
(ii) Mr. Babita Mahanta
Wife of Dr. Ashwin Kumar Mahanta,
Librarian, Jawahar Navodaya Vidyalaya,
Nalbari, District - Nalbari, Assam.
Applicant in O.A. No. 280 of 2007 (M.P.No. 124 of 2007)

By Advocate Mr. K.K. Mahanta, Mr. R. Durnah, Mr. K. Konwar,
Mr. M. Pathak,

Versus:

1. The Union of India,
Represented by the Commissioner and
Secretary to the Ministry of Human Resource and
Development, Government of India, Shastri Bhawan,
R.P. Road, New Delhi

2. Commissioner,
Navodaya Vidyalaya Samiti
An Autonomous Organisation
Of Ministry of Human Resource and



certified to be true
Copy - Hee
Advocate

Development Government of India,
Represented by its Commissioner,
Navodaya Vidyalaya Samiti
Kailash Colony, New Delhi-28

3. Deputy Commissioner,
Navodaya Vidyalaya Samiti,
Regional Office,
Temple Road, Barik point,
Shillong, Meghalaya,
Pin.793003
4. The Principal,
Jawahar Navodaya Vidyalaya,
Nalbari, District - Nalbari, Assam
Pin.781340
5. Mr.R.Daniel Ratnakumar
Principal,
Jawahar Navodaya Vidyalaya, Nalbari,
District - Nalbari, Assam Pin-781340

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

17 DEC 2009

Gauhati Bench
गুৱাহাটী ন্যায়পাঠ

(Respondents in All the cases)

Mr.K.N.Choudhury, Mrs. R.S.Choudhury, Ms.M.Khoud, for Respondent No.3

1. O.A. 298 of 2007
2. O.A. 279 of 2007
3. O.A. 280 of 2007 &
M.P.124/2007

ORDER (OBAL)

M.R.MOHANTI, V.C:

The Applicant Dr.Ashwin Kumar Mahanta, Physical Education Teacher of Jawahar Navodaya Vidyalaya was placed under suspension while continuing at Jawahar Navodaya Vidyalaya at Nalbari. His suspension is the subject matter of challenge before this Tribunal in O.A.No.279 of 2007.

2. During pendency of the said Original Application No. 279 of 2007, the Applicant's wife Mrs. Babita Mahanta (a Librarian of Jawahar Navodaya Vidyalaya at Nalbari in the State of Assam) was transferred to Jawahar Navodaya Vidyalaya at West Kameng in Arunachal Pradesh. While transferring Mrs. B. Mahanta to J.N.V at Kameng in Arunachal Pradesh, the Headquarters of her husband was asked to be shifted to Kameng. The said action against the husband and wife became the subject matter of O.A.No.280 of 2007.

75

3. During pendency of both the cases, the suspension of the Applicant, Dr.A.K.Mahanta was revoked and, as such, the O.A. 279 of 2007 become infructuous.

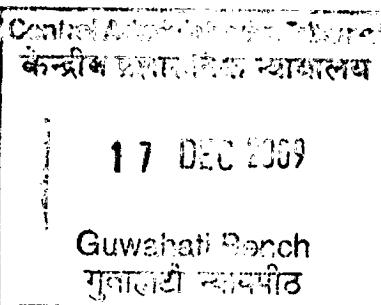
4. Instead of filing an Application in O.A. No.270 of 2007, wrongly a Petition (for withdrawal) was filed in O.A.No.280 of 2007; for which Misc. Petition No.124 of 2007 has been filed to restore O.A. No.280 of 2007.

5. While revoking the order of suspension, the Applicant Dr.A.K.Mahanta was asked to go and join at JNV/West Kameng/Arunachal Pradesh, for which the said Applicant filed O.A. No.298 of 2007.

6. During the pendency of all the cases the Authority of J.N.V, who asked for posting of both husband and wife at J.N.V., West Kameng in Arunachal Pradesh, were asked to give posting (to both husband and wife) at a nearby place and, as it appears, the authority now have given posting to both the Applicants at J.N.V, Ri Bhoi in Meghalaya State. Apparently, the Authorities did not find a suitable vacancy in any nearby J.N.V.

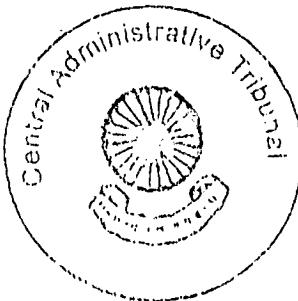
Since the authorities have, on reconsideration, given posting to both the Applicants, at J.N.V/ Ri Bhoi/ Meghalaya; the Applicants have now expressed their desire to go and join at the new station. Applicant, Dr.Mahanta has disclosed, in writing, that he will go and report at the new Station on 14th January, 2008 i.e. after reopening of the school following to the current Winter Vacation. He has given in writing that he shall claim TA and other transfer benefits after joining new J.N.V. at Ri Bhoi in Meghalaya.

Mrs. R.S.Choudhury, learned counsel appearing for the JNV/Respondents, states (on receiving instructions) that, on joining the new Station, the TA and other transfer benefits claims of both the Applicants shall be settled in their favour.



8. In the aforesaid premises, Mr.K.K.Mohanta, learned counsel appearing for the Applicants did not want to press all the cases, any further.

9. The Original Application No. 279 of 2007, Misc. Petition No.124 of 2007 filed in O.A.No.280 of 2007 and O.A.No.298 of 2007 accordingly stands disposed of.



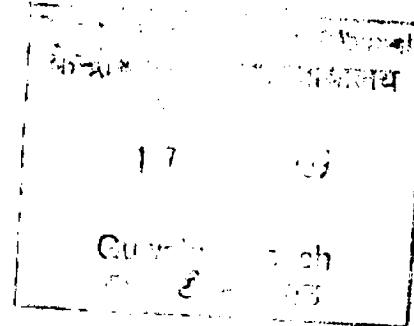
Sd/-
Manoranjan Mohanty
Vice Chairman

Sd/-
Khushiram
Member (A)

TRUE COPY

11/10/07

Section Clerk (Jah)
Central Administrative Tribunal
Ghatkopar (E) Mumbai
Date : 11/10/07
Officer in Charge



11/10/07

Received on
10/10/2008 p.m. 10.30
at J.N.V.
Arunachal 11

-57-

Arunachal 11



NAVODAYA VIDYALAYA SAMITI
REGIONAL OFFICE, SHILLONG
TEMPLE ROAD, BARIK POINT,
LACUMIERE, SHILLONG - 793 001
(Ministry of Human Resource and
Development, Deptt. Of Education,
Government of India)
Tel : 0364-2500331 Fax - 25003358

No F.2-7PF/NVS(SHR)/Pers/

Dated : 00.11.2007

OFFICE MEMORENDUM

Mrs. B. Mahanta, Librarian, JNV, Nalbari was transferred vide office order no2-8/2007-NVS(SHR)/3182 dt. 04.10.07 keeping cognizance of one SMS message given by Sh. A.K.Mahanta(Spouse of Mrs. B. Mahanta) to the Commissioner, Deputy Commissioner and cluster incharge on 10.9.07 to JNV West Kameng, Arunachal Pradesh and she was relieved of JNV-Nalbari on 22.9.07 with transfer grant of Rs 13,000/-.

As per the latest information received from the Principal JNV West Kameng she has not yet reported in JNV West Kameng till date. This act of Mrs. B Mahanta tantamounts to insubordination and disobedience of orders of superiors.

Mrs. B. Mahanta is given opportunity to explain the reasons for disobeying the orders and not reporting to the Principal, JNV, West Kameng so far, within seven days of receipt of this letter.

In case nothing is heard within the stipulated period it will be presumed that she has nothing to state in her defense and a disciplinary action will be initiated against her.

Mrs. B. Mahanta, Librarian
JNV-West Kameng
Arunachal Pradesh

Central Administrative Region केन्द्रीय प्रशासनिक न्यायालय
17 DEC 2008
Guwahati Bench गुवाहाटी न्यायपीठ

M.L. Sharma
Deputy Commissioner
NVS, R.O: Shillong

certified to be true copy

Hmz

Advocate

ANNEXURE-12

(True typed copy)

THROUGH THE PRINCIPAL
JNV, Ri-Bhoi, Meghalaya

To

The honourable, Deputy Commissioner
Regional Office, NVS Shillong

Reference: office memorandum No. F.2-7PF/NVS (SHR) /Pers/
dated-20.11.07

Subject: Reply to the Show Cause

Sir

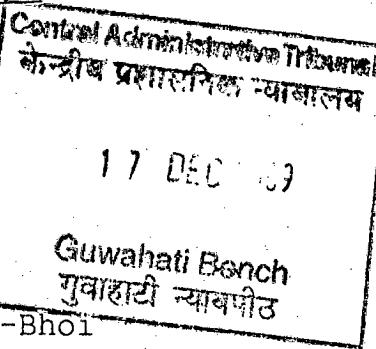
With reference to the office memorandum on the subject above quoted I have the honour to state that I received the above referred letter on 14/01/2008 (A/N) at JNV/Ri-Bhoi (Meghalaya). Although I have gone through the contents of the letter send by you. On 24/9/07 I have been handover a "close envelop" where my transfer order, charge hand letter and relieving order were enclosed in that same envelop. It was injustice against me to transfer me in such a remote place and relieve me in such a hurried manner that they are not giving me the required time to handover the library charge which is along with me. So, I personally requested you with an application to change my posting to near by school on 3rd Oct'07 at Shillong office. But, unfortunately that was not considered by you. Since there was no option but to approach honourable CAT Ghy bench.

My transfer order has been challenged and it was sub-judice in the honourable CAT, Ghy bench. During pendency of all cases, honourable CAT Ghy bench directed to explore posting to near by school by order dated 3/12/07. But before order passed by honourable CAT Ghy bench, my posting has been modified and re-considered to JNV/Ri-Bhoi (Meghalaya) vide office order No.F2-7/PT/BM-nvs (SHR) /Pers/3761 dated 23/11/07.

certified to be true copy.

Haz

Advocate



11 DEC 2009

Guwahati Bench

Since you re-consider our posting to JNV-Ri-Bhoi (Meghalaya), we expressed our desire to join at the new station which was disclosed to honourable CAT by writing that I would join on 14/01/2008 after re-opening of the school following the winter vacation with all TA and other transfer benefit. Mrs. R.S. Choudhury learned counsel appearing for the JNV respondent states that on joining the new station the T.A. and other benefit claim be me will be settled. So according to honourable CAT, Ghy bench direction and your modified transfer order I joined on 14/01/2008 at JNV/Ri-Bhoi.

In the above circumstances that the undersigned pray that I never act tantamounts to insubordinate and disobedience of orders of you.

So I may be exonerated from the charge leveled against me.

Thanking you

Yours faithfully

Babita Mahanta

TGT (Lib) JNV Ri-Bhoi

To,

The honourable Deputy Commissioner
Regional Office, NVS Shillong

JNV Ri-Bhoi

21/11/08

Referred: Office memorandum No. F.2-7 P.E/NVS (SHR)/pers/dated 20.11.2008

Replies: Subject: Reply to the show cause

Sir, with reference to the office memorandum on the subject above quoted above I have the honour to state that, I received the above referenced letter on 14.01.2008 (A/M) at JNV Ri-Bhoi (Meghalaya). Although, I have gone through the contents of the letter sent by you. On 24/9/07, I have been handed over a "close envelop" whence my transfer order, charge hand letter and relieving order were enclosed in that same envelop. It was injustice against me to transfer me in such a remote place and relieve me in such a hurried manner that they are not giving me the sufficient time to handover the library charge which is along with me. So, I personally requested you with an application to change my posting to near by school on 3rd Oct '07 at Shillong office. But, unfortunately that was not considered by you. Since there was no option but to approach honourable CAT Ghy bench.

My transfer order has been challenged and it was prejudiced in honourable CAT, Ghy bench. During pendency of all cases, honourable CAT Ghy bench directed to explore posting to near by school by order dated 3/12/07. But, before order passed by honourable CAT Ghy bench, my posting has been modified and re-considered to JNV Ri-Bhoi (Meghalaya) vide office order No - F2-7/PE/BNM-NVS (SHR)/pers/3761 dated 23.11.07.

Since, you re-considered my posting to JNV-Ri-bhoi (Meghalaya), we expressed our desire to join at the new station which was disclosed to honourable CAT by willing. That I would join on 14/01/2008 after re-opening of the school following the winter vacation with all TA and other transfer benefit. Mrs. R. S. Choudhury learned counsel appearing for the JNV responded states that on joining the new station the TA and other benefit claim by me will be settled. So according to honourable CAT, Ghy bench direction and your modified transfer order I joined on 14/01/2008 at JNV Ri-Bhoi.

In the above circumstances that the undersigned pray that I never act tantamount to insubordination and disobedience of orders of you.

So, I may be exonerated from the charge level against me.

Thanking you.

Central Administrative Tribunal केन्द्रीय प्रशासनिक न्यायालय
17 DEC 2009
Guwahati Bench गुवाहाटी न्यायपीठ

Yours faithfully
Babita Mahesh
TGT (L.B.) JNV Ri-Bhoi

OFFICE OF THE PRINCIPAL
JAWAHAR NAVODAYA VIDYALAYA
NIANGEBARI RI-PHOU DIST

F-12-1/SM/JNVB/2007-08/1028
Dated. 22/01/2008

To

The Deputy Commissioner
Navodaya Vidyalaya Samiti
Regional Office
Lachumiere, Barik Point
Shillong-01.

Sub:-Forwarding of reply on Memorandum submitted by
Ms. Babita Mahanta, TGT (Librarian).

Sir,

With ref. to above, please find enclosed herewith the reply
on Memorandum submitted by Ms. Babita Mahanta, TGT (Lib).

This is for favour of your kind information and necessary
action, please.

