

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 529 of 2004

Friday....., this the 26th day of July, 2007

C O R A M :

HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

Dr. V.R. Sanalkumar,
S/o. V.M. Raghava Panicker,
Scientist/Engineer,
Propulsion Group, VSSC, Trivandrum,
Residing at Kumara Sadanam,
Kumarapuram, Medical College P.O.,
Trivandrum - 11.

... Applicant.

(By Advocate Mr. T.C. Govindaswamy)

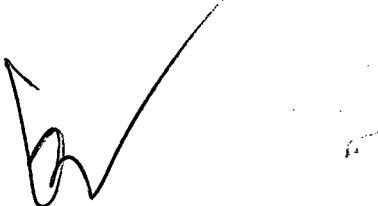
V e r s u s

1. Union of India represented by
The Secretary, Department of Space,
Bangalore.
2. Chairman,
Indian Space Research Organisation,
Bangalore - 94.
3. Director,
Vikram Sarabhai Space Centre,
Trivandrum.
4. Head, HTR,
Vikram Sarabhai Space Centre,
Trivandrum. ... Respondents.

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

O R D E R
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

The short point for consideration is as to whether the applicant is entitled to the sabbatical leave applied for, for prosecuting his higher studies abroad.



2. The facts capsule as per the OA:

(a) The applicant was employed as scientist in the respondent's organization and in October, 2002 he had applied for the award of KOSEF Post Doctoral Fellowship through proper channel. While the same was pending, he got an invitation from the President of Andog National University for pursuing his studies in their laboratory. This was approved by the respondents. Applicant applied for sabbatical leave. Pending finalization of the same, he moved to South Korea. The leave asked for was rejected and there has been a disciplinary proceeding pending against the applicant on this and other charges emanating from the same transaction.

(b) In January 2004 the applicant joined duties. By the Indian National Science Academy he was sponsored for the KOSEF Scholarship. Annexure A1 refers. The schedule of the course is for a duration of one year from 15th January, 2004 to 15th January, 2005. The applicant applied for sabbatical leave. As there was no immediate response, he moved OA No. 150/2004 with the prayer that the respondents be directed to dispose of the application for sabbatical leave. When the case came up for consideration, by then, his leave application was considered and rejected, vide order dated 09-03-2004 (Annexure A-2) and consequently the OA became infructuous. Order dated 18-03-2004 at Annexure A-3 refers.

(c) The applicant had moved another application dated 19-05-2004, for reconsideration and an advance copy was forwarded to the Chairman, ISRO vide Annexure A-4. By Annexure A-5 order dated 14-06-2004 the same was rejected. Meanwhile the applicant joined the course. It is against Annexure A-2 order and Annexure A-5 order that the applicant has come up in this O.A.

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3. The contention of the respondents as contained in the reply are as under:-

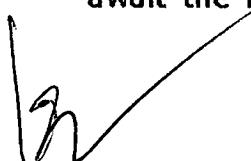
(a) Applicant had joined the respondents on 15-01-1992 as Scientist/Engineer SC. He had applied for Korea Science and Engineering Foundation Scholarship during October, 2002. He had, through a leave application dated 18-07-2003 requested the Chairman, ISRO to depute or grant him eligible leave for a period from 25-08-2003 to 24-08-2004 for carrying out Post Doctoral Research work at Andong National University, South Korea. The applicant had applied for earned leave from 21-08-2003 to 29-08-2003 on personal grounds. He was expected to resume duties again on 01-09-2003. Applicant failed to turn up. Communication dated 25-08-2003 rejecting his leave application sent to the applicant's address returned unclaimed with the endorsement "addressee left India". On 01-09-2003 the applicant sent an e-mail from South Korea stating that he had reached South Korea and on 2nd September, 2003 he had through email sent an application for grant of leave for 89 days from 01-09-2003 to 28-11-2003. This was rejected and the applicant communicated through order dated 05-09-2003 and also he was directed to resume duties on or before 11-09-2003. This communication was also returned undelivered by the Postal Authorities, stating "Absent", as the leave had been rejected. By his absence without due sanction by the competent authority the applicant himself courted disciplinary proceedings for his unauthorized absence from 01-09-2003 and for certain other charges in connection with the activities of the applicant proximately close to his studies. This memorandum was not received by the applicant, as the postal authorities had returned the same stating, "absent. Addressee left India". No prior permission was obtained by the applicant before or while undergoing the educational course. His leaving India was also not with any due permission from the competent authority. On his resuming the duties on 23-01-2004, the applicant was handed over the charge sheet for his unauthorized absence. Applicant submitted a

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representation dated 29-01-2004 and on his replying to the same the competent authority not being satisfied with the explanation chose to hold a departmental inquiry. The Chairman, ISRO had on 14-06-2004 communicated to the applicant that the earlier decision of rejection of leave vide order dated 9-03-2004 holds good. Annexure R-2 refers.

4. Applicant has filed his rejoinder in which he has reiterated his stand taken. Additional reply to the rejoinder has also been filed. Arguments were advanced and liberty to file written submissions was also granted. However, no written submission had been filed by either party.

5. Arguments were heard and documents perused. The applicant had earlier proceeded to prosecute his studies at Andong National University, South Korea. For this he did not seek any prior permission and as to his application for leave, he did not choose to wait to ascertain whether the leave was granted or not. He applied for earned leave just for 21-08-2003 to 29-8-2003. He had got given any inkling in the leave application that he would be moving out of India to prosecute his studies. Leave applied was on personal grounds. He did not obtain any prior permission to visit a foreign country. In reply to his application through e-mail sent on 2nd March, 2003, the respondents also through e mail responded to him stating that his leave application had been rejected. Failure to return to duty compelled the respondents to issue charge4 Memo dated 19-12-2003 against the applicant. It was this charge sheet which was said to be under progress. As regards rejection of leave for one year, here again, the applicant had not chosen to await the result. If there be no time, the applicant could have interacted

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with the authorities before leaving the country.

6. Leave rules are specific. Some salient features are as under:-

" **a.** Study Leave may be granted to a Government servant, with due regard to the exigencies of public service, to enable him/her to undergo, in or out of India, a special course of study or training having a direct and close connection with the subject with which DOS/ISRO is concerned.

b. Study Leave may also be granted :

(i) for research, or a course of training or study tour in which a Government servant may not attend a regular academic or semi-academic course, if the course of training or the study tour is certified by Chairman, ISRO/ Director of the Centre/Chief Engineer, CED, as having a definite advantage to DOS/ISRO from the point of view of public interest and is related to the sphere of duties of Government servant.

(ii) for the purpose of studies connected with the frame work or background of public administration subject to the conditions that the particular study or study tour should be approved by the authority competent to grant leave and the Government servant should be required to submit on his/her return, a full report on the work done by him/her while on duty leave.

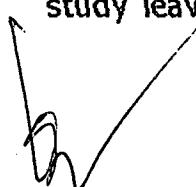
c. Study Leave shall not be granted unless it is certified by the authority competent to grant leave that the proposed course of study or training shall be of definite advantage to DOS/ISRO from the point of view of public interest.

d. In exceptional cases, Scientists/Engineers may be granted Study Leave for prosecuting a course of study for obtaining a Doctorate or similar qualification on a research thesis subject to the condition that the subject of research, the duration of the leave and the Institution at which such research is to be undertaken are approved by Chairman, ISRO.

*Clarification : Approval of Chairman, ISRO is required to be obtained before permitting the employees to prosecute such courses of study irrespective of the fact that the study leave is requested or not.

(DO letter No.3/1(1)90-I dated 24th February, 1992)

e. Other specialists or technical persons may also be granted study leave, on merits of each case, for prosecuting a course of



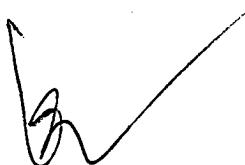
study directly related to the sphere of his/her duty, in case Chairman, ISRO/Director of the Centre/Department of Space certifies that the course of study shall enable the persons to keep abreast of modern developments in the field of his/her duty, improve his/her technical standards and competence and thus substantially benefit the Department.

f. In respect of grant of study leave outside India, the Department of Economic Affairs of the Ministry of Finance should agree to release foreign exchange involved in the grant of study leave, before such leave is sanctioned.

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7. The applicant is well qualified and he must be aware of the rule position. Leave cannot be granted as of right. Again, the applicant had not applied at any stage either for permission to prosecute the studies, or for leaving the country and he starts blaming that the second respondent failed in his responsibilities inasmuch as he had not forwarded the application for leave to Chairman ISRO. In fact advance copy had been sent and this is sufficient to deal with the case by the Chairman ISRO. In fact the Chairman, ISRO did act on the basis of the advance copy and rejected the leave application. That Annexure R-3 was not served upon the applicant through the sources known to law and copy was made available only with the counter etc., does not improve the case of the applicant. The applicant nowhere stated that his further studies would facilitate ISRO in the specialized field or in administration. He had casually mentioned in his communication dated 28-01-2004 that his attempt is "for the interest of the country".

8. The applicant has thoroughly failed to make out any case in his favour. The **OA is therefore, dismissed.** As prayed for by the respondents that the OA be dismissed with costs, the applicant must be saddled with cost.



.7.

However, the polite and sober presentation of the case by the counsel for the applicant dissuades me from imposing deterrent cost. Hence, no costs.

Dated, the 20th July, 2007)



Dr. K B S RAJAN
JUDICIAL MEMBER

CVR.