

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 590 of 2012

THURSDAY, this the 22nd day of May, 2014

C O R A M :

**HON'BLE Mr. JUSTICE A.K. BASHEER, JUDICIAL MEMBER
HON'BLE Mr. P.K. BASU, ADMINISTRATIVE MEMBER**

Mrs. Pylaja Stephen (Staff No. 24592),
Senior Assistant, Central Stores,
Purchase and Stores Division (PSD),
Vikram Sarabhai Space Centre,
ISRO P.O., Trivandrum : 695 022

... Applicant.

(By Advocate Mrs. Mary Benjamin)

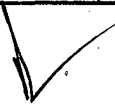
v e r s u s

1. Union of India represented by
The Secretary, Department of Space,
Government of India, New Delhi.
2. The Vikram Sarabhai Space Centre,
Represented by its Director,
Indian Space Research Organisation,
Thiruvananthapuram : 695 022
3. The Chief Controller,
Vikram Sarabhai Space Centre,
Indian Space Research Organisation,
Thiruvananthapuram : 695 022
4. The Senior Head,
Personnel & General Administration,
Vikram Sarabhai Space Centre,
Thiruvananthapuram : 695 022
5. The Senior Administrative Officer,
Establishment Section,
Vikram Sarabhai Space Centre,
Thiruvananthapuram : 695 022

... Respondents.

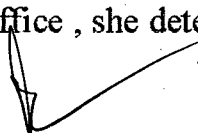
(By Advocate Mr. Sunil Jacob Jose, SCGSC)

This application having been heard on 20.05.2014, the Tribunal on
22-05-14 delivered the following :-

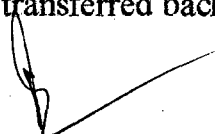


ORDER**HON'BLE Mr. P.K. BASU, ADMINISTRATIVE MEMBER**

The applicant, while posted as Senior Assistant in Material Mechanical Entity (MME) Accounts from 02.01.2009, was assigned the duties involving scrutiny/verification of the claims with medical prescription, cash bills etc, indicating the eligible amount and then submission to the Accounts Officer for passing of the bill. The claims were to be processed through the Computerised Works in Administrative Areas (COWAA) for which dealing assistants are facilitated with separate personal computers. One of the features of COWAA Programme is that each dealing hand is provided with the user ID and a separate secret password which is not to be disclosed to others. These personnel have to perform only the authorised duty with the secret password allotted to each and the work allotted to a particular employee cannot be accessible to other employees. It so happened that two of her fellow colleagues, namely Shri N. Manikantan and Smt. Pasanna Kumari entered/ created fraudulent Contributory Health Service Scheme (CHSS) claims in COWAA using COWAA ID/Password of the applicant and managed to credit Government money (Rs. 1,06,250/-) unauthorisedly to their personal SB Accounts. According to the department, this amount was drawn during the period 07.05.2008 to 22.07.2011. This means that the fraud started well before the applicant's joining in the MME Accounts. In fact, the fraud was detected on 15.07.2011 by the applicant herself, who had to go out of office to visit Colony Health Centre for her treatment and while she was away, she had asked Mr. Manikantan to help her to check the claims processed by her till she returns from the Colony Health Centre. When she returned to office, she detected a claim for Rs. 2893/- in the name of D. Prasanna Kumari, her



colleague, which had not been processed by her at all. She checked up the claim with Shri Manikantan and not getting any clear answer from him, she immediately reported to Smt. Getrude Pappachan, Senior Assistant as also the Accounts Officer. The department held separate enquiries against Smt. Prasanna Kumari and Shri Manikantan and both of them have been dismissed from service. The department issued charge memorandum dated 12.09.2011 against the applicant primarily alleging that she shared her user ID and password with others and allowed other dealing assistants to carry out her work and this laxity and negligence on her part caused the misappropriation of the Government money. She got transferred to another station vide order dated 09.12.2011. Vide order dated 30.12.2011, she was "severely warned" to be more careful and cautious in her duties and that repetition of any such acts on her part will be viewed seriously and appropriate action as deemed fit would be initiated against her. She filed an appeal which was rejected vide order dated 20.06.2012. A copy of the warning was also ordered to be placed in her Annual Performance Appraisal Report (APAR) dossiers. In fact, in her ACR dossier for 2011, the reviewing officer has made following entry. "..... Negligence in work led to "warning" later." The applicant filed a representation for modification of the entries/grading recorded in the APAR for the year 2011, which was rejected vide order dated 17.05.2012. Being aggrieved by the charge memorandum dated 12.09.2011, transfer order dated 09.12.2011, punishment order dated 30.12.2011 and the Appellate order dated 20.06.2012, the applicant has filed this O.A praying for quashing of all four orders as well as the adverse entries recorded in the ACR for the year 2011 and the rejection order dated 17.05.2012. She has also prayed that she be transferred back as Material Mechanical Entity (MME) Accounts.




2. The case of the applicant is that when she joined the MME Accounts, the practice was that whenever a particular dealing assistant was on leave, as directed by the Accounts Officer, that particular person's work was done on a shared basis by other staff present in the Section. This practice is followed to ensure that the medical reimbursement work in the section do not suffer in the absence of the concerned staff on leave. It is stated that when she joined the post on 02.01.2009, she was using the user ID and password of the previous incumbent of the post and she was issued user ID/password much later on 20.04.2009. In this regard, she submitted photo copy of COWAA backed Corrections Request Format (COWCRF02) dated 20.04.2009 in which there is a note as follows :

“Note : Now Smt. Pylaja Stephen, 24592 is passing the bills. So her ID may be activated for doing medical bill/bills/T/LTC & cheques”.