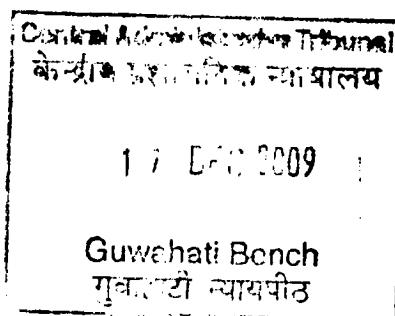
Yours faithfully

(J. ANIL)
Principal

Copy to:-

1. Ms. Babita Mahanta, TGT (Lib)
2. Personal file

(J. ANIL)
Principal



NAVODAYA VIDYALAYA SAMITI
REGIONAL OFFICE
TEMPLE ROAD, BARIK POINT
LACHUMIREE SHILLONG-793001
(Ministry Of Human Resource Dev.
Department of Education)



Phone No. : 0364-521363
Fax No. : 0364-521362
email: nvayam@pancharatna.in
nvayashillong@gmail.com

No. F. 2-7/PE/P-65/NVS(SHR)/Admin/2001/ 4409

Dated 24 Jan '08

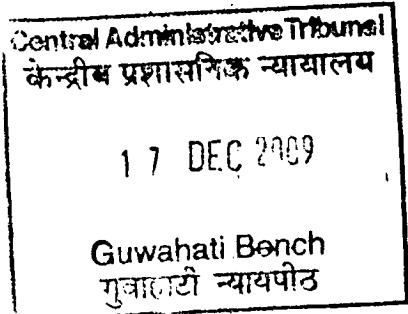
MEMORANDUM

1. Smt. B.Mahanta the then Librarian JNV, Nalbari presently posted at JNV Ri-bhoi is hereby informed that it is proposed to take action against her under Rule 16 of the Central Civil Services (Classification, Control and Appeal) Rule, 1965. A statement of the imputations of misconduct or misbehavior on which action is proposed to be taken as mentioned above is enclosed
2. Smt. B. Mahanta is hereby given an opportunity to make such representation as she may wish to make against the proposal.
3. If Smt. B.Mahanta fails to submit her representation within 10 days of the receipt of this Memorandum, it will be presumed that she has no representation to make and orders will be liable to be passed against Smt. B. Mahanta ex parte.
4. Attention of Smt. B.Mahanta is invited to Rule 20 of the Central Civil Services (Conduct) Rule 1964 which are applicable to employees of the Navodaya Vidyalaya Samiti under which no Government servant shall to bring or attempt to bring any political or outside influence to bear upon any superior authority to further her interest in respect of matters pertaining to her service under the government. If any representation is received on her behalf from another person in respect any matter dealt within these proceedings, it will be presumed that Smt. B. Mahanta is aware of such representation and that it has been made at her instance and action will be taken against her for violation of Rule 20 of the Central Civil Services (Conduct) Rule 1964.
5. The receipt of this memorandum should be acknowledged by Smt. B. Mahanta the then Librarian presently posted at JNV, Ri-Bhoi

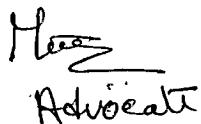

(M.L.SHARMA) 24/1
DEPUTY COMMISSIONER

10.
Smt. B.Mahanta
Librarian
Presently posted at JNV, Ri-Bhoi
(Through the Principal, JNV, Ri-Bhoi)
Copy to:
1. The Principal, JNV, Distt. RiBhoi, Meghalaya


28/1/08
DEPUTY COMMISSIONER



certified to be true copy

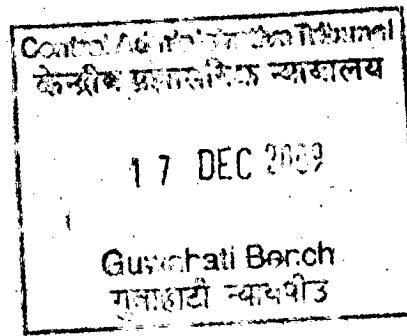

Advocate

Annexure-I

**STATEMENT OF IMPUTATIONS OF MISCONDUCT OR MISBEHAVIOUR
AGAINST SMT. B. MAHANTA THE THEN LIBRARIAN JNV NALBARI
PRESENTLY POSTED AT JNV RI-BHOI, MEGHALAYA**

Smt. B. Mahanta the then Librarian JNV Nalbari was transferred to JNV, West Kameng, Arunachal Pradesh vide this office order No. 2878 dated 18.09.07 on Administrative Ground and she was relieved on 22.09.07 and has quailed Rs. 13,000/- as TTA grant. She was directed to report the Principal, JNV, West Kameng but she did not report. Further she was transferred to JNV Ri-bhoi vide this office order No. 3761 Dated 23.11.07 on ground that her husband Dr. A.K. Mahanta had requested Hon'ble Commissioner to be give a better place than West Kameng.

Neither she applied for any leave nor she reported on duty till 14.01.08. This act of Smt. Mahanta tantamounts to insubordination and disobedience of orders of superiors.



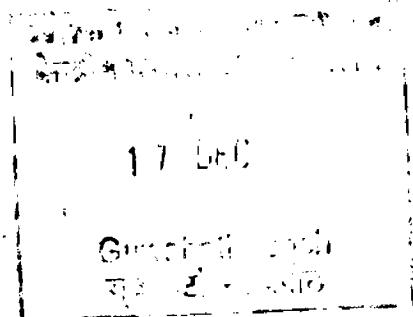
(M.L. SHARMA)
DEPUTY COMMISSIONER

Annexure-II

LIST OF DOCUMENTS BY WHICH THE ARTICLES OF CHARGE FRAMED
AGAINST SMT. B. MAHANTA, THE THEN LIBRARIAN JNV NALBARI
PRESETLY POSTED AT JNV RI-BHOI ARE PROPOSED TO BE SUSTAINED

- 1) Relieving Order from JNV, Nalbari
- 2) Transfer Traveling Allowance advance sanction order
- 3) Report of Principal, JNV West Kameng regarding non-joining
- 4) Transfer order to JNV Ri-bhoi
- 5) Report of Principal, JNV Ri-bhoi regarding joining of Smt. B. Mahanta

(M.L. SHARMA)
DEPUTY COMMISSIONER

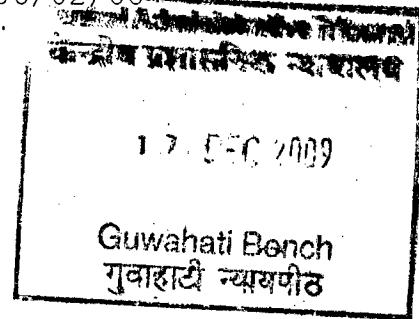


ANNEXURE-14

(True typed copy)

Dated: 06/02/08

To
The Deputy Commissioner
NVS, Shillong
Through
The Principal
JNV Ri-Bhoi, Meghalaya



Reference: No.F.2-7/PF/P-65/NVS(SHR)/Admn/2001/4409

Dated 24/01/08

Subject : Reply to the show cause

Sir,

With reference to the office memorandum and the subject cited above I have the honour to state as under

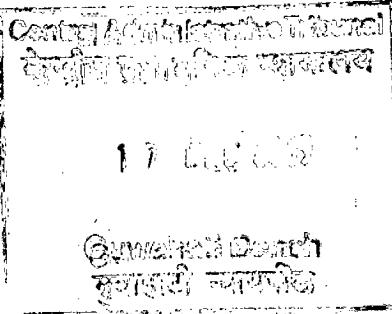
1. That the so called charge are vague, baseless and actuated with malafide only to harass the undersigned.
2. That as regards the charge leveled against me is absolutely vague, misconceived and totally unfounded I totally denied the same.

On 24/9/07, I have been handed over a "close envelop" where my transfer order, charge handing order and relieving order were enclosed in that same envelop. It was injustice against me to transfer me in such a remote place and relieve me in such a hurried manner that they are not giving me the required time to handover the library which was along with me. It was an objectionable matter. Later on 3rd Oct'07 by your verbal instruction, I prayed to change my posting to a nearby school but that was rejected by your letter No.F.No2-8/2007/NVS(SHR)/Per dated 4/10/07. As there was no option but to approach the Honourable CAT.

Certified to receive copy.

Hem

Advocate



My transfer order has been challenged to the CAT Guwahati bench. On 23/10/07, honourable CAT Guwahati passed an order that I should be allowed to continue in the preset place of posting till the next date i.e. on 10/12/2007, if I were not relieve already. Even though I have been relieve, it was not relieve technically, so I resumed on duty on 24/10/07 F/N at JNV Nalbari. During pendency of this case you again ordered me to join in West Kameng by the letter F/2-7/PF/NVS(SHR)/Pers/3686(a) dated 15/11/07.

During pendency of all the cases, honourable CAT Guwahati Bench directed you to explore posting for both of us (with my husband) to near by school of Nalbari (order passed on 03/12/07). Before order passed by honourable tribunal my posting has been modified and reconsidered to JNV-Ri-Bhoi (Meghalaya) vide office order No. F 2-7/PF/BM-NVS(SHR)/Pers/3761 dated 23.11.07 on request basis which was disclosed by your counselor on the honourable court.

On 7/01/08 learned counsel Mrs. R.S. Choudhury appeared for you disclosed in the honourable CAT that on claiming our TA/other transfer benefit shall be settle in our favour at JNV Ri-Bhoi. So we disclosed our willingness by writing that we would join in the new place of posting on 14/01/08 after reopening of the school following winter vacation. And so we joined on 14.10.08 F/N at JNV Ri-Bhoi which I have credited.

So, I may be exonerated from the charge leveled against me and let me render my sincere service of teaching in peaceful and stress less manner.

Thanking you

Enclosed:

1. CAT order 23.10.07
2. CAT order 3.12.07
3. CAT order 7.1.08

yours faithfully

B. Mahanta

TGT (Librarian)

JNV-Ri-Bhoi

Meghalaya

50. The Deputy Commissioner
NVS Shillong

Through, The Principal

JNV Ribhoi, Meghalaya

Central Administrative Tribunal
संघीय प्रशासनिक आयोजन

Qb

- 11 -

Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

Reference: F.2-1/PE/P-65/NVS(SHR)/Admn/2001/4409 dated 29/01/08

Subject: Reply to the show cause

Sir,

with reference to the office memorandum and the subject cited above, I have the honour to state as under:

1. That the so called charge are vague, baseless and activated with malafide only to harass the undersigned.
2. That as regards the charge levelled against me is also fully vague, misconceived and totally unfounded. I totally denied the same.

On 29/9/07, I have been handed over a "close envelop" where my transfer order, charge handing order and receiving order were enclosed in that same envelop. It was injudice against me to transfer me in such a remote place and receive me in such a hurried manner that they are not giving me the required time to hand-over the library which was along with me. It was an objectionable matter. Later on 3rd Oct 07 by your verbal instruction, I prayed to change my posting to a nearby school but that was rejected by your letter no. F. No 2-8/2007/NVS(SHR)/PEI dated 4/10/07. As there was no option but to approach the Honorable EAT.

My transfer order has been challenged to the EAT Guwahati bench. On 23/10/07, Honorable EAT Guwahati passed an order that I should be allowed to continue in the present place of posting till the next date i.e. on 10.12.2007, if I were not receive already. Even though I have been receive, it was not receive technically, so I assumed on duty on 29/10/07, F/N at JNV Nalbari. During pendency of this case, you again ordered me to join in west Kameng by the letter F/2-7/PE/NVS(SHR)/PEI B/3686(1) dated 15/11/07.



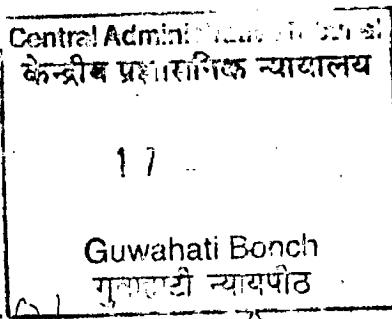
During pendency of all the cases, honourable CAT (Guwahati) court bench directed you to explore posting your both of us (with my husband) to near by school of Nalbari (order passed on 3/12/07). Before order passed by honourable tribunal, my posting has been modified and reconsidered to SNV-Ri-bhoi (Meghalaya) vide office order no. F 2-7 / PF / BM-NVS (SHR) / Perfo / 3761 date 23.11.07 on request basis which was disclosed by your counsellor on the honourable court.

On 7/01/08 learned counsellor Mrs. R. S. Choudhury, appearing for you disclosed in the honourable CAT that on claiming our TA/other transfer benefit shall be settled in our favour at SNV Ri-bhoi. So we disclosed our willingness by writing that we would join in the new place of posting on 14/01/08 after recuperating in the school after recuperating following winter vacation. And so we joined on 14.10.08 F/N at SNV-Ri-bhoi Meghalaya.

So, as the matter was prejudice in the court, it does not arise the joining to SNV West Kameng at all. Further, it does not arise the request for better place of posting. and I will settle all TA advance at SNV-Ri-bhoi which I have credited.

So, I may be exonerated from the charge levelled against me and let me render my sincere service of teaching in peaceful and amicable manner.

Thanking You



Enclosed :

1. CAT Order 23.10.07
2. CAT Order 5.12.07
3. CAT Order 7.1.08

Yours faithfully,
T.B. Mahanta
TGT (Liberation)
SNV. Ri-bhoi
Meghalaya.

NAVODAYA VIDYALAYA SAMITI
REGIONAL OFFICE
TEMPLE ROAD, BARIK POINT
LACHUMIERE SHILLONG-793001
(Ministry Of Human Resource Dev.
Department of Education)



Phone No. : 0364-521363
Fax No. : 0364-521362
email: nvs.sam@sancharnet.in
nvs.shillong@rediffmail.com

F.No. 2-7/PE/P-65/NVS(SHR)/Admin/01/ 4846

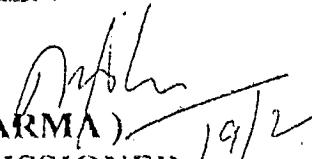
Dated 19 Feb '08

MEMORANDUM

WHEREAS Smt. B.Mahanta, Ex- Librarian of JNV, Nalbari, presently posted at JNV Ri-Bhoi was served with Memorandum No.4409 dated 24.01.08 regarding disobeying the given order to report to JNV West Kaimeng on transfer and bringing out side influence to bear upon the superior authority to change her place of posting.

AND WHEREAS Smt. B. Mahanta, Librarian submitted her explanation through the Principal JNV Ri-Bhoi vide letter No. 1028 dated 22.01.08 which was found vague & no point is suitably replied hence rejected with caution. Such act of carelessness on the part of Smt B. Mahanta is totally un-called for and treated as insubordination.

NOW THEREFORE, non-reporting period of Smt. B. Mahanta from 23.09.07 to 13.01.08 is treated as un-authorized absence and the representation for releasing salary for the above period stands rejected.


(M.L. SHARMA)
DEPUTY COMMISSIONER

To,
Smt. B. Mahanta, Librarian
JNV Ri-Bhoi, Meghalaya
(Through the Principal, JNV Ri-Bhoi)

Copy to:

1. The Principal, JNV Ri-Bhoi- for information
2. The Asstt. Commissioner (P), NVS RO, Shillong – for information
3. The Principal, JNV, Nalbari Assam- with a direction to make payment of Ad-hoc Bous for 2006-07 in respect of Smt. B.Mahanta Librarian

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

17 DEC 2009

Guwahati Bench
गुवाहाटी न्यायपीठ


DEPUTY COMMISSIONER

certified to be true copy.


Advocate

To

The Honourable Commissioner

Navodaya Vidyalaya Samiti, Head Office, New-Delhi

Kailash Colony-28

New-Delhi

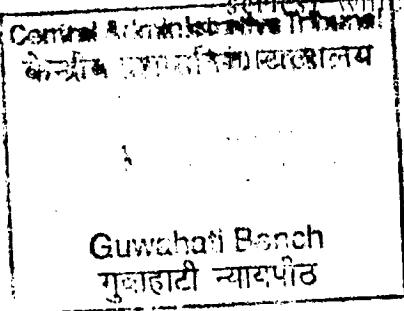
Subject: - An appeal representation against the memorandum issued by Mr. M.L.Sharma, Deputy Commissioner, Shillong Region vide F.No.2-7/PF/P- 65/NVS (SHR)/Admin/01/4846, dated 19-02-2008 received on 27-02-2008

Dated:- 14.03.2008.

