

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
* * * * *

Commercial Complex (BOA)
Indiranagar
Bangalore - 560 038

Dated : 14 SEP 1988

APPLICATION NO.

1051

/87(F)

W.P. NO.

Applicant(s)

Shri K. Poornachandra Rao

W/S

Respondent(s)

Respondent(s)
The Deputy Secretary, Govt. of India,
Department of Space, Bangalore & 2 Ors

To

1. Shri K. Poornachandra Rao
Engineer-SD
Department of Space
A-16, Peenya Industrial Estate
Bangalore - 560 058
2. Shri M.R. Shailendra
Advocate
844 (Upstairs)
II Block, Rajajinagar
Bangalore - 560 010
3. The Deputy Secretary
Govt. of India
Department of Space
F Block, Cauvery Bhavan
Bangalore - 560 009
4. ISRO Telemetry Tracking &
Command Network (ISTRAC)
Department of Space
A-16, Peenya Industrial Estate
Bangalore - 560 058
5. The Secretary
Union Public Service Commission (UPSC)
Dholpur House
Shahajahan Road
New Delhi - 110 003
6. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Received
Purnachandra Rao
14/9/88

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/STAY/INTERIM ORDER passed by this Tribunal in the above said application(s) on 5-9-88

Encl : As above

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Hollie
~~FOR DEPUTY REGISTRAR
(JUDICIAL)~~

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNALS
BANGALORE BENCH: BANGALORE

DATED THIS THE FIFTH DAY OF SEPTEMBER, 1988

Present: Hon'ble Shri P. Srinivasan .. Member (A)
Hon'ble Shri Ch. Ramakrishna Rao .. Member (J)

APPLICATION NO. 1051/1987

Shri K. Poornachandra Rao
S/o. K. Seetharamaiah
Engineer-SD, A1-6
Peenya Industrial Estate
Department of Space
Bangalore - 560 058 .. Applicant
(Shri M.R. Shailendra, Advocate)

Vs

1. The Union of India
represented by its Deputy Secretary
Government of India
Department of Space
F, Block, Cauvery Bhavan
Bangalore - 9.
2. The Director
ISTRAC
Bangalore.
3. The Secretary
(Union Public Service
Commission)
New Delhi. .. Respondents

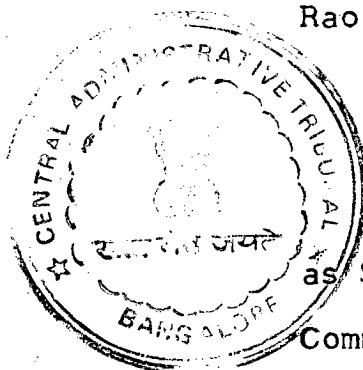
(Shri M.S. Padmarajaiah, S.C.G.S.C.)

This application having come up for
hearing before the Tribunal today, Hon'ble Shri Ch. Ramakrishna
Rao, Member (J), made the following:

ORDER

The applicant is currently working
as Scientist/Engineer - SD, ISRO, Telemetry Tracking and
Command Network (ISTRAC) under the Department of Space.

While he was working at Sriharikota in 1983, he remained
absent from duty from 1.4.1983 onwards. His long and
continued absence till 1.4.1984 resulted in the issue of a



memorandum of that date setting out an article of charge and proposing to hold an inquiry thereon under the Department of Space Employees (Classification, Control and Appeal) Rules, 1976. The gist of the charge was that the applicant absented himself from duty unauthorisedly from 5.12.1983 onwards and had not reported for duty despite repeated directions issued by the authorities. In fact we were told during the hearing that though the memorandum was issued on June 1, 1984, the applicant had actually joined duty ^{only} on 6.5.1985 i.e. about a year later. Based on the memorandum of charge issued to the applicant, an inquiry was held which culminated in the passing of an order dated July 15, 1986 in consultation with the Union Public Service Commission (UPSC) imposing a penalty of withholding of increments for three years with cumulative effect. Against the order of penalty, the applicant preferred a review petition to the President of India, which was disposed of by order dated January 28, 1987 declining to modify or revise the order of penalty. Aggrieved with this, the applicant has filed this application.

2. Shri M.R. Shailendra, learned counsel for the applicant, strenuously contends that his client had applied for leave from 5.12.1983 to 31.12.1983 on 2.12.1983; that till 5.12.1983, no orders were passed on his application for leave; that he was informed by letter dated 16.12.1983 that he did not

have sufficient earned leave at his credit and he should report for duty immediately; that the applicant further sought extension of leave upto 30.1.1984 on grounds of his mother's illness; that he was repeatedly requesting for extensions of leave by applications dated 29.1.1984, 5.2.1984, 15.2.1984 and 28.2.1984 ~~on~~ⁱⁿ the on the same ground; that he went to the office on 9.4.1984 to renew his plea for grant of extraordinary leave if earned leave was not available in view of the grave illness of his mother and informed the authorities that he was prepared to come and work if exigencies of service so required; that on 14.6.1984 he had addressed the Under Secretary, Government of India, Department of Space, requesting leave upto 31.12.1984 referring therein to the meeting he had with the Deputy Manager, ISTRAC on 9.4.1984 for sanction of extraordinary leave upto 31.12.1984.

3. Shri Shailendra submits that when the applicant was in constant touch with the authorities, there was no question of his absenting himself from

^{unauthorisedly}
unauthorisedly duty and it was entirely due to his mother's illness that the long period of absence was necessitated.

Shri Shailendra further invited our attention to the finding arrived at by the Inquiry Officer that though the applicant was absent from duty from 5.12.1983 onwards, the Inquiry Officer could not find any material evidence to prove that the applicant was absent unauthorisedly. Shri Shailendra therefore urges that the penalty imposed on the applicant by the authorities was not justified and that therefore, it should be set aside by this Tribunal.



4. Shri M.S. Padmarajaiah, learned counsel for the respondents, refuted the contentions urged by Shri Shailendra. According to Shri Padmarajaiah, the applicant was holding a responsible post which involved his active participation in ongoing research programmes and his continued absence from duty had a ~~ad~~ ^{ad}leterious effect on the work which he was to carry out. Shri Padmarajiah also urged that the long period of absence from duty by an officer like the applicant was proof of irresponsible attitude he had towards the work he had to perform and the penalty imposed on him by the authorities was justified. He, therefore, submitted that the penalty imposed on the applicant by the authorities does not call for any leniency at our hands.

5. We have considered the rival contentions carefully. While there may have been some justification for the applicant's staying away from duty due to the illness of his mother - though the respondents dispute this also - we are not satisfied that an officer of the rank of the applicant could have stayed away for such a long period without making sure of sanction of leave from the appropriate authority. We are constrained to say this because the applicant was very much aware of the fact that he did not have enough earned leave at his credit and it was, therefore, incumbent on him to have made sure of the grant of extraordinary leave. In other words, the grant of leave is itself not a matter of right and more so in a case where grant of extraordinary leave was involved and it is precisely for this reason that the applicant should have ensured the grant of leave before absenting himself from duty

for such a long period as one year and a half.

6. We note that the authorities had taken up the matter with the Union Public Service Commission (UPSC) and it was at the instance of the UPSC that the penalty of withholding of three increments with cumulative effect was imposed on the applicant. We do not have any justifiable ground for displacing the finding of guilt against the applicant.

7. Shri Shailendra pleaded for reduction of the penalty in view of the special circumstances of the case and in view of the fact that the absence of the applicant was not prompted by any considerations which would amount to dereliction of duty. In other words, Shri Shailendra submits that the absence was due to a bonafide reason and compelling necessity and that we must, therefore, take a lenient view in regard to the quantum of penalty.

8. Shri Padmarajaiah, on the other hand, submits that the facts and circumstances of the case do not warrant any interference regarding the quantum of penalty.

9. Taking all the facts and circumstances of the case, we are satisfied that the ends of justice would be met if the penalty imposed is modified by reducing it to withholding of increments with cumulative effect for a period of two years instead of three. We, therefore, uphold the findings of guilt and reduce the penalty accordingly.



10. In the result, the applicant is allowed to the extent indicated above. No order as to costs.



mr.

Sd/-
MEMBER (A)

Sd/-
MEMBER (J) 5.7.00

TRUE COPY

~~For DEPUTY REGISTRAR (JDL)~~
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE