

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE SEVENTEENTH SEPTEMBER, 1986

Present: Justice K.S.Puttaswamy

Vice-Chairman

Shri P.Srinivasan

Member(A)

Application no. 783/1986

B.K.Rajasekhar,
Major, Heavy Vehicle Driver,
ISRO Satellite Centre,
Peenya, Bangalore 562 140

... Applicant

(D.Leelakrishnan ... Advocate)

Vs.

The ISRO Satellite Centre,
Department of Space,
Government of India,
Peenya, Bangalore 562 140,
represented by its Controller

... Respondent

(D.V.Shailendra Kumar ... Advocate)

The application has come up for hearing before
Court today, Member(A) made the following:-

O R D E R

Writ Petition No. 14520 of 1981 received on
transfer from the Karnataka High Court has been taken
on file as application no. 783 of 1986 before this
Tribunal.

2. The applicant was appointed as a Light Vehicle
Driver in ISRO Satellite Centre, Bangalore on 17.11.75.
By Office Order dated 1.7.77, he was appointed as Heavy
Vehicle Driver on probation for a period of one year
which could be extended or curtailed at the discretion
of the competent authority. According to the application,

he was confirmed in the post of Heavy Vehicle Driver after completion of probation. On 7.10.1980, the Controller, Indian Space Research Organisation Satellite Centre issued a memorandum to the applicant stating that an enquiry was proposed to be held against the applicant under Rule 11 of the Department of Space Employees (CCA) Rules, 1976. Five articles of charge in respect of which the enquiry was proposed were annexed with the Memorandum. Briefly, they were:

- (I) that on 28.8.1980, around 17.50 hrs, he had stopped the bus in which he was carrying second shift personnel of ISRO for 20 minutes without justification causing inconvenience to the passengers;
- (II) that when one of the passengers, Shri M.G.Chandrasekhar enquired as to why he could not drive the bus, he gave a rude answer;
- (III) that again on the same day, he did not wear his uniform while on duty;
- (IV) & (V) that on 15.9.80, he was found carrying unauthorised passengers in the bus and, when approached by the checking squad, he tried to escape detection by driving away in the opposite direction.

On the same date as the memorandum i.e. on 7.10.1980, the Controller appointed Shri U.Vithal, Assistant Stores Officer as the Enquiry Officer to enquire into

P. S. 3

charges framed against the applicant. The applicant denied all the articles of charge in his reply dated 17.10.80. The Enquiry Officer conducted the enquiry on 17.11.80 during which the applicant was heard and witnesses examined in his presence. On completion of the enquiry, the Enquiry Officer submitted his report to the disciplinary authority. In that report, the Enquiry Officer held all the articles of charge except article I to have been proved against the applicant. Thereupon, the disciplinary authority, who is the Controller of the ISRO Satellite Centre passed an order on 3.7.81 holding the applicant "guilty of the charges framed against him vide Memorandum no. 020/1(005)/80 (688) dated October 7, 1980" and imposing "major penalty of removal from service which shall not be a disqualification for future employment under the Government under clause (viii) of the Rule 8 of the said rules." The removal from service was to take effect from the forenoon of July 3, 1981. It is this order, which appears as Annexure - F, with which the applicant is aggrieved.

3. Learned counsel for the applicant, Shri D. Leela Krishnan, strongly contended before us that the Enquiry Officer was not justified in holding Articles of charge II and III to have been proved against the applicant. Having found that the applicant was not guilty of the charge in article I, viz., that he had unreasonably stopped the bus for 20 minutes on 28.8.80, the Enquiry Officer fell into error in holding the

P. S - 18

applicant guilty of giving a rude answer to Shri M.G.Chandrasekhar when asked why he did not start the bus. The Enquiry Officer had accepted the applicant's explanation that he had stopped the bus because rain water coming into his seat through the open window on his right interfered with his driving. Having done so, he should not have held the second article of charge of rude behaviour to have been proved because the events referred to in the second article flowed out of those included in the first article. Shri Leela Krishnan also urged that the finding of the Enquiry Officer in regard to Article of charge II was vitiated as the evidence of one witness Shri M.N. Satyanarayana whose name had not been notified to the applicant earlier was taken into account in arriving at the finding. Moreover, Shri Satyanarayana's evidence related to alleged rude behaviour of the applicant on some previous occasion which could not have been taken cognisance of without having given the applicant a reasonable opportunity of explaining those past events. He referred in this connection to the decision of the Supreme Court in Manchegowda's case (AIR 1964 SC 506). So far as article of charge III was concerned, Shri Leela Krishnan pleaded that while it was true that the applicant was not wearing the official uniform while on duty on 28.8.80, this was a minor technical breach for

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which the punishment awarded was disproportionate.