Respected Sir,

With due respect and humble submission I have the honour to state you the following few lines for favour of your kind consideration and favourable order.

That Sir, I was transferred to JNV West Kameng, Arunachal Pradesh vide Deputy Commissioner, Shillong order* No.F.No.2-7/PF/NVS(SHR)/Pers/ dated 18th Sept. 2007(photo copy enclosed herewith as Anx.1) without any prayer petition for transfer. I joined in JNV Nalbari, Assam on 30th September 2005 which is only hardly two (2) years. Mr. M.L.Sharma, Deputy Commissioner, Shillong has made a conspiracy to harass my service life as well as my family calm as my only son is ready for schooling. Also, the Principal in his order No. F.2-6/JNV(NLBR)/2007-08/CONF/08 dated 22-09-2007 released me at the same time along with other three letter (Transfer order, Library charge handover, residence quarter handover) in the same closed envelop (Photocopy letters and closed envelop enclosed herewith as Anx. 2 series) which was a total conspiracy made by the same with vested



Contd/-.

certified to be true copy.

Huz

Advocate

2 That Sir, On 10-09-2007, Mr. Kamal Deka, a Casual Labour (Night Chowkider) of JNV, Nalbari threatened me and my family at 6.30 pm for dire consequences and it was informed to the Principal, Mr. D. Retnakumar immediately and he was asked by me to take necessary steps against the said Chowkider. But, the principal kept quite mum. So, considering the seriousness of the situation I informed the matter to Cluster incharge Mr. K.C.Das (Asst. Coms.), Mr. M. L.Sharma, Deputy Commissioner and to you also by sending S.M.S like "Respected Sir, Kamal Deka, Night Chowkider has life threatened me and my family at 6.30 pm. We both informed to Principal. But, He is mum. Please do necessary action.---- Dr. AKM, B. Mahanta , JNV Nalbari 10th Sept., 20:21:38" But without taking any steps against Mr. Kamal Deka a Casual Night Chowkider, the Deputy Commissioner, Shillong misinterpreting the contents of the SMS, transferred me vide Order, No. F.2-7/PI/NVS (SIIR)/PERS/ Dated 18th September 2007, which did not bear dispatch no. (Copy enclosed as Anx. 1) to JNV West Kameng, Arunachal Pradesh. (And which is completely a conspiracy made by Mr. M.L.Sharma ,Deputy Commissioner, Shillong Region to harass my family life as my 3 years old son has the time for Schooling. So, with the ulterior motive without any justification and denied me for natural justice which caused a great irreparable loss to me and my family members. This may be further mentioned that this is a complete conspiracy and personal vendetta of the Deputy Commissioner against me as because , the transfer order of me was done without my personal request to change our place of posting from JNV Nalbari to any other place.)

3 That Sir, As per verbal instruction of the Deputy Commissioner, Shillong, a prayer petition was submitted on 3rd October 2007 by person

Contd/..

Contd/..

3.

to the Deputy Commissioner to change my posting to nearby School for convenient along with the child on humanitarian ground. (prayer petition enclosed as Anx.-3) But, without considering our prayer, the Deputy Commissioner vide his order No.F.No. 2-8/2007/NVS (SHR)/Pers/ dated 4th October 2007. (Anx.4) rejected our applications.

4. That Sir, Mr. M.L.Sharma verbally informed us in Shillong Office on 3rd October 2007 that he would consider my place of posting to near by School on placing an application for changing the transfer order to near by school. So, I placed the said petition. But, I astonished to see the letter dated 4th October by Deputy Commissioner, Shillong-Region. (Order enclosed as Anx. 4), where he refused my prayer.
5. That Sir, having no other option, I approached to the Honourable CAT, Guwahati Bench challenging the suspension order as well as the attachment order of my husband for securing justice from the Honourable Court.
6. That Sir, as per Honourable CAT, Ghy. Bench order on 23-10-2007 (copy enclosed as Anx.5) I resumed on my duty on 24-10-2007 F/N at JNV Nalbari, Assam as my relieving order was not in technically done and my Library charges were not handover in so harried manner according to the time given by Mr. D. Retnakumar, Principal JNV, Nalbari. As it was injustice in the part of the Principal that without giving minimum period time to handover the important and risky charge of Library, he, relieved me in such way. So, I prayed to the said Principal, JNV Nalbari for my inconvenience to handover my charges within a short span of time. But, the Principal did not stress upon my prayer and sealed the Library without my knowledge which is ulterior motive behind me.

Contd/-

Guwahati
Assam

7. That Sir, as the cases were under subjudice of the Honourable CAT, Ghy. Bench and the Honourable CAT directed the authority concern to explore posting for both of us (along with my husband) to near by school by the court order dated 03-12-2007 (copy enclosed as Anx.6) In the meantime the Deputy Commissioner vide his order No. F. No. 2-7/PF/13M-NVS (SHR) Pers/3761 Dated 23-11-2007 (copy enclosed as Anx.7) the transfer orders have modified and reconsider and posted both of us to JNV Ri-Bhoi, Meghalaya on request basis. And this order was placed by NVS Counselor in the Honourable Court during the pendency of the cases. So, accordingly I prayed to the Honourable CAT through my engaged Counselor to change the present modified / reconsidered transfer order so that we may get the transfer and other benefit. etc.

8. That Sir, on 07-01-2008, the learned counselor Mrs. R.S.Choudhary appearing for the NVS disclosed in the Honourable Court that the claim of TA and other transfer benefit shall be settled in favors of the petitioners i.e. Mrs. Babita Mahanta, TGT, Librarian and Dr. A.K.Mahanta, TGT (Phy.Ed.) at JNV Ri-Bhoi, Meghalaya. Accordingly we showed our willingness in writing to join in the new place of posting on 14-01-2008 after reopening of the School following the winter vacation. Hence, I joined in my duty on 14-01-2008 F/N at JNV Ri-Bhoi, Meghalaya accordingly.

9. That Sir, in the instant of my joining on 14-01-2008 F/N, the Principal, JNV Ri- Bhoi handed over an office memorandum from Deputy Commissioner Shillong vide No.F.2-7/PF/NVS(SHR)/PERS dated 20-11-2007(Copy enclosed as Aux. 8)and reply was submitted through proper channel to the Deputy Commissioner on 21-01-2008 (photo copy enclosed as Aux.9) and subsequently an another memorandum vide No. F No. 2-7/PF/P-65/NVS (SHR) Adm/1700171409 dated 24-01-2008

Contd/-

(Anx.-10) from Deputy Commissioner handed over to me by the Principal JNV Ri-Bhoi. And accordingly I submitted my replies through the Principal JNV Ri- Bhoi in stipulated time (photo copy enclosed as Anx. 11) along with a prayer for releasing all my due salary along with other dues (photo copy enclosed as Anx. 12) Without considering my replies Mr. M.L.Sharma Deputy Commissioner, Shillong vide his memorandum No.2-7/PF/P-65/NVS (SHR)/ ADMN/01/2845 dated 19-02-2008 received on 25-02-2008 (copy enclosed as Anx.13) rejected my replies and prayer and treated me as an unauthorized absence from 23-09-2007 to 13-01-2008 (which the period was under subjudice in the Court of Honourable CAT, Ghy Bench) and charge leveled me as in subordination.

Therefore, in the above contexts, I would like to pray your honour to intervene in the matter and give me the justice considering my above prayer as the above charges leveled by Mr. M.L.Sharma, Deputy Commissioner, Shillong Region are totally baseless, unfounded and having ulterior motive with personal bad grace to harass me and my family members and trying to tarnish my sincere image and high regard to the superior authority and hamper my continuity of the service.

Hence, your honour is fervently requested to consider my case and extend justice for continuity of the service by exonerating me from the charges leveled against me immediately and for which act of your kindness I shall ever pray.

Yours' Faithfully

B. Mahanta
B. Mahanta
14.3.08

Mrs. Babita Mahanta

TGT (Librarian)

JNV, Ri-Bhoi, Meghalaya

Copy forwarded for favour of kind information and necessary action to ---

* Deputy Commissioner, Shillong Region

To
The Commissioner
Navodaya Vidyalaya Samiti
NVS Head Quarter, Kailash Colony - 28, New Delhi

Sub : An Appeal

Reference :- My earlier appeal representation dated 14-03-2008

Dated :- 18-07-2008

Respected Sir,

With reference to the above mentioned subject and under reference of my earlier appeal, I have the honour to draw your personal kind attention on the following few lines for favour of your kind perusal and necessary favourable order.

That Sir, the point No. 1 to 9 of my earlier appeal representation and relevant supporting documents kindly be recalled.

That Sir, it has elapsed more than 4 month of my earlier representation, the action taken on my prayer by your good office is not known to me till date.

Therefore, in the above circumstances I would like to draw your personal attention in the matter and highly requested your honour to be kind enough to intervene in the case in considering my prayer petition and extend your justice.

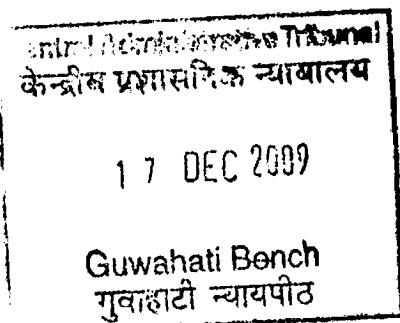
That Sir, your honour is fervently prayed that necessary order may kindly be issued from your end for retaining my continuity of my service of that period w.c.f. 23-09-2007 to 13-01-2008 (under sub judice period) and the monetary harassment kindly be withdrawn without further delay.

This may be mentioned that if the authority concern does not take any action on the matter at an early date of the receipt of this 2nd appeal, I shall be bound to take the legal advice. Hence, your necessary action in this regards is once again prayed. Further which act of your kindness I shall ever pray.

Yours faithfully

B. Mahanta
18/07/2008

Mrs. Babita Mahanta
TGT (Librarian) JNV Ri-Bhoi, Meghalaya



Copy to - Deputy Commissioner, NVS Shillong Region with reference to my earlier representation dated 14-03-2008.

certified to be true copy.

Hoss
Advocate

NAVODAYA VIDYALAYA SAMITI
REGIONAL OFFICE, SHILLONG
TRIPPLE ROAD, BARTIK POINT,
LACHUMRIE, SHILLONG - 793001
(Ministry of Human Resource and Development,
Dept. Of Education, Govt. of India)
Tel : 0364-2500331/2500332
E-mail : nvsans@anchalnet.in
nvsoshillong@rediffmail.com
Website : www.nvsoshillong.gov.in

Dated : 26 Sept. 08

F.2-7/2001/BM/NVS(STIR)/Pers/ 2.11.6

The Principal,
Jawahar Navodaya Vidyalaya,
Ri-Bhoi,
Meghalaya.

Subject :- Periodical Increment in respect of Mrs. Babita Mahanta, Librarian,
JNV, Ri-Bhoi.

Sir,

Kindly refer to your letter no.F.1-10/PP/AKM/INVRB/2008-09/76 dt. 5/5/08 on the subject noted above, it is to inform you that since her absence w.e.f. 23/9/07 to 13/01/2008 is declared to be unauthorized absence, and the same willful absence will be treated as dies non for all purposes, viz increment, leave and pension. She will not be entitled for any leave salary and her date of increment will be shifted to her rejoining date.

Yours faithfully,

Me
26/9/08

(D. HAZARIKA)

DEPUTY COMMISSIONER

Am. 5/5/08
VO

Copy to:

1. The Individual Council

2. Office Copy

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

17 DEC 2009

Guwahati Bench
गुवाहाटी न्यायालय

certified to be true copy.

Advocate

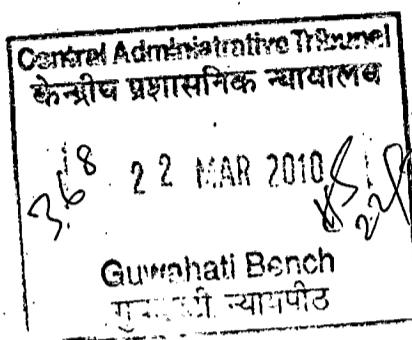
Advocate

77-
106

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

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

ORIGINAL APPLICATION NO. 266 of 2009



Mrs. Babita Mahanta

.... **APPLICANT**

-Vs-

Union of India & Ors.

..... **RESPONDENTS**

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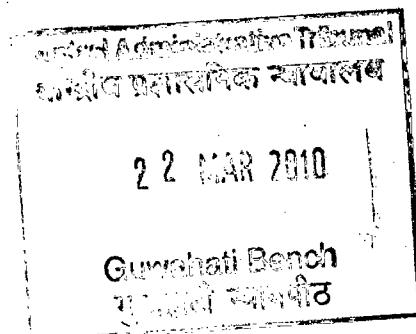
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Filed by

Advocate

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH

ORIGINAL APPLICATION NO.266 of 2009



IN THE MATTER OF:

O.A No.266 of 2009

Mrs. Babita Mahanta.

..... **Applicant**

-Vs-

Union of India & Ors.

..... **Respondents**

-AND-

IN THE MATTER OF:

A Written Statement filed on behalf of the

Respondents No.2, 3 and 5 in the aforesaid

Original Application.

WRITTEN STATEMENT

I, Sri Debananda Hazarika, son of Late Dambaru Dhar Hazarika, aged about 57 years, presently serving as the Deputy Commissioner, Navodaya Vidyalaya Samiti do hereby solemnly affirm and state as follows:-

1. That I have been impleaded as respondent No.3 in the instant Original Application. A copy of the Original Application filed by the Applicant has been served upon the answering respondents. I have gone through the same and understood the contents thereof. I am also fully acquainted and well conversant with the facts and circumstances of the case. Further I am competent and duly authorized by the respondent Nos.2 and 5 to swear this written statement on behalf of them and accordingly I do the same.

*Debananda Hazarika filed B7:
The Respondent Nos.
2, 3 and 5
Through 102
R. S. Choudhury
Adrocal
22/3/10*

2. That save and except what has been specifically admitted in this written statement all other averments and submissions made in the Original Application, shall be deemed to have been denied by the answering respondents.

3. That, with regard to the statements made in paragraphs 1, 2, 3, 4 (A) and 4 (B) of the Original Application, the Deponent has no comments to offer. However, it is stated herein that the answering Respondents have filed a written objection against the application seeking condonation of delay in filling the instant Original Application. For the sake of brevity the objections are not being repeated herein. However, the Deponent craves leave of this Hon'ble Tribunal to refer to and rely upon the ~~averments~~ made therein of the time of hearing of the instant case.

