

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
.....

Commercial Complex(BDA),
Indiranagar,
Bangalore- 560 038.

Dated: 25-11-87

APPLICATION NO 801 /87 (T)
W.P.No. 17367/81

APPLICANT

Vs

RESPONDENTS

Shri Mohamed Usen
To

The Director, NAL & another

1. Shri Mohamed Usen
C/o Shri S. Ranganatha Jois
Advocate
36, 'Vagdevi'
Shankarapuram
Bangalore - 560 004
2. Shri S. Ranganatha Jois
Advocate
36 'Vagdevi'
Shankarapuram
Bangalore - 560 004
3. The Director
National Aeronautical Laboratory(NAL)
Kodihalli
Bangalore - 560 017
chief (Administration)
4. The ~~Director~~
Council of Scientific & Industrial Research
(CSIR)
Rafi Marg
New Delhi - 110 011
5. Shri S.S. Ramadas
Advocate
No. 24, Kalidasa Road
Gandhinagar
Bangalore - 560 009

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STXX~~/

~~INTERIM ORDER~~ passed by this Tribunal in the above said application
on 6-11-87.

RECEIVED 5 copies 26/11/87

Diary No. 1467/82/87

Issued Date: 27-11-87

Encl: as above.

[Signature]
DEPUTY REGISTRAR
(JUDICIAL)

o/c

CENTRAL ADMINISTRATIVE TRIBUNAL, BANGALORE.

Present: Hon'ble Shri Justice K.S. Puttaswamy, Vice Chairman,

and

Hon'ble Shri L.H.A. Rego, Member (A).

DATED THIS THE SIXTH DAY OF NOVEMBER, 1987.

Application No. 801/87

Mohd. Usman Sab,
UDC,
National Aeronautical Laboratory,
Bangalore-17.

....Applicant.

(Shri S. Ranganath Jois, Advocate)

vs.

1. National Aeronautical Laboratory,
Bangalore-17.

(Council of Scientific and Industrial
Research), Rep. by its Director.

....Respondents.

2. The Council of Scientific & Industrial
Research, Rafi Marg,
New Delhi-1. rep. by its Chief (Admn).

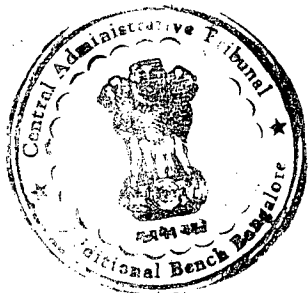
(Shri S. S. Ramadas, Advocate).

This application having come up for hearing today,
Hon'ble Vice Chairman made the following:

O R D E R

This is a transferred application and is received
from the High Court of Karnataka under Section 29 of the
Administrative Tribunals Act, 1985 ('Act').

2. On 15.10.1963, the applicant joined service as a
Lower Division Clerk in the National Aeronautical Laboratory,
Bangalore ('NAL'), an unit of the Council of Scientific and



Industrial Research ('CSIR'), a society registered under the Societies' Registration Act, 1860. He was promoted as Upper Division Clerk ('UDC') from 13.11.1978.

3. While working as an UDC in the NAL, there was a written complaint against him by one Shri H.S. Seetharam to the effect that he demanded illegal gratification from him to show official favour on the appointment of his son Shri H.S. Subrahmanya in the NAL. On that complaint, after making necessary preliminary inquiry thereto, one Shri S.R. Valluri, who was then the Director of NAL, and the Disciplinary Authority ('DA'), initiated disciplinary proceedings against the applicant in his Memorandum No. 39(73)/77-AI dated November 13, 1978 (Annexure-A), under the Central Civil Services (Classification, Control & Appeal) Rules, 1965 ('the Rules') and framed two charges against him and they read thus:

ARTICLE - I

That Shri Mohammed Usman while functioning as Upper Division Clerk in the Establishment Section, N.A.L. Bangalore during July 1977 committed gross misconduct in as much as he demanded on 25.7.77 and 29.7.77 illegal gratification of Rs. 1,000/- from Shri H. Sitarama Rao, No. 7/54, West Anjaneya Temple Street, Bangalore-4, as motive for securing the job of Jr. Laboratory Assistant to the son of Shri H. Seetharama Rao, and thereby failed to maintain absolute integrity and devotion to duty and contravened rule 3 of the C.C.S. (Conduct) Rules 1964.