Dealing with articles of charge IV and V, Shri Leela Krishnan fairly admitted that there was evidence on the basis of which the Enquiry Officer could hold the applicant guilty. However, he pleaded that the penalty of removal from service was excessive as the applicant had no earlier record of delinquency. It had not been alleged by the respondents that the applicant had derived pecuniary benefit by carrying unauthorised passengers on 15.9.80 and this was a factor which had to be taken into account when determining the penalty. He made a strong plea for a reduction in the penalty by either stopping his increments for 2 years with cumulative effect or bringing him down to the lowest stage of his pay-scale.

4. Shri D.V. Shailendra Kumar, learned counsel for the respondents, strongly opposed the case put forward for the applicant by Shri Leelakrishnan. The offence committed by the applicant which is referred to in articles of charge IV and V was very serious because the applicant should not have allowed unauthorised passengers to ride in the bus, whether he derived any monetary benefit from them or not. He compounded the offence by trying to run away when the checking squad was about to catch him red-handed, and this was a highly dishonest action on his part. It was not right, Shri Shailendra Kumar said, to

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connected with each other so that the same finding would have to be recorded against both. As regards the evidence of witness not earlier notified to the applicant and his evidence regarding the past conduct of the applicant, we agree that this should not have been taken into account when arriving at a finding in regard to Article II. However, we find that other eye witnesses notified to the applicant along with the articles of charge had been examined and they confirmed the allegation in article II before the Enquiry Officer. Not only this, the Enquiry Officer examined two other witnesses viz., Shri A.P. Chandrasekhar and Shri Raghunath who were in the bus at that time and to whom the applicant wanted reference to be made about the events that happened in the bus on 28.8.80. Both of them had stated it was not possible for them to say what happened because they were sitting in the back seat. Thus, the preponderance of evidence before the Enquiry Officer was against the applicant in regard to article of charge II and therefore, the finding of the Enquiry Officer in this regard cannot be said to be unsound. We are prepared to agree that the charge in article III that the applicant was not wearing the official uniform while on duty was only a venial offence for which the applicant could have been let off with a stern oral warning. As stated earlier, learned counsel for the applicant has admitted that the finding of the Enquiry Officer against the applicant

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opposite direction to evade detection indicate that he is a totally unreliable person. We are therefore of the view that the disciplinary authority rightly inflicted the punishment of removal from service on the applicant and we would not like to interfere with this decision.

6. For the reasons stated above, the application is dismissed but the parties will bear their own costs.

Abd. D. M. A. M. A.
Vice-Chairman

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Member (A)

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P. S. 182

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say that the applicant had no earlier record of delinquency. He was found to have carried unauthorised passengers in the bus on two earlier occasions also. His probation was extended the first time when he tendered an apology and he was censured on the second occasion. All these showed that the applicant was unrepentant and could not be expected to behave any better if he were allowed to continue in service. Therefore, any plea for reduction in the penalty on the ground that this was the first occasion that the applicant had misbehaved cannot stand. The ISRO Satellite Centre cannot afford to continue the services of such an unreliable person particularly when he was entrusted with a bus belonging to the organisation in which the personnel of the organisation had to be driven to and from their offices every day.

5. We have considered the matter very carefully. We do not agree that the finding of guilt against article II was inconsistent with the finding of not guilty in respect of article I. It is no doubt true that the conversation between Shri M.C.Chandrasekhar and the applicant which is the subject matter of article II was a sequel to the stoppage of the bus by the applicant for an unreasonably long period as alleged in article I, but the two are distinct and separate events all the same. They are not integrally and inextricably

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Abd. Rahim P. S. *17/9/86*
Vice-Chairman 17/9/86 Member (A) 17/9/86

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on articles IV and V are supported by evidence and cannot be disturbed. Even if one ignored the finding in regard to articles II and III, the charges contained in articles IV and V constitute, by themselves, grave offences. The primary responsibility of a Heavy Vehicle Driver is to take proper care of the vehicle entrusted to him and not to allow it to be put to unauthorised use. The applicant clearly committed a grave breach of trust in using the bus to carry unauthorised passengers, a charge which has been clearly established. The plea made on behalf of the applicant that his past conduct had been unblemished and that it should be an ameliorating factor while imposing penalty has been effectively countered by learned counsel for the respondents. The ruling in Manchegowda's case (AIR 1964 SC 506) has no application here because the past conduct of the applicant was not taken into account by the disciplinary authority for determining the penalty, but was referred to before us by the applicant's counsel for pleading a lower penalty and it is that plea which has failed. The applicant clearly showed himself unworthy of holding the post of a Heavy Vehicle Driver and his conduct in not only carrying unauthorised passengers, but trying to cover his guilt by driving the bus in the

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