4. That while categorically denying the statements made in paragraphs 4 (C) and 4 (D) of the Original Application which are not borne out from the records of the instant case, the Deponent begs to state that the issue of suspension and transfer of the Applicant & her husband have been the subject matter of O.A Nos. 279/2007, 280/2007 and 298/2007 which were eventually withdrawn by the Applicants ~~therein~~ since their grievances had been redressed. As such, in the humble submission of the deponent the Applicant is estopped from raising the said issues afresh. (The Order dated 07.01.2008 passed by the Hon'ble Tribunal in O.A. Nos. 279/2007, 280/2007 and 298/2007 have been annexed as Annexure – 10 of Pg.-53 of the instant O.A) However, it stated herein that the Head Quarter of the Applicant's husband, who was on suspension was changed from JNV, Nalbari to JNV, West Kameng **on his own request** as he was feeling unsafe in JNV, Nalbari and the Applicant was also transferred to JNV, West Kameng so that both the spouse could work together.

5. That, while denying the statements made in paragraphs 4(E) and 4(F) of the Original Application which are not borne out from the records of the instant case. The deponent would briefly like to place the factual matrix of the instant case herein below:-

(A) That, on 23.08.2007 the husband of the Applicant was placed under suspension in contemplation of disciplinary proceeding while he was serving as Physical Education Teacher (PET) at Jawahar Navodaya Vidyalaya, (herein after referred to as J.N.V. in short), Nalbari, Assam.

(B) That, against the said suspension order, the husband of the Applicant Sri Ashwin Kumar Mahanta made several representations to the authorities for revoking the same. In the said representations, he also made various allegations against his authorities including the then Principal of J.N.V, Nalbari.

(C) That, on 10.09.2007 the Applicant's husband sent an S.M.S. to the then Deputy Commissioner NVS, Regional Office, Shillong stating, inter-alia, that there was a threat to his life and his family at J.N.V., Nalbari. Therefore, on 18.09.2007, *considering his request*, the then Deputy Commissioner, issued an order transferring him to J.N.V., West Kameng, Arunachal Pradesh along with his wife Mrs. Babita Mahanta, who had also been serving as a Librarian at J.N.V, Nalbari.

Be it stated herein that pursuant to such transfer orders being issued in favour of the Applicant and her husband. The Applicant has been released on 22.09.2007 from JNV, Nalbari and had withdrawn T.T.A. advance of Rs.13000/- in that regard and the new incumbent in place of the Applicant also joined at JNV, Nalbari on 24.09.2007.

A copy of the said joining report of the new incumbent of Librarian of JNV, Nalbari dated 24.09.2007 is annexed herewith and marked as ANNEXURE -A.

(D) That, despite having withdrawn the T.T.A. advance, the Applicant and her husband filed two Original Applications, by suppressing material facts before this Hon'ble Tribunal, in October, 2007 challenging, inter-alia, the transfer order dated 18.09.2007 in Original Application No.280 of 2007

and another Application praying for revoking the order of suspension dated 23.08.2007 in Original Application No.279 of 2007.

(E) That, this Hon'ble Tribunal, on 23.10.2007 considering both the applications, was pleased to direct that if Mrs. Babita Mahanta had not been released already, she may be allowed to continue in her present place of posting.

A copy of the said order dated 23.10.2007 passed by this Hon'ble Tribunal is annexed herewith and marked as ANNEXURE -B

(F) That, on 13.11.2007 the then Deputy Commissioner vide order under memo No. NVS(SHR)/Pers/AKM/07/3660 was pleased to revoke the suspension order of the Applicant's husband and further directed him to join at JNV, West Kameng. However, he once again deemed it fit to approach this Hon'ble Tribunal by way of a Misc. Case No.120 of 2007 in Original Application No.280 of 2007 praying, inter-alia, for staying the order dated 13.11.2007.

A copy of the order dated 13.11.2007 revoking the suspension of the Applicant's ^{husband} is annexed herewith and marked as ANNEXURE -C

(G) That, however, this Hon'ble Tribunal, after hearing the Counsel for the Applicant therein on 19.11.2007, was pleased not to entertain the Misc. Case and infact was pleased to allow the Original Application to be withdrawn and the Misc. Petition was also permitted to be withdrawn.

Copies of the orders dated 19.11.2007 passed by this Hon'ble Tribunal are annexed herewith and marked as ANNEXURE -D1 & D2 respectively.

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22 MAR 2010

(H) That, pursuant to the revocation of the order of suspension, a statement of imputation of misconduct was issued against the Applicant's husband on 19.11.2007. However, he once again approached this Hon'ble Tribunal by way of another Original Application, which was registered as O.A No.298 of 2007 praying for quashing of the orders dated 13.11.2007 (revocation of suspension) and 15.11.2007 (order whereby he was directed to join at JNV, West Kameng).

(I) That, it is pertinent to mention herein that the said Original Application No.298 of 2007 had been filed on 28.11.2007. However, vide order dated 23.11.2007 issued under memo No.F.2-7/PF/BM-NVS(SHR)/Pers/3762, once again *on his request*, the Applicant's husband had been transferred to JNV, Ri Bhoi, Meghalaya and the Applicant herein vide a similar order had also been posted at JNV, Ri Bhoi.

Copies of the order dated 23.11.2007 is annexed herewith and marked as **ANNEXURE -E1& E2.**

As, such it is evident that having withdrawn the TTA amount of Rs.13,000/- on 22.09.2007 itself the subsequent actions of the Applicant of applying for leave for the period (04.10.2007 to 10.10.2007) etc, were mere efforts to bide time in order to approach this Hon'ble Tribunal vide this said Original Applications viz. O.A. No 279/2007 and O.A.No.280/ 2007.

A copy of the body of the 'Brief Affidavit' filed on behalf of the Respondent's in the said O.A.Nos.279/07,280/07 and 298/07 is annexed herewith and marked as **ANNEXURE -F.**

6. That the statements made in paragraph 4 (G) have been suitably answered in the forgoing paragraphs. It is once again re-iterated that the new incumbent had joined at JNV, Nalbari on 24.09.2007, itself much prior to the Order dated

Guwahati Bench
गुवाहाटी न्यायपीठ

22 MAR 2007

23.10.2007 passed by the Hon'ble Tribunal. Be it further stated herein that as is evident from the statements made in paragraph 4 (E) of Original Application vide letter dated 04.10.2007 (Pg-29 of Original Application), the Applicant had been duly informed that her representation had not been considered and she had been advised to join her duties at JNV, West Kameng immediately. It is further stated that her entitlement to avail Puja- vacation, as per NVS Rules would not be effected by the transfer of the Applicant to another place.

1/2
Subrata Hazarika

7. That with regard to the statements made in paragraphs 4 (H), 4 (I) and 4 (J) of the Original Application, the Deponent has no comments to offer. The Deponent however does not admit anything which is contrary to the records of the instant case.
8. That the statements made in paragraphs 4 (K) and 4 (L) of the Original Application have been suitably answered in the forgoing paragraphs and as such the deponent refrains from making any further comments thereon.
9. That with regard to the statements made in paragraph 4 (M) of original Application it is humbly stated that when the Applicant joined at her new place of posting at JNV Ri-bhoi, on 14.01.2008, her claim for TTA etc was duly settled in her favour as per the directions issued by this Hon'ble Tribunal. It is pertinent to mention herein that although the Applicant had raised a total bill of Rs-20,000/- as TTA claims, after checking her entitlement etc the claim was restricted to Rs.12, 055/. Further, the Applicant having already withdrawn Rs.13, 000/ from the relieving school (JNV, Nalbari) an amount of Rs.945/ was refundable by the Applicant to the Samity. It is stated that the Applicant infact refunded the same on 12.08.2008. As such raising a grievance about the said claims now, is belated and cannot be considered.

It is further humbly stated that from a bare glance at the Memorandum dated 20.11.2007; it is evident that the same was issued prior to the notification of the transfer order. The deponent refrains from commenting on the allegations in the said paragraph against the then Deputy Commissioner. It is however stated

22 MAR 2010

Guwahati Bench
গুৱাহাটী ন্যায়পাঠ

that the orders issued by the Hon'ble Tribunal with regard to the continuing of the Applicant at JNV, Nalbari, had been conditional upon the fact that she had not already been relieved. As such, mere pendency of the said Original Applications and/ or the matter being sub- judice before this Hon'ble Tribunal could not have been a ground for not joining at her place of posting at JNV, West -Kameng by disobeying the orders of the superiors.

Copies of the relevant Official Communications with regard to the settlement of TTA Claims of the Applicant are annexed herewith and marked as

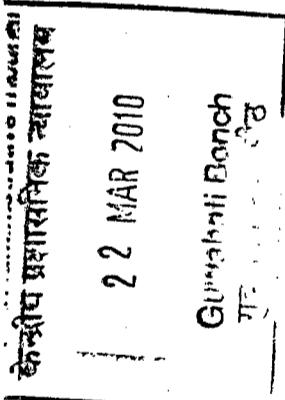
ANNEXURE -G-colly.

10. That with regard to the statements made in paragraph 4(N) of the Original Application the Deponent has no comments to offer.

11. That with regard to the statements made in paragraph 4(O) of the Original Application, it is humbly stated that the Applicant was absent from duty with effect from 22.09.2007 till she rejoined in her new place of posting at JNV Ribhoi at Meghalaya, on 14.01.2008. It is humbly stated that the Orders passed by this Hon'ble Tribunal were with regard to the subject matter of the transfer of the Applicant and as has been narrated herein above, the Applicant did not have any stay order in her favour. As such the fact remains that the Applicant was unauthorisedly absent from duty from 22.09.2007 till 04.01.2008.

Be it further stated herein that the Applicant has never applied for 'leave' till date, for the said period to regularize her unauthorized absence from duty. As such the statements made in said paragraph which are contrary to the records as well as facts of the case are denied by the Answering Respondent.

12. With regard to the statements made in paragraph 4(P) of the Original Application, the Deponent has no comments to offer.



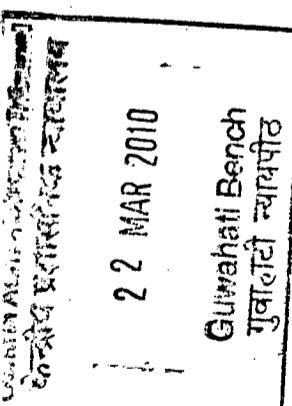
13. That while denying the statements made in Paragraph 4(Q) of the Original Application, which are contrary to records of the case, the Deponent humbly submits that the authority have not acted in any arbitrary and/or high handed manner. It is once again reiterated that the Applicant despite having filed several representations, has never applied for leave for the said period of unauthorized absence.

14. That with regard to the statements made in paragraph 4(R) of the Original Application, the Deponent has no comments to offer. It is however pertinent to note that the Applicant has deemed it fit to approach this Hon'ble Tribunal only after a period of more than one and a half years despite being aware of the consequences of the said order.

15. That with regard to the statements made in paragraph 4(S) of the Original Application, the Deponent has no comments to offer, the same being matters of record.

16. That the statements made in paragraph 4(T) of the Original Application, are categorically denied by the Deponent.

17. That the deponent humbly submits that the grounds so averred to in the Original Application are nothing but mere repetition of what has been narrated in the body of the Application itself and are hence accordingly answered in the instant written statement. None of the grounds so averred to in the Original Application are good or legally tenable grounds and are not only misleading but are also baseless. Be it further stated herein that the authorities are constrained to treat the said period of 'Unauthorized Absence' as 'Dies-non' in view of the fact that the Applicant has never applied for leave for the said period. Hence, claiming the shelter of the Orders passed by this Hon'ble Tribunal would not resolve the fact that the Applicant has failed to apply for Leave for the period of unauthorized absence till date. The deponent humbly states that in view of the facts and circumstances

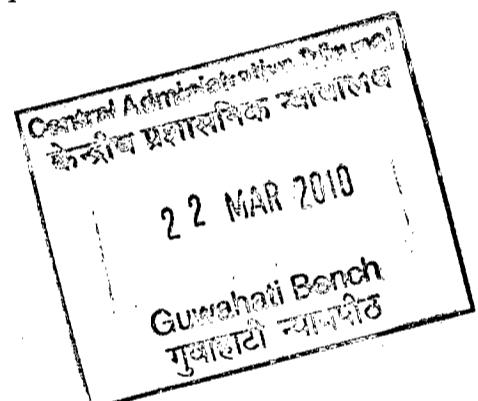


narrated hereinabove, there is no merit in the instant Original Application and the same is accordingly liable to be dismissed.

18. That with regard to the statements made in paragraph 6 and 7 of the Original Application, the Deponent has no comments to offer, the same being matters of record.

19. That with regard to the statements made in paragraphs 8 and 9 of the Original Application the Deponent most respectfully begs to submit that the Applicant is not entitled to any of the relief/relief's prayed for in the instant Original Application and as such the same is devoid of any merit and deserves to be dismissed.

20. That, the Deponent refrains from commenting anything with regard to the statements made in paragraphs 10 and 11 of the Original Application.



VERIFICATION

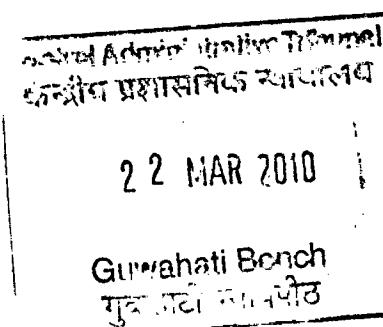
I, Shri Debananda Hazarika, Son of Late Dambaru Dhar Hazarika, aged about 57 years, presently working as the Deputy Commissioner, Navodaya Vidyalaya Samiti do hereby solemnly affirm and state as follows.

1. That I am fully conversant with the facts and circumstances of the case. Further, I am competent and duly authorized by the Respondent Nos. 2 and 5 to sign this verification on behalf of them.
2. The statements made in paragraphs 1, 2, 3, 4(partly), 5A, 5B, 5C(partly), 5D, 5E(partly), 5F(partly), 5G(partly), 5H(partly), 5I(partly), 6, 7, 8, 9(partly), 10, 11(partly), 12 to 20 of the accompanying objection are true to the best of my knowledge and those made in paragraphs...4(partly), 5C(partly), 5E(partly), 5F(partly), 5 G(partly), 5 H(partly), 5 I(partly), 9(partly), and 11(partly) are true to my information derived from records and rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 22nd day of March, 2010 at Guwahati.

Debananda Hazarika

DE PONENT



FROM : R. B. PHOTOSTAT

FAX NO. 03924322558

16/09/2007 09:55AM

To,

The Principal
JNV-Nalbari

Date: 24/09/2007

Ref. F. 2-7/2001-NVS(SHR)/Pers/2962, Dated 21/09/07

Sub: Joining report

Sir.

Most respectfully, I do like to inform you with reference to the above cited letter, that I have been appointed by Navodaya Vidyalaya Samiti as an Librarian and posted in your School.

I have accepted the appointment and wish to join your Vidyalaya today on 24/09/07 F/N.

It is for your intimation and needful action.

Yours faithfully

Ravish

24.09.2007

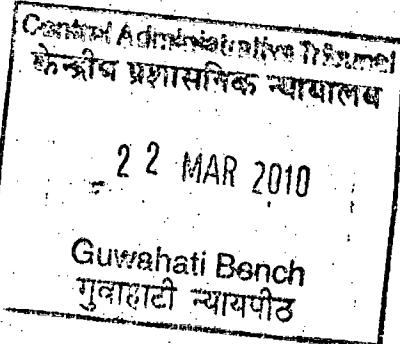
(Ravish Kumar Pandey)
JNV, Kokrajhar, Assam

Certified to be true Copy

Rakhee Siraunia Chowdhury
ADVOCATE

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

1. Original Application No. 279/07
2. Misc Petition No.
3. Contempt Petition No.
4. Review Application No.



Applicant(s) ... A. Shwim. Kr. Mahanta, vs. Union of India

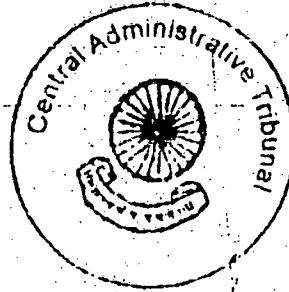
Advocate for the Applicants ... K.K. Mahanta, R. Bhattacharya
... K. Karmakar

Advocate for the Respondent(s)

Date of the Registry Date Order of the Tribunal
23.10.2007 Heard Mr. K.K. Mahanta, learned
counsel for the Applicants in C.A.
Nos. 279/2007 & 280/2007.

The Applicant in O.A. 279/2007
contends that he was suspended from
service w.e.f. 23.08.2007 but so far he has
not been issued any charge sheet which
normally should have been issued within 45
days, otherwise suspension stands revoked
as per rules. If the contention of the
Applicant is correct, then he is directed to
resubmit his joining report along with
representation to the concerned authority
pointing out relevant rules and the
concerned authority is directed to dispose
of the representation within 15 days from
the date of receipt of the representation.
Meanwhile, Applicant would have right to
join his duties if he has not been issued any
charge sheet within the times stipulated in
the rules.

Conclu...



Certified to be true Copy

Rakhee Siraauthia Chowdhury
ADVOCATE

-13- (A.20200)

-2-90-

Conld
23.10.2007

Applicant No.2 Mrs. Babita Mahanta wife of the first Applicant (in O.A. No.280/2007) who has been transferred out on 18.9.2007 and has been asked to vacate the residential quarter. Learned counsel for the Applicant contends that this action has been taken only to harass the Applicant and his wife i.e., second Applicant.

Considering the facts and circumstances of the case, the O.A.s are admitted. Issue notice to the Respondents. Respondents are directed to file reply statement. Looking to the circumstances of the case, as explained by the learned counsel for the Applicants, if Mrs. Babita Mahanta may be allowed to continue in the present place of posting till the next date, if she has not been relieved already.

Post the case on 10.12.2007. Copy of this order shall be sent to the Respondents directly also.

Kushoram
Member(A)

Date of Application 1 25/10/07

Date on which copy is ready 1 25/10/07

Date on which copy is delivered 1 25/10/07

Certified to be true copy

Section Officer (J.D.L)
C. A. T. Guwahati Bench
Guwahati S.

Guwahati Appellate Tribunal
কাশৰাত্ৰি অ্যাপেলেট ট্ৰান্ডাম

22 MAR 2010

Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

ASSAM VIDYALAYA BOARD
OFFICE
PARK ROAD, BARIK POINT
LACHUMLING SHILLONG-793001
(Ministry of Human Resource Dev.
Department of Education)



Phone No. 0361-221393
Fax No. 0361-221222
Email: assam.vidyalaya@gmail.com
www.assam.vidyalaya.org

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

F.I.N.S.NVS(SHR)/Peru/AKM/07/36 GO Dated: 13 Nov.'07

22 MAR 2010

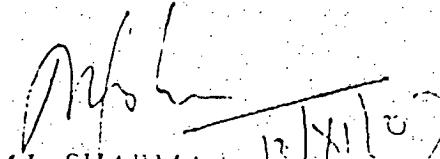
Guruphali Bench
केन्द्रीय प्रशासनिक न्यायालय

ORDER

Whereas an order placing Dr. A.K. Mahanta, PET, JNV, Nalbari under suspension was made by the undersigned on 23.8.07.

Now, therefore, the undersigned in exercise of the powers conferred by Clause (c) of sub-rule (5) of Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, hereby revokes the said order of suspension with immediate effect.

On revocation of suspension, Dr. A.K. Mahanta, PET is posted to JNV, West Kameng with immediate effect

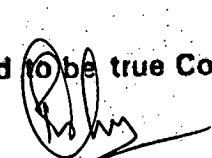

(M.L. SHARMA) 13/11/07
DEPUTY COMMISSIONER

Dr. A.K. Mahanta,
PET,
JNV, Nalbari, Assam.

Copy to:

The Principal, JNV, Nalbari/ West Kameng.

Certified to be true Copy


Rakhee Strautia Chowdhury
ADVOCATE

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

1. Original Application No. 280/07

2. M/s Petition No. _____

3. Contempt Petition No. _____

4. Review Application No. _____

Applicant(s) Arhunin K. Makaranta vs Union of India & Ors

Advocate for the Applicants. K. K. Makaranta, R. Duarah
K. Sonowal, P. K. Deka.....

Advocate for the Respondent(s):.....

Notes of the Registry

Date

Order of the Tribunal

19.11.2007

Mr R. Duarah, learned counsel for the Applicant is present. None for the Respondents. Learned counsel for the Applicant has stated that the Applicant of the O.A. has been reinstated on revocation of the suspension order. Therefore, he prays for withdrawal of the O.A. The O.A. is allowed to be withdrawn. M.A.No. is also permitted to be withdrawn.

The O.A. accordingly stands disposed of. No order as to costs.



Sd/-
Khushiram
Member (A)

TRUE COPY
প্রতিলিপি

20/11/07
অনুমতি অধিকারী
Section (1) (b)(ii)
Central Adminis-
trative Tribunal
গুৱাহাটী নথি ৪১৮
GUWAHATI 781 011
গুৱাহাটী/Guwahati-5

Sd/-
Manoranjan Mohanty
Vice-Chairman

Certified to be True Copy

Rakhee Sisodia Chowdhury
ADVOCATE

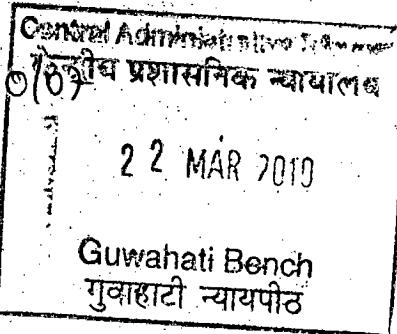
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

1. Original Application No. _____

2. M/s Petition No. _____ 120/07 in O.A 280/07

3. Contempt Petition No. _____

4. Review Application No. _____



Applicant(s) ... A.R. A.K. Mahanta ... vs Union of India & Ors

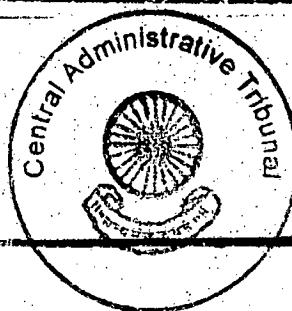
Advocate for the Applicants ... K.K. Mahanta, R. Dharah ...
K.K. Konwar, P.K. Das ...

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

Notes of the Registry

Date

Order of the Tribunal



19.11.2007 In view of the order passed in the
O.A. this M.P. also stands disposed of.

Sd/-
Khushiram
Member (A)

Sd/-
Manoranjan Mohanty
Vice-Chairman

TRUE COPY

প্রতিলিপি

অনুমতি দেওয়া হৈছে 20/11/07
Section Chief (Signature)
Central Admin. ... a. b. c. d. e. f. g. h. i. j. k. l. m. n. o. p. q. r. s. t. u. v. w. x. y. z.
Guwahati, 20/11/07
GUWAHATI Bench
Guwahati/Guwahati-5

Certified to be true Copy

Rakhee Siraithia Chowdhury
ADVOCATE



Navodaya Vidyalaya Samiti,
Regional Office, Shillong,
Temple Road, Barik Point,
Lachumicro, Shillong-793001
Tel : 0364-2500331/2500332
Email : nvrososhillong@rediffmail.com
Website: www.nvrososhillong.gov.in

NAVODAYA VIDYALAYA SAMITI

F. 2-7/PF/BM-NVS(SHR)/Pers 13262

Dated: 23 Nov'2007

OFFICE ORDER

Sh. A.K. Mohanta, PET, who was posted to JNV, West Kameng Arunachal Pradesh after revocation of suspension is now posted on request to JNV, Ri Bhoi, Meghalaya

He is directed to report on duty in JNV, Ri Bhoi, Meghalaya with immediate effect.

M.L. Sharma (M.L. SHARMA) 23/11/10

DEPUTY COMMISSIONER

To,

A.K. Mohanta,
PET
JNV, West Kameng,
Arunachal Pradesh

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

22 MAR 2010

Guwahati Bench
गुवाहाटी न्यायपीठ

Copy to :

1. The Principal, JNV, West Kameng, Arunachal Pradesh.
2. The Principal, JNV, Ri Bhoi, Meghalaya

M.L. Sharma (M.L. SHARMA)

DEPUTY COMMISSIONER

Certified to be true Copy

Rakhee Straubia Chowdhury
Rakhee Straubia Chowdhury
ADVOCATE



Navodaya Vidyalaya Samiti,
Regional Office, Shillong,
Temple Road, Barik Point,
Lachumiere, Shillong-793001
Tel : 0364-2500331/2500332
Email : nvroschillong@rediffmail.com
Website: www.nvroschillong.gov.in

NAVODAYA VIDYALAYA SAMITI

F. 2-7/PF/BM-NVS(SHR)/Pers 13761

Dated: 23 Nov'2007

OFFICE ORDER

Transfer of Mrs. B. Mohanta, Librarian, JNV, West Kameng Arunachal Pradesh is hereby modified on request to JNV, Ri Bhoi, Meghalaya.

She is directed to report on duty in JNV, Ri Bhoi, Meghalaya with immediate effect.

(M.L. SHARMA)
DEPUTY COMMISSIONER

To,

Mrs. B. Mohanta,
Librarian
JNV, West Kameng
Arunachal Pradesh

Central Administrative Tribunal

22 MAR 2010

Copy to :

1. The Principal, JNV, West Kameng, Arunachal Pradesh.
2. The Principal, JNV, Ri Bhoi, Meghalaya

DEPUTY COMMISSIONER

Certified to be true Copy

**Rekhee Strauthie Chowdhury
ADVOCATE**

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.

IN THE MATTER OF:

O.A. NO. 298 of 2007

Dr. Ashwin Kumar Mahanta

...Applicant

-Vs-

Union of India & Ors.

...Respondents

-A N D-

IN THE MATTER OF:

O.A. NO. 280 of 2007

Dr. Ashwin Kumar Mahanta

...Applicant

-Vs-

Union of India & Ors.

...Respondents

-A N D-

IN THE MATTER OF:

O.A. NO. 279 of 2007

Dr. Ashwin Kumar Mahanta

...Applicant

-Vs-

Union of India & Ors.

...Respondents

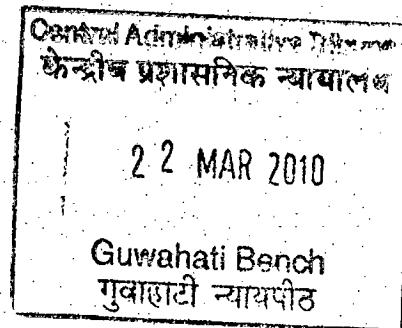
-A N D-

IN THE MATTER OF:

A brief affidavit filed on behalf of the Respondent Nos. 2 and 3 (Commissioner and Deputy Commissioner, Nayodaya Vidyalaya Samiti) in O.A. No. 298/2007, to place on record the developments, which have taken place in the aforesaid matters.

Certified to be true Copy

Rakhee Sirautha Chowdhury
ADVOCATE



filed on. 12/12/04 12/12/04

22 MAY 2010

Guwahati Bench
गुवाहाटी न्यायपीठ

AFFIDAVIT

I, Sri Mohan Lal Sharma, aged about 58 years, son of Sri B. R. Sharma, presently serving as the Deputy Commissioner, Navodaya Vidyalaya Samiti, Regional Office, Nongrim Hills, Shillong, Meghalaya do hereby solemnly affirm and declare as follows :

1. That, I am the Deputy Commissioner, Navodaya Vidyalaya Samiti (herein after referred to as N.V.S in short), Shillong and I have been impleaded as the Respondent No.3 in Original Application No. 298 of 2007. I have also been impleaded as a party Respondent in the other two Original Applications, viz. 279 of 2007 and 280 of 2007. I am fully acquainted and well conversant with the facts and circumstances of the instant case and as such, I am competent to swear this affidavit. I have been duly authorized to swear this affidavit on behalf of the Respondent No.2 as well.
2. That, the instant affidavit is being filed for the limited purpose of placing on record the various developments, which have taken place in the aforesaid matters pursuant to the filing of the said Original Applications. The Deponent craves leave of this Hon'ble Tribunal to refer to and reply upon the statements and averments made in this affidavit for the purpose of proceedings in Original Applications No. 279 of 2007 and 280 of 2007. The Deponent briefly places the factual matrix of the case herein below :-
 - (A) That, on 23.08.2007 the Applicant was placed under suspension in contemplation of disciplinary proceeding while he was serving as Physical Education Teacher (PET) at Jawahar Navodaya Vidyalaya, (herein after referred to as J.N.V in short), Nalbari, Assam.
 - (B) That, against the said suspension order, the Applicant Sri Ashwin Kumar Mahanta made several representations to the authorities for revoking the same. In the said representations, the Applicant also made various allegations against his authorities including the Principal of J.N.V, Nalbari.
 - (C) That, on 10.09.2007 the Applicant sent an S.M.S to the Deponent stating, interalia, that there was a threat to his life and his family at J.N.V, Nalbari. Therefore, on 18.09.2007, *considering his request*, the Deponent issued an order transferring him to J.N.V, West Kameng, Arunachal Pradesh along with his wife Mrs. Babita Mahanta, who had also been serving as a Librarian at J.N.V, Nalbari.

Be it stated herein that pursuant to such transfer orders being issued in favour of the Applicant and his wife, the Applicant's wife had also been released on 22.09.2007 and had withdrawn T.T.A advance of Rs.13,000/- in this regard and the new incumbent in place of Mrs. Babita Mahanta (Sri R. K. Pandey) also joined at J.N.V., Nalbari on 24.09.2007.

