

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No. 216/ 2005

Friday, this the 2nd day of September, 2005.

CORAM :

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

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| <p>1. Isha Beevi
Residing at : Navasudhi Manzil
Poozhanadu P.O. (Via) Neyyattinkara</p> <p>2. A.Mohammed Kannu
Residing at : Navasudhi Manzil
Poozhanadu P.O. (Via) Neyyattinkara</p> | : Applicants |
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(By Advocate Mr.Sasidharan Chempazhanthiyil)

Versus

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| <p>1. Administrative Officer-II (Estt)
VSSC, ISRO P.O.
Thiruvananthapuram - 22.</p> <p>2. Director
VSSC, ISRO P.O.
Thiruvananthapuram - 22</p> <p>3. Union of India represented by its
Secretary, Department of Space
Bangalore</p> | : Respondents |
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(By Advocate Mr. C.N.Radhakrishnan)

The application having been heard on 02.09.2005, the Tribunal on the same day delivered the following :

ORDER (Oral)

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

The averment in the OA are that the 2nd applicant was removed from service after an ex-parte enquiry for alleged unauthorised absence from 15.02.1995. Because of his mental illness, the 2nd applicant left the house and was wandering from place to place. This fact was not considered by the disciplinary authority or by the appellate authority while dismissing his appeal on 24.01.1998. The first applicant made Annexure A-11 representation dated

25.02.2002 to the third respondent explaining the entire position. But no reply has been received. The Provident Fund and other amounts due to applicant are yet to be paid. Aggrieved, the applicant has filed this O.A seeking the following reliefs:-

- i. Call for the records and quash Annexure A-8.
- ii. Declare that the removal of the 2nd applicant pursuant to the disciplinary proceedings as evidenced by Annexure A-4 is illegal and direct the respondents to reconsider the case of the 2nd applicant in the light of provisions in the persons with Disabilities (Equal opportunities etc.) Act, 1955.

Direct the 1st respondent to furnish copy of the enquiry report leading to the removal of the 2nd applicant to the 1st applicant.

Direct the first respondent to settle the amount due to the 2nd applicant including his Provident Fund at once.

2. When the matter came up for hearing, the learned counsel for the applicants submitted that the mental illness of the dismissed employee was not considered either by the disciplinary authority or the appellate authority and the provisions contained in The Persons with Disabilities (Equal Opportunities etc.) Act, 1995 was also ignored while passing the impugned order. He contended that the impugned order Annexure A-8 dated 24.09.1998 was passed without due application of mind. It was further urged that A-11 representation submitted by the 1st applicant is pending with the 3rd respondent and the applicant will be satisfied if a direction is issued to him to consider the facts.

3. We have heard Mr. Vishnu Chempazhanthiyil, learned counsel for the applicants and Mr. C.N. Radhakrishnan, learned counsel for respondents.

4. The learned counsel for respondents submitted that they have not received A-11 representation (Appeal) and as per Section 21 (ii) of the Department of Space Employees' (Classification, Control and Appeal) Rules, 1976, if a comprehensive representation is preferred alongwith Annexure A-11 to the concerned authorities by a direction of this Tribunal there is no

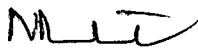
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objection in considering the representation.

5. In the interest of justice, we direct the applicants to forward a copy of Annexure A-11 alongwith a comprehensive representation within one month which will be treated as an appeal filed by the applicant in time and the 3rd respondent or any competent authority shall consider the same and pass a speaking order within three months from the date of receipt of a copy of this order with an opportunity to the applicant of being heard.

6. The O.A is disposed of as above. In the circumstances no order as to costs.

Dated, the 2nd September, 2005



N. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



K.V.SACHIDANANDAN
JUDICIAL MEMBER

VS