

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No. 536 of 1994

Wednesday this the 8th day of March, 1995.

CORAM

HON'BLE MR. JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN

HON'BLE MR. S.P. BISWAS, ADMINISTRATIVE MEMBER

Bony Lopez,
Helen Cottage,
Pallithura Post,
Trivandrum.

... Applicant

(By Advocates M/s Panicker & Panicker)

Vs.

1. Union of India represented
by the Secretary,
Department of Space,
New Delhi.

2. Head PGA,
Vikram Sarabhai Space Centre,
Trivandrum (Disciplinary authority)

3. Controller, VSSC, Trivandrum
(Appellate Authority).

4. Director, VSSR, ISRO
Trivandrum (Revised Appellate
Authority).

... Respondents

(By Advocate Ms. Nandini for CN Radhakrishnan)

O R D E R

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN

Applicant challenges the finding of guilt
concurrently made by three authorities - disciplinary
authority, appellate authority and reviewing authority.
The charge found against him was that he had absented
himself unauthorisedly on six occasions. According to

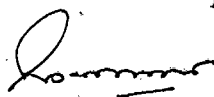
applicant he had sent leave letters and such leave letters were purposely withheld by P.C.Abraham and P.G.M.Chettiar. He would submit further that he was prejudiced in the enquiry, as Abraham and Chettiar were not examined, as desired by him.

2. We have been taken through the record of proceedings and we find that the contentions raised are a far cry from the truth. Abraham and Chettiar were summoned as desired by applicant. They were present on 10.12.87. On that day applicant submitted that he did not wish to examine them. This is noticed in A8 and A5. The case of applicant that he was sick and that he had sent leave letters was disbelieved by the authorities on facts. Respondents noticed that while his case was that he was undergoing treatment at Meenamkulam he had produced a certificate from a doctor at Malayinkil. It was on proper consideration of the facts that the authorities below found the charge. They noticed further that applicant had made a habit of absenting himself without leave, and that imposition of penalties earlier did not bring about any change in his style of functioning. In the circumstances it has to be held that the findings of fact are unassailable. Even assuming we come to a different conclusion of facts - and there are hardly any sets of fact which do not yield two inferences - that will be no ground to upset the findings made by an administrative authority in judicial review, which is not directed against the decision but only against the decision making process.

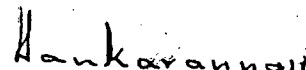
3. Notwithstanding this, learned counsel for applicant submitted that the question of punishment may be reconsidered. We find that there is no pointed consideration regarding the question of punishment in A5. While upholding the findings, for the limited purpose of considering whether the punishment of removal should be substituted with a punishment of compulsory retirement and only for that purpose, we remit the matter to the Revisional Authority.

4. Subject to this direction, original application is dismissed. No costs.

Dated the 8th day of March, 1995.



S.P. BISWAS
ADMINISTRATIVE MEMBER



CHETTUR SANKARAN NAIR(J)
VICE CHAIRMAN

ks83

List of Annexures

1. Annexure-A5: True copy of the proceedings of the 2nd respondent Disciplinary Authority No.VSSC/DLS/DC/579/87/92/453 dt.27.3.92.
2. Annexure A8: True copy of the Order No.VSSC/DLS/DC/589/92/825 dated 18.12.1992 issued by the 4th respondent-Revising Authority.