A copy of the said joining report of the new incumbent of Librarian of J.N.V, Nalbari dated 24.09.2007 is annexed herewith and marked as ANNEXURE - A

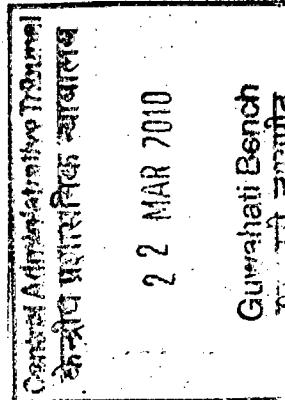
(D) That, despite having withdrawn the T.T.A advance, the Applicant and his wife Mrs. Babita Mahanta filed two Original Applications, by suppressing material facts before this Hon'ble Tribunal, in October, 2007 challenging, interalia, the transfer order dated 18.09.2007 in Original Application No.280 of 2007 and another Application praying for revoking the order of suspension dated 23.08.2007 in Original Application No.279 of 2007.

(E) That, this Hon'ble Tribunal, on 23.10.2007 considering both the applications, was pleased to direct that if Mrs. Babita Mahanta had not been released already, she may be allowed to continue in her present place of posting. This Hon'ble Tribunal was further pleased to direct that the Applicant, may submit his joining report along with his representation to the concerned authorities pointing out the relevant rules which will be disposed of by the authorities within 15 days.

A copy of the said order dated 23.10.2007 passed by this Hon'ble Tribunal is annexed herewith and marked as ANNEXURE - B

(F) That, on 13.11.2007 the Deponent vide order under memo No. NVS (SHR) Pers/AKM/07/3669 was pleased to revoke the suspension order of the Applicant and further directed him to join at J.N.V, West Kameng. However, the Applicant once again deemed it fit to approach this Hon'ble Tribunal by way of a Misc. Case No. 120 of 2007 in Original Application No.280 of 2007 praying, interalia, for staying the order dated 13.11.2007.

A copy of the order dated 13.11.2007 revoking the suspension of the Applicant is



annexed herewith and marked as

ANNEXURE - C

(G) That, however, this Hon'ble tribunal, after hearing the Counsel for the Applicant on 19.11.2007, was pleased not to entertain the Misc. case, and infact was pleased to allow the Original Application to be withdrawn and the Misc. Petition was also permitted to be withdrawn.

Copies of the orders dated 19.11.2007 passed by this Hon'ble Tribunal are annexed herewith and marked as ANNEXURE - D1 & D2

(H) That, pursuant to the revocation of the order of suspension, a statement of imputation of misconduct was issued against the Applicant on 19.11.2007.

A copy of the said imputation of misconduct dated 19.11.2007 is annexed herewith and marked as ANNEXURE - E.

(I) That, however, the Applicant once again approached this Hon'ble Tribunal by way of another original Application, which was registered as O.A No.298 of 2007 praying for quashing of the orders dated 13.11.2007 (revocation of suspension) and 15.11.2007 (order whereby Applicant was directed to join at J.N.V, West Kameng).

(J) That, it is pertinent to mention herein that the said Original Application No.298 of 2007 had been filed on 28.11.2007. However, vide order dated 23.11.2007 issued under memo No. F.2-7/PF/BM-NVS (SHR)/Pers/3762, once again *on his request*, the Applicant had been transferred to J.N.V, Ri bhoi, Meghalaya and Mrs. Babita mahanta vide a similar order had also been posted at J.N.V, Ri bhoi.

Copies of the order dated 23.11.2007 are annexed herewith and marked as ANNEXURE - F1 & F2

3. That, in view of the facts and circumstances that have been narrated herein above, it is evident that the Applicant has approached this Hon'ble tribunal by suppressing material facts in all the 3 Applications and has filed frivolous litigations. The Deponent humbly states that the sequence of events narrated herein above clearly reveals that the authorities have acted in a most bonafide

Guwahati Bench
मुख्यालयी न्यायपीठ

22 MAR 2010

manner and have tried to look into the interest of the Applicant at various stages and have accordingly, transferred him at J.N.V, Ri bhoi, Meghalaya. In view of the same, the Original Applications No. 279 of 2007, 280 of 2007 and 298 of 2007 have become infructuous and are accordingly, liable to be closed by this Hon'ble Tribunal.

4. That, the statements and averments made in the instant affidavit may be treated as a part of the records of Original Applications No. 279 of 2007 and 280 of 2007
5. That, the statements made in this paragraph and in paragraphs 1, 2A, 2B, 2C (party), 2D, 2E, 2F, 2G, 2H, 2I, 2J (party), and 3, are true to my knowledge and those made in Paragraphs 2C (party), 2J (party)..... being matters of record are true to my information derived therefrom, which I believe to be true and the rest are my humble submission before this Hon'ble Court. I have not suppressed any material facts.

And I sign this affidavit on this 17th day of December, 2007 at Guwahati.

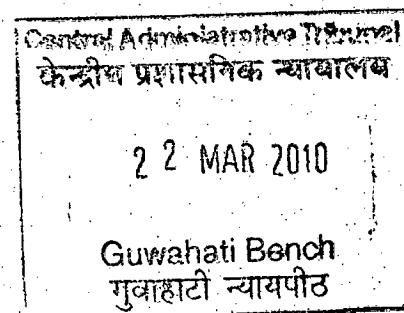
Identified by me :

D E P O N E T

Advocate

Solemnly affirm and declare before me by the Deponent, who is identified by Advocate, on this the day of December, 2007 at Guwahati

ADVOCATE



Registered



OFFICE OF THE PRINCIPAL
JAWAHAR NAVODAYA VIDYALAYA; NIANGBARI; RI-BHOI
MEGHALAYA: 7931102
Phone No. 03638-264210, (Mobile- 9862098870)

F.01-1/JNVRB/2008-08 / 22

Dated: 03/04/2008

Central Administration, JNVRB
केन्द्रीय प्रशासनिक स्थायालय

To

The Deputy Commissioner,
Navodaya Vidyalaya Samiti,
Regional Office,
Lachumiere, Barik Point,
Temple Road, Shillong.

22 MAR 2010

Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

Sub:- Regarding TTA Claim in respect of Mrs. Babita Mahanta, librarian.
Sir,

With ref. to above ref. your Office Order regarding transfer on request basis in respect of Sh.A.K. Mahanta, PET and Mrs. Babita Mahanta, Librarian Vide Order No. F. 2-7/PF/BM-NVS (SHR)/Pers/3761 and 62 dated 23rd Nov, 2007.

As per CAT instruction, on joining the new Station the TA and other transfer benefits claims of both the Applicants (Sh..A.K. Mahanta, PET and Mrs. Babita Mahanta, Librarian) shall be settled in their favour (Copy of CAT instruction is enclosed herewith)

Now Mrs. Babita Mahanta, Librarian has submitted the TTA claim (self and family) for Rs. 20,000/-from JNV, Nalbari to JNV. Ri-Bhoi, on 30th March, 2008.

Therefore, you are requested pass necessary approval in the regard so that their claim can be settled at the earliest.

Enclo: as stated above.

A claim may be settled as per rates. She is from
entitled for TTA for transfer to Nalbari to Ri-Bhoi
Copy to: [Signature]

Yours faithfully,

(J. Anil)
Principal

J. Anil
Jawahar Navodaya
Vidyalaya
Nalbari R.O.: Nongkoh
District: Nongkoh, Meghalaya

01. Mrs. Babita Mahanta, Librarian for information.

02. Dr. A.K. Mahanta, PET for information.

Rekhee Sisrautla Chowdhury
Certified to be true Copy

Rekhee Sisrautla Chowdhury
ADVOCATE

Rekhee Sisrautla Chowdhury
07/04/08

प्रादेशिक अधिकारी कार्यालय
प्रादेशिक अधिकारी कार्यालय

22 MAR 2012

Gurahati Ranch

गुराहाटी रैंच

JAWAHAR NAVODAYA VIDYALAYA NANGEBARI
P.O. DHOI DISTRICT

Amount - 13,000

DEBIT VOUCHER

Bell Post - 12055

To

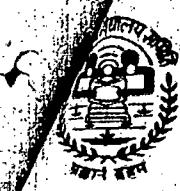
Mrs. Babita Maheshwari Releable 945
P.O. Nongch

S/No	Particulars	Amount	Head of account
Op.	TTA Cleare	12055/-	TTA

Releable
Principal
Jawahar Navodaya Vidyalaya
P.O. Nongch
District - Dhoi
Date - 22-03-2012

Total 12055/- (Rupees twelve thousand fifty -
five) Passed for payment is.
fifty five (Rupees twelve thousand fifty -
five) Principal

Received by (Rupees)



Regd

- 27 -

- 104 -

133

OFFICE OF THE PRINCIPAL
JAWAHAR NAVODAYA VIDYALAYA, NIANGBARI, RI-BHOI
MEGHALAYA: 7931102
Phone No. 03638-264210, (Mobile- 9862098870)

F. 1-10/PF/BM/JNVRB/2008-09/247

Dated 12/08/2008

To,

The Principal,
Jawahar Navodaya Vidyalaya,
Dunguapara,
P.O. Benekuchi,
Dist. Nalbari, Assam-781340.

56

Sub:- Remittance of TTA advance in respect of Mrs. Babita Mahanta, Librarian.

Sir,

Please find enclosed herewith a D/Draft for Rs. 13,000/- (Rupees thirteen thousand) only vide bearing No. 458091 dated 12/08/2008 being refund of TTA advance in respect of Mrs. Babita Mahanta, Librarian.

Kindly acknowledge the receipt, please.

Enclo : As stated above.

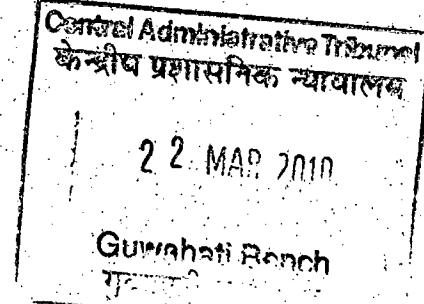
Principal
Jawahar Navodaya
Vidyalaya
Niangbari, P.O. Nescam
Distt. : Ri-Bhoi, Meghalaya-793102

Yours faithfully,

(J. Anil)
Principal

Copy to:-

Dr. Mrs. Babita Mahanta, Librarian.



Guwahati Administrative Tribunal
देशभूषित प्रशासनिक न्यायालय

22 MAR 2010

Guwahati Bench
गुवाहाटी न्यायपीठ

CS-12

Jawahar Navodaya Vidyalaya

000395

12/08/08
Dated 09/08/08

RECEIVED with thanks from Mrs. Bebilia Mathew,
sum of Rupees 945/- Rs Nine hundred
Cash/cheque No. 1000 Date 12/08/08 on Bank
account of Refund of balance amount of TTA a/c.
I have received the original copy of the receipt.

Sig. of the party

Principal

Mangal, Principal, District
Magistrate

NOTICE

Date: 22.03.2010

From:

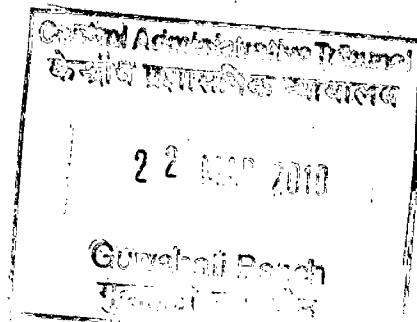
R.S. Chowdhury

Advocate

To,

Mr. M. Pathak.

Advocate



Ref:

Original Application No. 266 Of 2009

Mrs. Babita Mahanta

... Applicant

-Vs-

Union of India & Ors

..... Respondents

Sir,

Please find herewith a copy of the Written Statement filed on behalf of the Respondents No.2, 3,& 5 in the matter under reference above. Kindly acknowledge receipt of the same.

Yours sincerely

(Advocate)

Received Copy:-

1. *Malabye Pathak*
Adv.
22/3/10

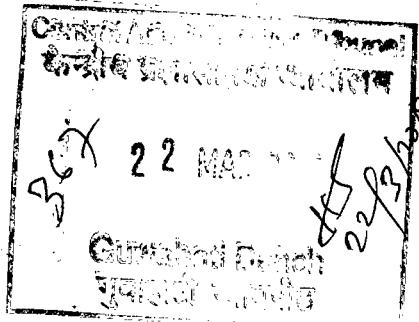
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH AT GUWAHATI

Misc. Petition No. 159 of 2009

In

O. A. No. 266 OF 2009



IN THE MATTER OF:

Mrs. Babita Mahanta.

... Applicant

- Vs -

The Union of India & Others.

.... Respondents

-AND-

IN THE MATTER OF:

An objection filed on behalf of the Respondent Nos. 2, 3 and 5 against the application filed by the Applicant seeking condonation of delay.

Reviewed.
Malakha Pathak
20/3/10

OBJECTION

I, Shri Debananda Hazarika, Son of Late Dambaru Dhar Hazarika, aged about 57 years, presently working as the Deputy Commissioner, Navodaya Vidyalaya Samiti do hereby solemnly affirm and state as follows.

1. That I have been impleaded as Respondent no 3 in the instant Misc. Petition. A copy of the Misc. Petition filed by the Applicant has been served upon the answering respondents. I have gone through the same and understood the contents thereof. I am also fully acquainted and well conversant with the facts and

Filed by:
The Respondent Nos. 2, 3 and 5
Debananda Hazarika
Through:
R. S. Chawdhury
Advocate
28/3/10

circumstances of the case. Further I am competent and have been duly authorized by the respondent nos. 2 and 5 to swear this objection on their behalf.

2. That save and except what has been specifically admitted in this objection all other averments and submissions made in the Misc. Petition, shall be deemed to have been denied by the answering respondents.

3. That the deponent denies the statements made in paragraph 1 of the Misc. Petition which are not borne out of the records of the instant case. In this regard the deponent humbly states that the respondents have only acted within the parameters of law and have not exceeded their powers in any manner nor have they committed any illegality.

4. That with regard to the statements made in paragraphs 2 of the Misc Case it is humbly submitted that the Applicant has not produced any documentary evidence to fortify the fact that the said Appeals were actually sent by registered post as claimed. Further, it is apparent that the Applicant was not only aware of the Order dated 19.02.2008 but has also represented against the same and as such, being an employee under the Samity it is presumed that the Applicant was also aware of the consequences and/or implications of such an Order. Hence, the plea of waiting for a period of more than one and a half years before approaching this Hon'ble Tribunal, while being aware of the '*far reaching adverse effects on the service career of the applicant*' which was likely to be caused to her, cannot hold ground nor can be sustained. In the humble submission of the deponent the Applicant has failed to give appropriate reasons for such delay/laches in the filing of the instant petition and as such is not entitled to any relief in equity by this Hon'ble Tribunal.

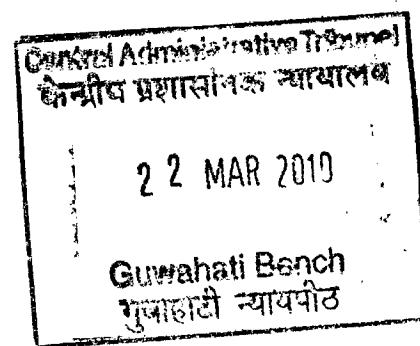
5. That with regard to the statements made in paragraphs 3 and 4 of the Misc. case the deponent has no comments to offer.

