

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No. 372/97

Thursday, this the 14th day of October, 1999.

CORAM:

HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

HON'BLE MR G RAMAKRISHNAN, ADMINISTRATIVE MEMBER

A. Gopalakrishnan,
S/o. Achuthan,
Driver (Compulsory Retired),
Vikram Sarabhai Space Centre,
Trivandrum, residing at:
Velan Vila House, Thinavila,
Keezhattingal P.O., Attingal.

...Applicant

By Advocate Mr. M. Rajagopal

Vs.

1. Head P.G.A.,
Vikram Sarabhai Space Centre,
Trivandrum.
2. Controller, V.S.S.C.,
Trivandrum.
3. Director,
Department of Space,
New Delhi.
4. Director,
Vikram Sarabhai Space Centre,
Thumba.

...Respondents

By Advocate Mr. C.N. Radhakrishnan

The application having been heard on 14.10.99, the
Tribunal on the same day delivered the following:

ORDER

HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

Applicant seeks to quash A-7 and A-9 and reinstate him
in service with all consequential benefits.

2. The applicant while working under the respondents was
proceeded under Rule 11 of the Department of Space Employees
(Classification, Control & Appeal) Rules, 1976. He was
found guilty by the disciplinary authority and was awarded
the punishment of compulsory retirement. He preferred an

appeal and the same was dismissed.

3. The ground urged in this O.A. for setting aside A-7, the order of the disciplinary authority imposing punishment and also A-9, the order of the appellate authority dismissing the appeal is that this is a case of 'no evidence'.

4. 'No evidence' does not mean only total lack of evidence but where evidence taken as a whole, no reasonable man can come to that conclusion on that evidence in a departmental proceeding. It is enough that there is some evidence.

5. The learned counsel appearing for the applicant drew our attention to the fact that the applicant was acquitted by the Criminal Court. It is seen from R-2, the judgement in C.C. 383/90 before the Judicial I Class Magistrate's Court, Neamangad, that the applicant's acquittal was only on the ground that the prosecution failed to prove the charge against the accused beyond doubt. As far as the criminal case is concerned, it is the duty of the prosecution to prove the guilt of the accused beyond reasonable doubt. In a disciplinary proceeding, that standard of proof is not required and can find the delinquent Government Servant guilty based on preponderance of probabilities. The fact that the applicant has been acquitted by the Criminal Court by itself cannot be a ground for finding him not guilty in the departmental proceedings.

6. The applicant says that the departmental authorities have mainly relied upon the evidence rendered by PW1, for the purpose of finding him guilty in the departmental proceedings and that the said PW1 has turned hostile in the criminal case. The fact that he has turned hostile before the Criminal Court by itself cannot lead to the conclusion that

his evidence before the disciplinary authority cannot be relied upon or acted upon. What prompted PW1 to turn hostile before the Criminal Court is not known. If on cross-examination of PW1 by the delinquent Government Servant in the disciplinary enquiry, if it was brought out that he is an unreliable witness, then that would have been a different case. The case of the applicant herein is not that on cross-examination of PW1 in the disciplinary proceedings, it has been brought out that he is an unreliable witness. We are not sitting here in appeal reappreciating the evidence adduced before the disciplinary authority.

7. As already stated, it is enough if there is some evidence in support of the finding arrived at by the disciplinary authority. It cannot be said here that this is a case of no evidence or to put it differently that no reasonable man, where the evidence is taken as a whole, could come to that conclusion on that evidence.
8. Since the only ground is that there is 'no evidence' and the same cannot be accepted, the O.A. is devoid of merits.
9. The learned counsel appearing for the respondents drew our attention to Rule 3 of CCS Conduct Rules wherein it is stated that every Government Servant shall at all times do nothing which is unbecoming of a Government Servant and shall maintain devotion to duty and also submitted that charges were framed for violation of devotion to duty and also doing something which is unbecoming of a Government Servant. The learned counsel for the respondents also drew our attention to the instructions of Government of India 25 in Swamy's Compilation (1993 edition at Page No.26) wherein it is stated that an act or conduct of a servant, if he is habitually negligent in respect of his duties for which he is engaged and if the neglect though isolated tends

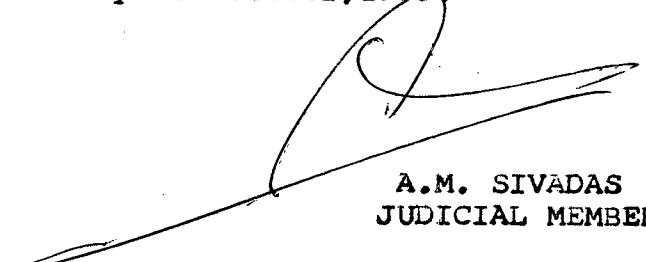
to cause serious consequences will amount to misconduct. It is the specific case of the respondents herein that the accident which has led to awarding punishment as per A-7 and confirming the same as per A-9, had the very serious impact of ending the life of a Senior Scientist working under the respondents. The accident has caused a very serious consequence.

10. We do not find any merit in this O.A. and accordingly, the O.A. is dismissed. No costs.

Dated this the 14th day of October, 1999.


G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

NV
151099


A.M. SIVADAS
JUDICIAL MEMBER

LIST OF ANNEXURES REFERRED TO IN THIS ORDER

1. Annexure A-7:

True copy of the Order No. VSSC/DLS/DC/654/91/95/68 dated 9.2.96 issued by the 1st respondent.

2. Annexure A-9:

True copy of the Order No. VSSC/DLS/DC/654/96/284 dated 17.7.1996 issued by the 2nd respondent.

3. Annexure R-2:

A copy of judgement dated 30.7.93 in Criminal Case No. 383/90 of the Judicial I Class Magistrate Court, Nedumangad.