According to her, she had not disclosed/passed on the password to anyone, but she was using the ID and password of the earlier incumbent of the post and hence cannot be blamed. Moreover, it is stated that in the original memorandum dated 12.09.2011, the period of fraud is mentioned as commencing from 07.05.2008, i.e. much before she had joined the post. Therefore, it cannot be said that she has done something new by using the user ID and password of another employee who was in her post before her. The applicant also emphasised that it was she who detected the fraud as would be clear from the punishment order dated 30.12.2011, in which it has been stated that “..... considering her role in detecting the fraudulent misappropriation and exposing the same and there are no malafides on her side.....” In fact, the Head of Accounts/IFA(P), one Mr. Sreenathan, while forwarding applicant's explanation has also recorded as follows :

“To conclude, it is felt that there is no direct or indirect involvement on the part of Smt. Pylaja Stephen in the misappropriation case. In fact, she

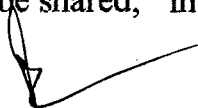


was instrumental in reporting of the fake medical claims generated by Shri Manikantan to the Accounts Officer who in turn brought this incident to my notice which led to unearthing of the whole incident”


It is also argued that had the warning not been issued, she would not have been transferred. Also, there would have been no adverse entry in the APAR for the year 2011. The applicant prayed that while she detected the fraud, instead of commending her action, the department chose to issue severe warning to her and made adverse entry in her APAR, which would be a permanent blot in her entire career and in these circumstances, it is prayed by her that the punishment order and the adverse entry made in the APAR need to be quashed.

3. The respondents in their counter have stated that the fraud could take place because the applicant involved Shri Manikantan in her work and shared her password which she was not supposed to do and, therefore, though she is not involved in this fraud, her negligence in not following the protocol helped Shri Manikantan and Smt. Prasanna Kumari to commit the fraud and the department, taking a lenient view has only issued a 'warning' to the applicant. As a lapse had taken place on her part, the “warning” was perfectly in order and that order should not be interfered with.

4. We have gone through the documents including the file No. VSSC/DLS/DC/GEN/2011 of the Vikram Sarabhai Space Centre, pertaining to the case of the applicant. It seems that there was a practice of the employees helping each other out in their work to ensure that the medical claims are not kept pending. Since the fraud had started prior to applicant's joining, it appears that this practice had been going on. Though strictly as per protocol, the user ID and password were not to be shared, in an office situation, it is not uncommon for the employees to trust each



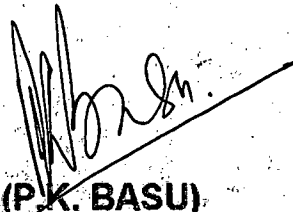
other and share their work and it seems to have been the practice in the MME Accounts as well. In fact, the applicant had shown extreme sincerity and alertness in detecting the fraud (generating a fake medical claim amounting to Rs. 2893/- in the name of Smt. Prasanna Kumari) made by Shri Manikantan in a short time when she was away from the office and bringing it immediately to the notice of her superior, which helped the department to know of such fraud, which was going on for the last several years. As has been mentioned above, the Head of Accounts/IFA(P), Shri Sreenathan also acknowledged that the applicant was instrumental in reporting of the fake medical claims generated by Shri Manikantan to the Accounts Officer and this fact has been acknowledged even in the memorandum dated 30.12.2011. In this background, we feel that the respondent has been very unfair to the applicant in issuing her a "severe warning", entering this warning in the APAR and transferring her out. Certainly we agree with the applicant that this adverse entry in the APAR and the warning issued to her would be a blot throughout her career and definitely affect her in visible as well as invisible ways in future. Any 'clever' employee, instead of being honest and forthright, would have taken the stand that there was a "buzz" in the office about Shri Manikantan and Smt. Prasanna Kumari being involved in some misdeeds and, therefore, to catch them red handed she (the applicant) had laid a 'trap' for them on 15.07.2011 by asking Shri Manikantan to handle her work and caught him indulging in the fraud! The department would have rewarded her perhaps. But her truthfulness got her into trouble. That she is a sincere employee would also be evident from the APAR for the year 2009 submitted by the applicant where she has been graded "AA-", i.e. "tending to outstanding". It is only due to her sincerity and alertness that the fraud could be detected as a result of which two delinquent employees could be dismissed from service. We, therefore, are of the view that the



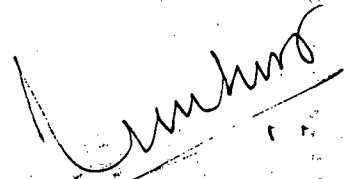
punishment of "severe warning" is wholly unjustified and cannot be sustained. Therefore, the memorandums dated 12.09.2011 (Annexure A-I), 30.12.2011 (Annexure A-IV) and 20.06.2012 (Annexure A-VI) are quashed and set aside. We also quash the order dated 17.05.2012 (Annexure A-IX) and direct the respondents to review its decision on the representation of the applicant for deletion of the adverse entry recorded in her APAR for the year 2011 in view of our order above. Since the applicant has been transferred way back in December, 2011 and transfer is not a punishment as well as her place of posting has not been disturbed, we would not like to interfere with the transfer order dated 09.12.2011 (Annexure A-III).

5. The O.A is allowed in the above terms. No order as to costs.

(Dated, the 22nd May, 2014)



(P.K. BASU)
ADMINISTRATIVE MEMBER



(JUSTICE A.K. BASHEER)
JUDICIAL MEMBER

cvr.