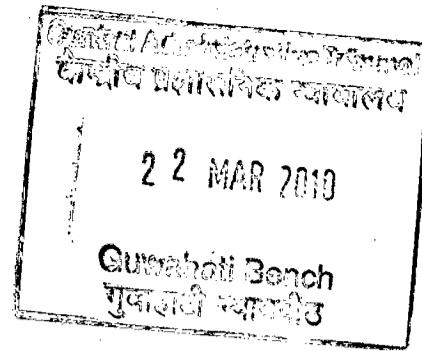
6. That with regard to the statements made in paragraphs 5, 6 and 7 of the Misc. Petition the deponent most respectfully begs to submit that the Applicant has failed to give any reasonable explanation for delay of each day before filling of the

Supreme Court of India
General Bench
मुख्यालय
पुस्तकालय

JAR 2010

instant Original Application. Therefore the Applicant has miserably failed to make out a case for condonation of 83 (eighty three) days delay in filing the instant Original Application before this Hon'ble Tribunal. Under the facts and circumstances stated herein above it is most humbly prayed by the answering respondents that the Misc. Petition filed by the Applicant for condonation of delay deserves to be dismissed.





VERIFICATION

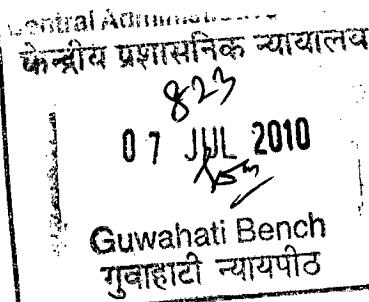
I, Shri Debananda Hazarika, Son of Late Dambaru Dhar Hazarika, aged about 57 years, presently working as the Deputy Commissioner, Navodaya Vidyalaya Samiti do hereby solemnly affirm and state as follows.

1. That I am fully conversant with the facts and circumstances of the case. Further, I am competent and duly authorized by the Respondent Nos. 2 and 5 to sign this verification on behalf of them.
2. The statements made in paragraphs...1, 2, 3 (partly), 4 (partly), 5, 6.... of the accompanying objection are true to the best of my knowledge and those made in paragraphs....3 (partly), 4 (partly)..... above are true to my information derived from records and rest are my humble submission before this Hon'ble Tribunal.

And I sign this verification on this the 22 day of March, 2010 at Guwahati.

Debananda Hazarika
DEPONENT

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

O.A. NO. 266/2009

IN THE MATTER OF :

O.A. NO. 266/2009

Mrs . Babita Mahanta .
.....Applicant

-VS-

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

-AND-

IN THE MATTER OF :

Rejoinder/ reply submitted by the applicant against the written statement submitted by the respondent.

The application above named

MOST RESPECTFULLY SHEWETH:

1. That with regards to the statements made in paragraph 1, 2, & 3 of the written statement the deponent begs to offer no comment.
2. That the statement made in paragraph 4 of the written statement are not admitted and are categorically denied by the deponent . The deponent begs to state that the respondents have misconstrued and misinterpreted the common order dated 07/01/2008 passed by this Hon'ble C.A.T. , Guwahati Bench pass on in O.A. No.298/2007, 279/2007 and 280/2007. Those

Filed by the Appellant Through me,

K. Konwar sonar

7/7/10
Babita Mahanta

aforesaid original Application were filed against the orders of suspension of the deponent's husband Dr. A.K. Mahanta and the order of transfer of service of the deponent as well as her husband.

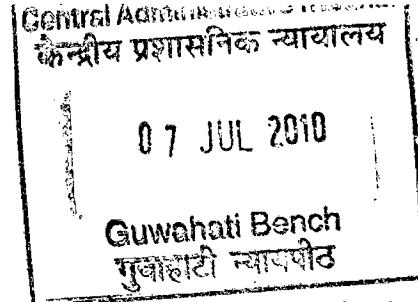
Whereas the order impugned in the present case relates to the impugned order dated 28/09/2008 (Annexure 18 of the O.A.) and the impugned memorandum dated 19/02/2008 (Annexure 15 of the O.A) declaring the non-reporting period of the deponent from 23/09/2007 to 13/01/2008 as authorized absence treating it as dies non for all purpose and viz, increment, leave, and pension and debarring her from any leave salary and as to shifting her date of increment to her date of rejoining.

Therefore the present case is nowhere related to the O.A. No. 279/07, 280/07 and 295/07 and the principle of Estoppels is not attracted from any corner.

It is further stated that deponent never requested for transfer to J.N.V. West Kameng.

3. That with regards to statement made in paragraph 4, 5, 5(A), 5(B) of written statement the deponent begs to offer no comments. The Deponent further begs to state that the statements made therein are not relevant to the present case.
4. That the statement made in paragraph - 5(C) and 5 (D) of the Written statement are categorically denied by the deponent and the deponent begs to state that neither she nor her husband have ever apprehended any danger to their life at J.N.V Nalbari. The deponent's husband only informed and requested the authority to take necessary and appropriate action against night chowkidar Sri Kamal Deka for his misbehavior giving life threat.

Babita Mahanta
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It is further stated that the deponent never asked for T.T.A. advance. They paid her the amount on their own and compelled her to accept the amount after issuing the release order in order to compel her to move out in pursuant to the illegal release order already issued.

5. That the statement made in paragraph - 5 (D) and 5 (E) are denied by the deponent and the deponent beg to state that she had never suppressed any fact before this Hon'ble Tribunal in the earlier round of litigations . The deponent and her husband challenged the illegal and arbitrary order passed by the respondent authority transferring the deponent to J.N.V. , West Kameng vide O.A. No. 280/07. This Hon'ble Tribunal after hearing the parties passed an ad-interim order dated 23/10/07 directing the respondent to allow the deponent to continue her at J.N.V Nalbari , if not already released. The deponent accordingly reported at J.N.V. Nalbari. The deponent though was released on the same day when she was ordered for transfer but practically she was not released as because the handing over and taking over of the charge was not done .Thereafter the respondents authority during the pendency of the case (O.A. NO.280/07) re -transferred the deponent to J.N.V. Re- bhoi on 23/11/07 and as such she withdraw the case . The so called release order dated 22/09/2007 was non-est in the eye of law and was arbitrarily and whimsically done to inflict injury to the deponent. The deponent joined the J.N.V. Re-bhoi on 14/01/08 and after her joining at J.N.V. Re bhoi she was asked to hand over the charge of the post she held at J.N.V. Nalbari vide letter dated 11/2/2008 issued by the Principal, JNV, Re-bhoi and she was relieved from JNV Re-bhoi for doing the same on 12/02/2008 (FN).The deponent having received the said notice went to JNV Nalbari and reported on 12/02/2008 (FN) . She proceeded the handing over of charge to Mr. R. K.

Babita Mahanta

Pandey, librarian JNV Nalbari and she completed her work on 22/02/2008 and handed over the charge on 22/02/2008 . Thereafter she was relieved from JNV Nalbari on 22/02/2008 after handing over the charges . Thus it is evident that she continued to hold the post of librarian of JNV Nalbari till 22/02/2008 and the so called release order dated 22/09/2007 was non-est in the eye of law and she was illegally prevented from working in the school by the respondent No.5.

A copy of the letter dated 11/02/2008 issued by the Principal, JNV, Re -bhoi and a copy of the letter dated 22/02/2008 issued by the Principal, JNV, Nalbari are annexed here with and mark as **Annexure 19 and 20** respectively

6. That with regards to the statement made in paragraph 5(F), 5(G) and 5 (H) of the written statement the deponent begs to offer no comments as the statements made therein are not relevant to the present case of the deponent .
7. That with regards to the statement made in paragraph 5(I) of the Written statement the deponent begs to offer no comment.
8. That the deponent categorically denied the statement made in the paragraph 6 of the Written statement and begs to state that the respondent arbitrarily used the order of transfer by violating all the Rules , Regulations, Acts, and /or Provisions of law and the constitution of India while issuing the transfer order . They issued the order of transfer of the deponent without handing over and taking over of charge.

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Babita Mahanta

9. That with regards to the statement made in paragraph 7 of the written statement the deponent begs to offer no comment.
10. That with regards to the statement made in paragraph 8 of the Written statement the deponent begs to reiterates statement made in paragraph 4 (K) and 4 (L) of the original Application .
11. That with regards to the statement made in paragraph 9 of the written statement the deponent begs to offer no comment. It is further stated that the statement made herein are categorically replied in the preceding paragraphs of this reply. The deponent further reiterates the statement made in paragraph 4(M) of the O.A.
12. That with regards to the statement made in paragraph 10 of the written statement the deponent begs to offer no comments.
13. That with regards to the statement made in paragraph 11,12,13,14 and 16 of the written statement are not true and are categorically denied by the deponent. The deponent reiterates the statements made in paragraph 4 (D) of the O.A.
14. That with regards to the statement made in paragraph 15 of the written statement the deponent begs to offer no comment.
15. That with regards to the statement made in paragraph 17 of the written statement are denied by the deponent. The deponent reiterates the statements made in the O.A
16. That with regards the statement made in paragraph 18 the deponent begs to offer no comment.

Babita Mahanta

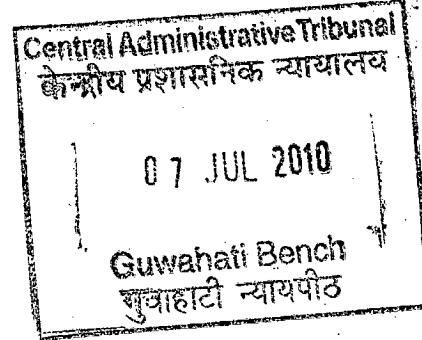
✓

17. That with regards to the statement made in the paragraph 19 of the O.A. the deponent begs to state that she has good case on merit and reiterates the statements made in paragraph 8 and 9 of the O.A.

20. That with regards the statement made in paragraph 20 the deponent begs to offer no comment.

21. That, under the facts and circumstances as stated above, the O.A. deserves to be allowed with cost.

Babita Mahanta
ৰবিতা মাহান্তা



VERIFICATION

I Smt. Babita Mahanta , Librarian , wife of Dr. A.K. Mahanta , presently residing at the Jawahar Navodaya Vidyalaya, Naingbari , District – Ri-Bhoi , PIN – 793102, Meghalaya do hereby declare that I am the applicant in the instant application before this Hon'ble Tribunal and also hereby solemnly affirm and verify that the statements made in the paragraphs of the accompanying application are true to my best of my knowledge , belief and information and I have not concealed anything material there from.

And I put my signature unto this verification on this 28th day of May ,2010 in Guwahati.

Babita Mahanta

Signature of the applicant

JAWAHAR NAVODAYA VIDYALAYA
NIANGBARI, P.O. NONGPOH
DISTT: RI-BHOI
MEGHALAYA-793102
Under Ministry of HRD, Govt. of India
e-mail:-jnvribhoi@rediffmail.com.
Fax-03638-264210

F.1-10/PF/2008/1066

जवाहर नवोदय विद्यालय
नियाँगबाड़ी, डाक-नांगपोह
जिला - रि-भोइ
मेघालय- 793102
मानव संसाधन विकास मंत्रालय का एक रायत्त संस्था
दूरभाष- 03638264210, 09862098870

Dated. 11/02/2008

RELIEVING ORDER.

Ms. Bobita Mahanta, TGT (Librarian) is hereby directed to proceed to JNV.Nalbari Assam today 12/02/2008 FN in connection with handing over of complete charge of Library JNV.Nalbari

She is hereby relieved to day 12/02/2008(FN) from this vidyalaya with a direction to report to the Principal JNV.Nalbari.

After completion of handing over she should report back to the H.Q immediately.

(J.ANIL)
Principal

11/2/08

To

Ms. Bobita Mahanta
TGT (Librarian) for compliance

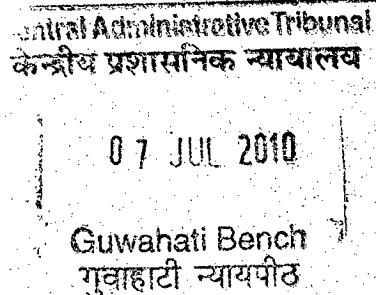
Jawahar Navodaya Vidyalaya
Niangbari, Ri. Bhoi District
Meghalaya.

Copy to:-

01. The Principal JNV.Nalbari (Assam) for his information.
02. Office copy.

(J.ANIL)
Principal

11/2/08





OFFICE OF THE PRINCIPAL
Jawahar Navodaya Vidyalaya:: Banekuchi:: Nalbari Dist
[Under Ministry of HRD, Department of Secondary and Higher Education, Government of India]
ASSAM [781 340]

No F.1-3/JNV (NLBR)/2007-08/ 872-73

Dated: 21.02.2008

RELIEVING ORDER

Mrs. Babita Mahanta, (Ex. Librarian of this vidyalaya) presently working in JNV, Ri-Bhoi had reported to this vidyalaya on dated 12-02-2008 (F/N) ~~by~~ vide letter no F-1-10/PF/2008/1066 dated 11-02-2008 for completion of Handing / Taking over the charges of the vidyalaya Library.

She is hereby relieved from this vidyalaya on 22-02-2008 (F/N) after completion of her assigned work and directed to report back to her parent vidyalaya at the earliest.

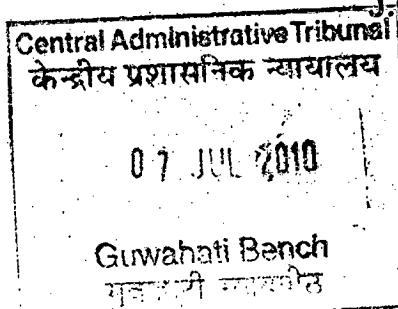
She was not provided boarding and lodging in this vidyalaya during the period mentioned above.

[R.D.Retrakurnar]
PRINCIPAL

Copy to:-

01. The Principal JNV, Ri-Bhoi, Meghalaya for information.
02. Person concerned for compliance.
03. Office copy.

21/02/08
PRINCIPAL
PRINCIPAL
J.N.V., NALBARI
Assam



File No.
1710 (2008) 95 CL 589

S.C. Sapena

129

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

O.A. NO. 266/2009

IN THE MATTER OF :

O.A. NO. 266/2009

Mrs . Babita Mahanta .
.....Applicant

-VS-

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

-AND-

IN THE MATTER OF :

Rejoinder/ reply submitted by the
applicant against the written statement
submitted by the respondent.

The application above named

MOST RESPECTFULLY SHEWETH:

1. That with regards to the statements made in paragraph 1, 2, & 3 of the written statement the deponent begs to offer no comment.
2. That the statement made in paragraph 4 of the written statement are not admitted and are categorically denied by the deponent . The deponent begs to state that the respondents have misconstrued and misinterpreted the common order dated 07/01/2008 passed by this Hon'ble C.A.T. , Guwahati Bench pass on in O.A. No.298/2007, 279/2007 and 280/2007. Those

Babita Mahanta

aforesaid original Application were filed against the orders of suspension of the deponent's husband Dr. A.K. Mahanta and the order of transfer of service of the deponent as well as her husband.

Whereas the order impugned in the present case relates to the impugned order dated 28/09/2008 (Annexure 18 of the O.A.) and the impugned memorandum dated 19/02/2008 (Annexure 15 of the O.A) declaring the non-reporting period of the deponent from 23/09/2007 to 13/01/2008 as ^{un}authorized absence treating it as dies non for all purpose and viz, increment, leave, and pension and debarring her from any leave salary and as to shifting her date of increment to her date of rejoining.

Therefore the present case is nowhere related to the O.A. No. 279/07, 280/07 and 295/07 and the principle of Estoppels is not attracted from any corner.

It is further stated that deponent never requested for transfer to J.N.V. West Kameng.

3. That with regards to statement made in paragraph 4, 5, 5(A), 5(B) of written statement the deponent begs to offer no comments. The Deponent further begs to state that the statements made therein are not relevant to the present case.
4. That the statement made in paragraph - 5(C) and 5 (D) of the Written statement are categorically denied by the deponent and the deponent begs to state that neither she nor her husband have ever apprehended any danger to their life at J.N.V Nalbari. The deponent's husband only informed and requested the authority to take necessary and appropriate action against night chowkidar Sri Kamal Deka for his misbehavior giving life threat.

Babita Mahanta

It is further stated that the deponent never asked for T.T.A. advance. They paid her the amount on their own and compelled her to accept the amount after issuing the release order in order to compel her to move out in pursuant to the illegal release order already issued.

5. That the statement made in paragraph - 5 (D) and 5 (E) are denied by the deponent and the deponent beg to state that she had never suppressed any fact before this Hon'ble Tribunal in the earlier round of litigations . The deponent and her husband challenged the illegal and arbitrary order passed by the respondent authority transferring the deponent to J.N.V. , West Kameng vide O.A. No. 280/07. This Hon'ble Tribunal after hearing the parties passed an ad-interim order dated 23/10/07 directing the respondent to allow the deponent to continue her at J.N.V Nalbari , if not already released. The deponent accordingly reported at J.N.V. Nalbari. The deponent though was released on the same day when she was ordered for transfer but practically she was not released as because the handing over and taking over of the charge was not done . Thereafter the respondents authority during the pendency of the case (O.A. NO.280/07) re -transferred the deponent to J.N.V. Re-bhoi on 23/11/07 and as such she withdraw the case . The so called release order dated 22/09/2007 was non-est in the eye of law and was arbitrarily and whimsically done to inflict injury to the deponent. The deponent joined the J.N.V. Re-bhoi on 14/01/08 and after her joining at J.N.V. Re bhoi she was asked to hand over the charge of the post she held at J.N.V. Nalbari vide letter dated 11/2/2008 issued by the Principal, JNV, Re-bhoi and she was relieved from JNV Re-bhoi for doing the same on 12/02/2008 (FN).The deponent having received the said notice went to JNV Nalbari and reported on 12/02/2008 (FN) . She proceeded the handing over of charge to Mr. R. K.

Babita Mahanta

Pandey, librarian JNV Nalbari and she completed her work on 22/02/2008 and handed over the charge on 22/02/2008. Thereafter she was relieved from JNV Nalbari on 22/02/2008 after handing over the charges. Thus it is evident that she continued to hold the post of librarian of JNV Nalbari till 22/02/2008 and the so called release order dated 22/09/2007 was non-existent in the eye of law and she was illegally prevented from working in the school by the respondent No.5.

Babita Mahanta

A copy of the letter dated 11/02/2008 issued by the Principal, JNV, Re-bhoi and a copy of the letter dated 22/02/2008 issued by the Principal, JNV, Nalbari are annexed here with and mark as **Annexure 19 and 20** respectively

6. That with regards to the statement made in paragraph 5(F), 5(G) and 5 (H) of the written statement the deponent begs to offer no comments as the statements made therein are not relevant to the present case of the deponent.
7. That with regards to the statement made in paragraph 5(I) of the Written statement the deponent begs to offer no comment.
8. That the deponent categorically denied the statement made in the paragraph 6 of the Written statement and begs to state that the respondent arbitrarily used the order of transfer by violating all the Rules, Regulations, Acts, and /or Provisions of law and the constitution of India while issuing the transfer order. They issued the order of transfer of the deponent without handing over and taking over of charge.

9. That with regards to the statement made in paragraph 7 of the written statement the deponent begs to offer no comment.
10. That with regards to the statement made in paragraph 8 of the Written statement the deponent begs to reiterates statement made in paragraph 4 (K) and 4 (L) of the original Application .
11. That with regards to the statement made in paragraph 9 of the written statement the deponent begs to offer no comment. It is further stated that the statement made herein are categorically replied in the preceding paragraphs of this reply. The deponent further reiterates the statement made in paragraph 4(M) of the O.A.
12. That with regards to the statement made in paragraph 10 of the written statement the deponent begs to offer no comments.
13. That with regards to the statement made in paragraph 11,12,13,14 and 16 of the written statement are not true and are categorically denied by the deponent. The deponent reiterates the statements made in paragraph 4 (D) of the O.A.
14. That with regards to the statement made in paragraph 15 of the written statement the deponent begs to offer no comment.
15. That with regards to the statement made in paragraph 17 of the written statement are denied by the deponent. The deponent reiterates the statements made in the O.A
16. That with regards the statement made in paragraph 18 the deponent begs to offer no comment.

Babita Mahanta

17. That with regards to the statement made in the paragraph 19 of the O.A. the deponent begs to state that she has good case on merit and reiterates the statements made in paragraph 8 and 9 of the O.A.
20. That with regards the statement made in paragraph 20 the deponent begs to offer no comment.
21. That, under the facts and circumstances as stated above, the O.A. deserves to be allowed with cost.

154
Babita Mahanta

- 7 -

VERIFICATION

I Smt. Babita Mahanta , Librarian , wife of Dr. A.K. Mahanta , presently residing at the Jawahar Navodaya Vidyalaya, Naingbari , District – Ri-Bhoi , PIN – 793102, Meghalaya do hereby declare that I am the applicant in the instant application before this Hon'ble Tribunal and also hereby solemnly affirm and verify that the statements made in the paragraphs of the accompanying application are true to my best of my knowledge , belief and information and I have not concealed anything material there from.

And I put my signature unto this verification on this 28th day of May ,2010 in Guwahati.

Babita Mahanta

Signature of the applicant

JAWAHAR NAVODAYA VIDYALAYA
NIANGBARI, P.O. NONGPOH
DISTT: RI-BHOI
MEGHALAYA-793102
Under Ministry of HRD, Govt. of India
e-mail:-jnvribhoi@rediffmail.com.
Fax-03638-264210



जवाहर नवोदय विद्यालय
नियाँगबाड़ी, डाक-नामगोह
जिला - रि-भोइ
मेघालय- 793102
मानव संसाधन विकास मंत्रालय का एक स्वायत्त संस्था
दूरभाष- 03638264210, 09862098870

F.1-10/PF/2008/1066

Dated. 11/02/2008

RELIEVING ORDER.

Ms. Bobita Mahanta, TGT (Librarian) is hereby directed to proceed to JNV.Nalbari Assam today 12/02/2008 FN in connection with handing over of complete charge of Library JNV.Nalbari

She is hereby relieved to day 12/02/2008(FN) from this vidyalaya with a direction to report to the Principal JNV.Nalbari.

After completion of handing over she should report back to the H.Q immediately.

(J.ANIL)
Principal

11/2/08

To

Ms. Bobita Mahanta
TGT (Librarian) for compliance

*Principal,
Jawahar Navodaya Vidyalaya
Niangbari, Ri-Bhoi District
Meghalaya.*

Copy to:-
01. The Principal JNV.Nalbari (Assam) for his information.
02. Office copy.

(J.ANIL)
Principal

11/2/08

*Principal,
Jawahar Navodaya Vidyalaya
Niangbari, Ri-Bhoi District
Meghalaya.*

O/C



- 9 -

OFFICE OF THE PRINCIPAL

Jawahar Navodaya Vidyalaya:: Banekuchi:: Nalbari Dist

[Under Ministry of HRD, Department of Secondary and Higher Education, Government of India]
ASSAM [781 340]

No F.1-3/JNV (NLBR)/2007-08/ 872-73

Dated: 21.02.2008

RELIEVING ORDER

Mrs. Babita Mahanta, (Ex. Librarian of this vidyalaya) presently working in JNV, Ri-Bhoi had reported to this vidyalaya on dated 12-02-2008 (F/N) ~~by~~ vide letter no F-1-10/PF/2008/1066 dated 11-02-2008 for completion of Handiring / Taking over the charges of the vidyalaya Library.

She is hereby relieved from this vidyalaya on 22-02-2008 (F/N) after completion of her assigned work and directed to report back to her parent vidyalaya at the earliest.

She was not provided boarding and lodging in this vidyalaya during the period mentioned above.

**[R.D.Renkurnar]
PRINCIPAL**

Copy to:-

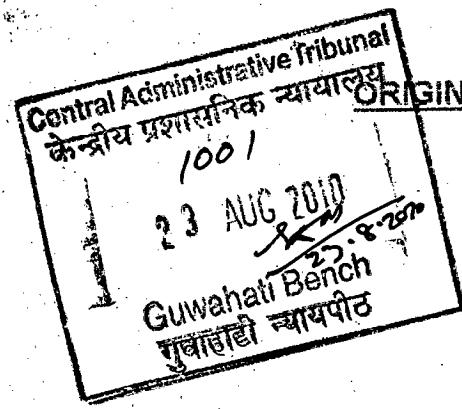
01. The Principal JNV, Ri-Bhoi, Meghalaya for information.
02. Person concerned for compliance.
03. Office copy.

PRINCIPAL

**PRINCIPAL
J.N.V., NALBARI
Assam**

22/02/08

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH



ORIGINAL APPLICATION NO.266 of 2009

IN THE MATTER OF:

O.A No.266 of 2009

Mrs. Babita Mahanta.

..... Applicant

-Vs-

Union of India & Ors.

..... Respondents

- AND -

IN THE MATTER OF:

An additional affidavit filed on behalf of the Respondent No.2, 3 and 5 in the aforesaid Original Application in terms of the Order dated 06.08.2010 passed by this Hon'ble Tribunal.

ADDITIONAL AFFIDAVIT

I, Sri V. Venkata Reddy, son of Venkata Reddy (Late), aged about 57. years, presently serving as the Deputy Commissioner (In-Charge), Navodaya Vidyalaya Samiti do hereby solemnly affirm and state as follows:-

1. That I have been impleaded as Respondent No.3 in the instant Original Application. A copy of the Order dated 06.08.2010 passed by this Hon'ble Tribunal in the aforesaid Original application has been served

Filed By:
The Respondent
THROUGH:
Q/HY
R. S. Choudhury
Advocate
23/8/10

Deputy Commissioner
Navodaya Vidyalaya Samiti
Regional Office, Shillong-1

23 AUG 2010

Guwahati Bench
গুৱাহাটী বৰ্ষাপত্ৰ

upon the answering Respondents. I have gone through the same and understood the contents thereof. I am also fully acquainted and well conversant with the facts and circumstances of the case. Further I am competent and duly authorized by the Respondent Nos.2 and 5 to swear this additional affidavit on their behalf.

2. That the Applicant had approached this Hon'ble Tribunal praying for a direction to the authorities to regularize the period w.e.f 23.09.2007 to 13.01.2008 by treating it as 'On Duty'. The Respondents have duly filed their Written Statement in the matter by contending the averments made in the O.A. However, when the matter was listed for final hearing on 06.08.2010, this Hon'ble Tribunal passed Orders as Under:

".....In the given circumstances we would like the Respondents to consider whether aforenoted period can be regularized by granting due leave without requiring them to release pay as, the Applicant had not performed duties in the post in question"

3. That in terms of the said orders passed, the authorities have held a detailed discussion in the matter and vide Letter dated 11.08.2010 under Memo No. 13-22 / NVS (SHR) Admn/1917, the Applicant has been directed to apply for leave of any kind due for the entire period of her absence from duty i.e. from 23.09.2007 to 13.01.2008.

A copy of the said Letter dated 11.08.2010 is annexed herewith and marked as ANNEXURE-H.

4. That this Additional affidavit has been filed for the limited purpose of placing on record the said Letter dated 11.08.2010 issued by the

23 AUG 2010

Guwahati Bench

Respondent No. 3 in the said matter, in terms of the directions of this
Hon'ble Tribunal.

5. That the statements made in this paragraph and those made in Paragraphs 1,2(Partly), 3(Partly), 4 and 5 are true to my knowledge and those made in paragraph 2(Partly), 3(Partly), being matters of record are true to my information derived therefrom and the rest are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this affidavit on this the 20th day of August, 2010 at
Guwahati.

Identified by me:

Rabhee Dhanthie Chowdhury
Advocate

W

DEPONENT
Deputy Commissioner
Navodaya Vidyalaya Samiti
Regional Office, Shillong-1

- 4 -

ANNEXURE H

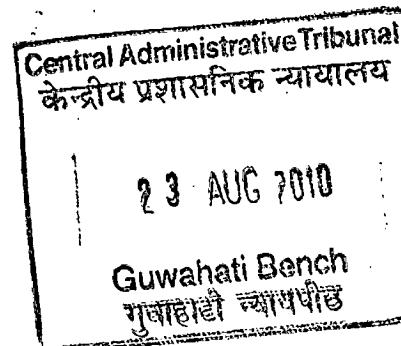
NAVODAYA VIDYALAYA SAMITI
(An Autonomous Organisation under Ministry of HRD)
Dept. of Education, Govt. of India
REGIONAL OFFICE SHILLONG, TEMPLE ROAD, BARIK POINT
LACHUMIERE, SHILLONG - 793001

F.No 13-22/NVS(SHR)/Admn/ 1917

Dated : 11th August 2010

To

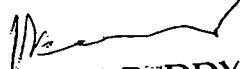
Ms. Babita Mahanta
Librarian
JNV Ri-Bhoi distt.
Meghalaya



Madam,

In response to the Hon'ble CAT, Guwahati Bench proposal/suggestion dated 06.08.2010, you are hereby directed to apply for leave of any kind due for the entire period of your absence from duty i.e., from 23.09.07 to 13.01.08. The application fully filled in prescribed format forwarded by the Principal should reach the undersigned immediately so as to regularize the above period of absence.

Yours faithfully,


(V.V. REDDY)
DEPUTY COMMISSIONER I/C

Copy to :-

The Principal, JNV Niangbari, Ri-Bhoi for information and necessary action.

Certified to be true Copy


Rakhee Srautia Chowdhury
ADVOCATE