ARTICLE - II

That Shri Mohammed Usman while functioning as UDC in the Establishment Section of the N.A.L. Bangalore, during the year 1976-77, committed gross misconduct in as much as he was habitually procuring forged medical certificates for the employees of N.A.L. and instigated them to prefer false medical advance and further as a motive or reward for securing forged certificates, the said Shri Mohd. Usman accepted illegal gratification



of Rs. 20/- from Shri K. Kandaswamy on 15.10.76 and another sum of Rs. 200/- from Shri T. Doraiswamy, Library Attender of N.A.L. Bangalore on 12.1.77 and thereby he failed to maintain absolute integrity and devotion to duty and contravened rule 3 of the C.C.S. (Conduct) Rules 1964."

Since the applicant denied the charges, the DA appointed one Shri J. Guruswamy, the Administrative Officer of the Central Food Technological Research Institute ('CFTRI'), Mysore, as the inquiry officer ('IO') to inquire into their truth or otherwise, and submit his report.

4. In conformity with the order of the DA and the Rules, the IO held a regular inquiry and submitted his report to the DA on 19.2.1981 holding that the applicant was guilty of charge No.1 and not charge No.2. On an examination of the same and concurring with the IO, the DA by his order made on 29.3.1981 (Annexure-C) imposed on the applicant the penalty of compulsory retirement from service with immediate effect. Against this order, the applicant filed an appeal before the Director-General, CSIR, the appellate authority under the Rules ('AA'), who on 9.7.1981 (Annexure-H) dismissed the same. Aggrieved by them, the applicant approached the High Court in W.P. No. 17367/81, which on transfer, has been registered as Application No. 801 of 1987.

5. The respondents have filed their statement of objections before the High Court justifying the orders and have also produced their records.



6. Shri S. Ranganath Jois, learned counsel for the applicant, contends that the initiation of disciplinary proceedings and the order of compulsory retirement, made thereon, were actuated by personal bias of Shri Valluri, who was then the Director and the DA, and are illegal.

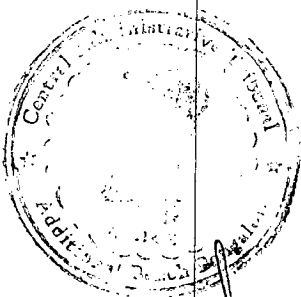
7. Shri S.S. Ramadas, learned counsel for the respondents, refuting the contention of Shri Jois, contends that the allegations of personal bias pleaded were vague and general, and do not even justify a detailed examination and a finding thereon.

8. In his writ petition, the applicant had not alleged that Shri Valluri bore animus against him and was personally biased to initiate the proceedings and make his final order. He has not also set out any details in that behalf. They are vague and too general. On these grounds themselves, we must reject this challenge of the applicant.

9. Even otherwise, the fact that Shri Valluri was a Hindu, and a Brahmin, and that the applicant is a Muslim, is hardly a ground to hold that the initiation and the order are vitiated by personal bias.

10. On the foregoing discussion, we hold that there is no merit in this contention of Shri Jois, and we reject the same.

11. Shri Jois next contends that the applicant was not afforded a reasonable opportunity to defend himself against the charge and place all his evidence, and that denial was illegal.



12. Shri Ramadas refuting the contention of Shri Jois, contends that even this ground was as vague as the first ground, and was devoid of merit.

13. In his writ petition, the applicant had not specified and elaborated this ground at all. On this short ground itself, this contention has to be rejected. But we do not propose to do so, and proceed to examine the merits of the grounds formulated at the oral hearing before us.

14. We have carefully examined the proceedings of the IO. On such an examination, we find that the IO, at all stages, had afforded to the applicant a full and fair opportunity to defend himself against the charge and place all such evidence as he proposed to place in support of his own case. When that is so, then it is difficult to uphold this contention of the applicant.

15. There is no dispute that Dr. Paranjpe who held a preliminary inquiry and submitted his report, had not been examined.

16. Dr. Paranjpe was not an eye witness to the incident, with which the applicant was charged. He had only collected information and submitted his report, only to decide whether there was a prima-facie case and hold a regular inquiry against the applicant or not. Even otherwise, the report submitted by Dr. Paranjpe had been marked as an exhibit at the instance of the applicant. On these facts, the non-examination of Dr. Paranjpe would not have made any difference either for the department or



for the defence. If that is so, then it is difficult to hold that the non-examination of Dr. Paranjpe can be characterised as a denial of reasonable opportunity to the applicant.

17. On the foregoing discussion, we see no merit in this contention of Shri Jois and we reject the same.

18. Shri Jois next contends that the findings on charge No.1 by the IO, DA and the AA were all based on 'No Evidence', or so perverse that 'no reasonable man would have ever reached those conclusions' and were therefore illegal and invalid. In support of his contention, Shri Jois strongly relies on the ruling of the Supreme Court in UNION OF INDIA VS. H.C. GOEL (AIR 1964 SC 364).

19. Shri Ramadas refuting the contention of Shri Jois, sought to support the findings on charge No.1.

20. In S.K. SRINIVASAN VS. DIRECTOR GENERAL, E.S.I. CORPORATION AND OTHERS (A. No. 1653/86 decided on 30.1.1987), we have examined the true nature of the power conferred on this Tribunal under the Act in disciplinary proceedings, in particular, and have expressed thus on the same:

"xxxxxxx On a conspectus of all the provisions of the Act and the ruling of the Supreme Court in SAMPATH KUMAR's case, we are of the view that the power conferred on the Tribunals constituted under the Act is one of judicial review, over the decisions of Government and other authorities. The nature of power conferred on the Tribunals under the Act is not ordinary appellate jurisdiction over the decisions of Government or other authorities on service matters, but is that of judicial review."

In this very case, we have indicated the distinction and difference between 'Judicial Review' and 'Appellate Powers'.



Bearing the principles enunciated in SRINIVASAN's case cited supra, we must examine this question.

21. All the authorities have concurrently found that the evidence on record establishes charge No.1 levelled against the applicant. When all the authorities have concurrently found that the evidence on record establishes the guilt of the applicant, this Tribunal should be very reluctant to hold that there is no evidence or their findings are based on 'No Evidence' or their evidence were such that no reasonable man would have ever reached those conclusions.

22. We have also examined the material evidence on record.

23. An examination of the material evidence on charge No.1 shows that there is evidence to support the findings of the authorities. We cannot, therefore, hold that the findings of the authorities are based on 'No Evidence'.

24. When we read the findings of the authorities and the material evidence on record, it is impossible to hold that their findings are so perverse that no reasonable man would have ever reached those conclusions.

25. On the foregoing discussion, we hold that there is no merit in this contention of Shri Jois and reject the same.

26. Shri Jois lastly contends that the penalty of compulsory retirement imposed against the applicant, who had another 12 years of service, was too severe and disproportionate to the gravity of the charge levelled against him.



27. Shri Ramadas sought to support the punishment imposed on the applicant.

28. We have earlier upheld the findings of guilt on charge No.1. We are of the view that the punishment of compulsory retirement is not too severe and disproportionate and does not justify any modification by us.

29. Shri Jois informs us that notwithstanding the entitlement of the applicant for pension and other terminal benefits like gratuity, those monetary benefits have not, so far, been made available to him. Shri Ramadas, in our opinion, very rightly, does not dispute the right of the applicant for pension and other terminal benefits under the Rules and seeks for sixty days time to compute them and make them available to the applicant. We consider it proper to grant this request of Shri Ramadas.

30. Sometime after compulsory retirement and the termination of certain legal proceedings before a civil court, the applicant had vacated the quarters he was occupying while he was in service and suspension. We consider it proper to direct the respondents to collect only the 'Standard Rent' till the applicant vacated the quarters.

31. In the light of our above discussion, we make the following orders and directions:

(1) We dismiss this application in so far as it challenges the orders of the authorities.



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(2) We direct the respondents to compute the pension and other terminal benefits due to the applicant under the Rules regulating them and make him available all the arrears of pension and other terminal benefits with all such expedition as is possible in the circumstances of the case, and in any event, within a period of two months from this day. We also direct the respondents to make payment of pension due to the applicant from time to time, in accordance with the Rules.

(3) We direct the respondents to collect only the 'Standard Rent' for the quarters the applicant occupied till he vacated the same.

32. Application is disposed of in the above terms. But in the circumstances of the case, we direct the parties to bear their own costs.



dms.

sd/-
VICE CHAIRMAN

sd/-
MEMBER(A)

- True copy -

R. V. Venkatesh
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE