

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
AHMEDABAD BENCH

**O.A.NO.** 407/1992

**~~TAX~~NO.**

DATE OF DECISION 30.06.99

Smt. P.A. Shah Petitioner

Mr. J.J. Yagnik Advocate for the Petitioner [s]

Versus

Union of India & Ors. Respondent

Mr. B.N. Doctor Advocate for the Respondent [s]

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The Hon'ble Mr. V. Ramakrishnan : Vice Chairman

The Hon'ble Mr. A.S. Sanghavi : Member (J)

**JUDGMENT**

- 1, Whether Reporters of Local papers may be allowed to see the Judgment ?
- 2, To be referred to the Reporter or not ?
- 3, Whether their Lordships wish to see the fair copy of the Judgment ?
- 4, Whether it needs to be circulated to other Benches of the Tribunal ?

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Smt. P.A. Shah,  
Accounts Assistant 'A',  
Space Application Centre,  
Jodhpur Tekra,  
Ahmedabad.

— Applicant —

(Advocate : Mr. J.J. Yagnik)

Vs.

1. Union of India  
(to be served through the  
Secretary, Department of  
Space, New Delhi.)
2. The Director,  
Indian Space Research  
Organisation, S A C,  
Ahmedabad.
3. Shri. M.M. Shah,  
Or his successor on office,  
Controller, ISRO, S A C,  
Ahmedabad - 380 053.

— Respondents —

(Advocate : Mr. B.N. Doctor)

**ORAL ORDER**  
**O.A/407/1992**

**Date : 30.06.99**

Per Hon'ble Shri. V. Ramakrishnan : Vice Chairman.

Mr. Yagnik is not present. He has not been present on number of occasions. We proceed to dispose of the O.A with the assistance we have received from Mr. Doctor and on the basis of materials on record.

2. The applicant an employee in the Indian Space Research Organisation has challenged the order dated 22.11.91 issued by the disciplinary authority removing her from service<sup>s</sup> and the orders of the appellate authority dated 25.03.92 rejecting the appeal. The applicant had proceeded on maternity leave from 22.07.85 to 19.10.85 and had subsequently extended leave up to 08.04.86. According to the respondents she had been unauthorisely absent from duty from 09.04.86 onwards and she was accordingly served with a charge sheet <sup>and</sup> after conducting inquiry, The applicant was inflicted with the penalty of removal from service by order dated 20.11.87 which was confirmed by the appellate authority by order dated 25.01.88. She had challenged these orders before this Tribunal in O.A 265/88. The Tribunal while disposing of this O.A noted that she had not received a copy of the Inquiry Report and the penalty was set-aside but this Tribunal gave liberty to the respondents to proceed against the applicant from the stage of furnishing the Inquiry Report to her. In compliance with ~~their~~ orders, the department proceeded to continue the departmental proceedings from the stage of furnishing of the Inquiry Report to her, after giving a copy of the Inquiry Report. The applicant submitted her reply, but the disciplinary authority, passed an order dated 22.11.91 as at Annexure A-6 holding that the charge against the applicant had been established and imposed the penalty of removal from service and an appeal filed against this order was

also rejected by the appellate authority by its order dated 25.03.92. A number of grounds have been urged in support of this O.A. It is contended that she was on authorised leave up to 08.04.86 and that she sent a communication seeking extension of leave from 09.04.86 onwards. It is also submitted that the penalty of removal from service is extremely harsh and it is also submitted that the whole inquiry report is based on no evidence. It is also contended that some documents which were called for by the applicant were not given to her.

3. We find from the perusal of the Inquiry Report in the <sup>file</sup> orders that these contentions have been gone into. It is seen that she was on authorised leave up to 08.04.86 but did not report for duty on 09.04.86. A telegram was sent to her on 07.10.86 directing her to join duty. Instead of reporting for duty she had asked for leave without pay for 90 days from 06.10.86 to 03.01.87, which was not granted by the competent authority. As regards her contention, she asked for leave from 09.04.86 the respondents denied such a stand and submit that she had neither applied for leave nor explained the reasons for her absence. She was also given an opportunity to show / produce any evidence in support of her contention that she had sent a leave application for extension of leave beyond 08.04.86 but she did not do so.

4. Regarding the contention that she asked for certain documents which were not supplied to her, the Inquiry Officer did not rely on these documents and there was no need to furnish the same. It is also brought out that during

the inquiry she never asked for the documents nor did she raise any objection in this regard at the relevant time. In other words she never raised the issue of non-supply of documents either at the time of furnishing a defense statement or what is more during the course of the inquiry and asked for the same only after the inquiry was completed. In the O.A, a few court decisions have been referred to and the respondents have brought out that they are not relevant in respect of the present case and the facts in this case are clearly distinguishable.


5. As regards the stand that the penalty is excessive, it is now well settled that it is for the respondents to go into the quantum of punishment and unless it is grossly dis-proportionate which would shock the conscience of the Court, the Court cannot interfere. In the present case the respondents on the basis of materials before them had come to a finding that she was un-authorisely absent for a very long period and inflicted the penalty of removal from service. In our view it is not a case where the Tribunal can interfere with the quantum of punishment. If the applicant had in fact sought for lesser punishment, she could have approached the revision authority which she had not done.

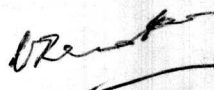
6. There is also a reference to the case of A.N. Sivasankaran Vs. The Divisional Officer Engineering & Ors ATR 1992 (1) C.A.T. 376 where the Frankulam Bench of this Tribunal had brought out that removal from service

is not the penalty which is in <sup>justified</sup> justification for <sup>absence</sup> removal from duty. The scope of <sup>judicial</sup> review in such matters is now well settled in accordance with law laid down by the Hon'ble Supreme Court. We find from the materials that the inquiry officer had given his findings on the basis of materials available and after giving due opportunity to the applicant to state her case. The disciplinary authority and the appellate authority had also given a detailed order in support of their decision. The finding of the Inquiry authority or the decision of the disciplinary authority and the appellate authority cannot in any way be regarded as perverse as they have proceeded on the basis of the materials before them and after due application of mind and after taking into account the contentions raised by the applicant had come to the finding / decision.

7. In the light of this position brought out, we hold that it is not a fit case to warrant interference by the Tribunal.

8. The O.A is dismissed with no orders as to costs.

  
(A.S. Sanghavi)  
Member (J)

  
(V. Ramakrishnan)  
Vice Chairman

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