

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No. 448 OF 2004

Monday, this the 31st day of October, 2005.

CORAM :

HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER
HON'BLE MR.N.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

K.Thankachan
Heavy Vehicle Driver, VSSC, ISRO, PO,
Thiruvananthapuram
Residing at : Meledath, Nehru Junction
Kazhakoottam

: Applicant

(By Advocate Mr. Sasidharan Chempazhanthiyil)

Versus

1. Head, Personnel and General Administration
VSSC, ISRO, PO, Thiruvananthapuram
2. Administrative Officer-II (PER)Enquiry Officer, VSSC
ISRO PO, Thiruvananthapuram
3. Director, VSSC, ISRO PO.
Thiruvananthapuram
4. Union of India represented by its Secretary
Department of Space, Bangalore

: Respondents

[By Advocate Mr. T.P.M.Ibrahim Khan, SCGSC)

The application having been heard on 31.10.2005 the Tribunal on the same day delivered the following:

O R D E R (Oral)

HON'BLE Mr. K.V.SACHIDANANDAN, JUDICIAL MEMBER

The applicant was charge sheeted for alleged misconduct and he was found guilty in one of the two charges and imposed a penalty of withholding of one increment for a period of one year without cumulative effect. The 3rd respondent dismissed the appeal of the applicant in exercise of his revisional powers. The charges were intoxication and disorderly behaviour. Aggrieved by the said impugned orders, the applicant has filed this O.A seeking the following main reliefs:-

- i. Call for the records and quash Annexures A-3 and A-5.
- ii. Direct the 1st and 3rd respondent to consider the promotion of the applicant if otherwise eligible.

2. The respondents have filed a detailed reply statement contending that the disciplinary proceedings were initiated strictly in accordance with the rules and the applicant was given sufficient opportunities to defend the case. The defence assistant was assisting the applicant throughout. On enquiry the article of charge – I was partially proved and article of charge -II was not proved. Accordingly, a minor penalty of withholding of one increment for a period of one year without cumulative effect was imposed on the applicant which was upheld by the Appellate Authority.

3. Mr. Sasidharan Chempazhanthiyil, learned counsel appeared for the applicant and Mr. T.P.M.Ibrahim Khan, SCGSC appeared for the respondents.

4. The learned counsel for applicant submitted that the co-delinquent employee who has been charge sheeted has been exonerated from the charges and therefore, he is also entitled to get the reliefs. No enquiry was conducted against him and the charges were dropped. The learned counsel for the respondents on the other hand submitted that the co-delinquent employee was issued with a memo and the applicant has been punished on the basis of the enquiry. There cannot be different yardstick for imposing punishment for the same offence on different delinquent.

5. We have given due consideration to the arguments advanced by the learned counsel on both sides. It is an admitted fact that co-delinquent employee who was also involved in the incident and the alleged mis conduct was issued with a memo only, but he was not charge sheeted. No enquiry was also conducted against the delinquent employee. The respondents has chosen to proceed only against the applicant in which the article of charge – II was not proved . Article of charge – I was proved partially and he was given the aforesaid punishment. Considering the submission that the co-delinquent employee has been exonerated

from the charges, the applicant should also get the same benefit, as held by the Hon'ble Supreme Court in 2002 (2) SC SLJ 60 : JT 2001 (Suppl.1) SC 44 State of UP Vs. Rajpal Singh In the said case, it was declared that " if there are more than one delinquent against whom the same charges have framed different punishment cannot be imposed against each of them." and in such circumstances, the other employee cannot be subjected to any punishment.

6. In the conspectus of facts and circumstances and in the light of what has been stated above, the applicant has made out a good case in his favour. The impugned orders Annexures A-3 and A-5 are set aside and we direct the respondents to grant all consequential benefits.

7. The O.A is allowed as above. No order as to costs.

Dated, the 31st October, 2005.



N.RAMAKRISHNAN
ADMINISTRATIVE MEMBER



K.V.SACHIDANANDAN
JUDICIAL MEMBER

vs