

(Signature)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A.NO. 552/95

Date of Order: 24-1-96

Between:

P.Sreemannaravana Murthy

.. Applicant

and

1. Govt. of India, rep. by its Chairman
and Secretary, Dept. of Space,
ISRO Head Quarters, New Bel Road,
Bangalore-90.
2. The Director, Master Control Facility,
Indian Space Research Organisation,
Hassan 201, Karnataka State.

Respondents.

For the Applicant :- Mr. M.V.S. Saikumar, Advocate

For the Respondents: Mr. V. Bheemanna
xx./Add. CGSC

CORAM:

THE HON'BLE MR. JUSTICE V. NEELADRI RAO : VICE-CHAIRMAN

THE HON'BLE MR. RANGARAJAN : MEMBER (ADMN)

O.A.No.552/95

JUDGEMENT

(As per Hon'ble Sri Justice V.N. Rao, Vice Chairman)

The applicant was appointed as Scientist/Engineer-SB at INSAT and he joined the said post in the office of R-2 on 28-2-92. Memos dt.18-2-94, 4-4-94 and 19-4-94 were issued to the applicant ^{and} he was removed from service by order dt.24-5-94. The same is assailed in this O.A.

2. Admittedly, the probation of the applicant was not declared by 24-5-94 the date by which he was removed from service. It was stated in the impugned order ^{that} in terms of Clause-1(e) of the offer of appointment dated 4-8-92 ^{and} ~~that~~ in continuation of O.M. dt.19-4-94 the applicant was removed from service w.e.f. 24-5-94. The body of the said O.M. is material for consideration of this O.A. and hence it is necessary to read it and it is as under:

" The attention of Shri P.Srimannarayanamurthy, Sc/Engineer-SB is drawn to para 1 (d) of the Offer of Appointment No.MCF:ADM:EST dt.4.8.92 which stipulates the period of probation. The period of probation has direct relevance to satisfactory performance of service. As he has failed to render satisfactory service, his probation was extended twice and the extended period expire on 25.5.94. On scrutiny of this service records, it

has been found that he has been on long spells of absence on one pretext or the other. It has also been reported that, on a couple of occasions, he had absented without obtaining proper approval. He had also resorted to actions amounting to serious misconduct for which he was issued memos. Of late, Sri Murthy has informed that he does not want to do the shift duty and has left the office on 31.3.94 thus absenting from duty unauthorisedly.

All the above acts on the part of Sri Murthy constitute enough grounds for strict action. It is therefore, proposed to terminate his services in terms of para 1(e) of the above offer of appointment on expiry of the extended period of probation. Sri Murthy may, therefore, explain as to why the above action should not be taken against him for the lapses mentioned above within 10 days from the date of receipt of this memorandum.

3. The main contention for the applicant is that the order dt.24-5-94 does not indicate that it is a case of mere termination ~~of~~ simplicitor^e, and memo. dt.19-4-94 also refers to alleged acts of misconduct and hence the order of removal is not ^{legal} proper as no enquiry was conducted.

4. But the learned counsel for the respondents submitted that R-2 is empowered to pass the order of removal in terms of Clause 1(e) of the offer of appointment even without making any enquiry, and hence

the impugned order is not vitiated. The further contention for the respondents is that in view of the nature of work to be attended to in INSAT, if persons like the applicant are allowed to continue, then it will lead to disasters.

5. Clause 1(e) of the Offer of appointment is as under:

"During the period of probation, your services are liable to be terminated without notice or without assigning any reasons thereof if your performance is found to be not satisfactory or if the Govt. is satisfied that you were ineligible for recruitment to the service/post in the first instance itself."

It is true that the competent authority has the power to terminate the services of a probationer, if the performance of the probationer was found to be not satisfactory, or if he is ineligible for recruitment to the service/post in the first instance itself. But if the termination is punitive, the order of termination cannot be issued without conducting any enquiry and without finding that the employee is guilty of misconduct. If it is ~~the~~ mere termination of simpliciter, the reason for termination shall not be referred to in the order of removal. But in this case the reasons for removal ^{were} ~~was~~ said to be as referred to in

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the O.M. dt.19-4-94 and ^{hence} there is force in the contention advanced by Smt. B.Anuradha, the learned counsel for the applicant that it is not ^emore removal simpliciter, and it is punitive for even in the O.M. dt.19-4-94 the alleged acts of misconduct are referred to. Thus there is an infirmity in removing the applicant without any enquiry, and hence the impugned ~~order is vitiated~~ and as such it is liable to be set aside.

6. But of course the liberty has to be given to the respondents to conduct an enquiry in regard to various allegations for which the applicant was removed, and if it is ^{not} desirable to allow the applicant to attend to his duties during enquiry, the ^{from} necessity of keeping ^{him} under suspension pending enquiry can be resorted to. Thus it cannot be said that it will lead to disaster ^{it} to this Tribunal if ~~it~~ is going to be set aside the impugned order of termination when it has to be held as vitiated.

7. If the competent authority is going to proceed with the enquiry, ~~then~~ Rule 10(4) of CCS (CCA) Rules is attracted, and then the applicant has to be deemed to be placed under suspension by the appointing authority from the date of removal. And in such a case the applicant is entitled to the subsistence

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allowance from the date of removal. It is needless to say that ^{if} no enquiry is going to be conducted, the period from the date of removal has to be treated as continuation of probation and the applicant has to be paid salary and other allowances according to rules.

8. It is stated that the applicant is now residing at Tenali and he has to report for duty at Hassan in Karnataka. So, sufficient time has to be given to the applicant to report for duty. Hence, it is just and proper to give time to applicant till 12.2.96 to report for duty in the office of R-2. Then it is open to R-2 either to take him on duty or to keep him under suspension. The subsistence allowance due as per this order has to be paid by 10.3.96, failing which the same carries interest at 12% p.a. from 11.3.1996. The O.A. is ordered as under;

The office order dt.24.5.94 (vide Annexure-AI; ^{is} set aside. The same does not debar the competent authority to conduct an enquiry in regard to allegations made in the OM dt.9.4.94 and to proceed in accordance with law. The applicant has to report in office of R-2 along with a copy of this order by 12.2.96. Then it is open for R-2 either to allow the applicant to attend ^{the} ¹⁵ duty or to keep him under suspension pending contemplation of enquiry/enquiry. The subsistence allowance has to be

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paid for the period of deemed suspension from the date of removal as envisaged under Rule 10(4) of CCS (CCA) Rules and also the subsistence allowance for the period from which the applicant reports ^{for duty} as per this order, if he is not taken on duty by 10.3.96, failing which the same carries interest at 12% p.a. from 11.3.96. If the applicant reports on 12.2.96 the period from 12.2.96 till the date he reports has to be treated as leave without pay.

9. The O.A. is ordered accordingly. No costs.//

(R.Rangarajan)
Member (A)

(V. Neeladri Rao)
Vice Chairman

Dt.24-1-1996
(Open Court Dictation)

Deputy Registrar(J)CC

kmv

To

1. The Chairman and Secretary,
Govt.of India, Dept.of Space,
ISRO Head Quarters, New Bel Road,
Bangalore-90.
2. The Director, Master Control Facility,
Indian Space Research Organisation, Hassan 201,
Karnataka State.
3. One copy to Mr.M.V.S.Saikumar, Advocate Plot No.101,
Mogal Monar Apartments, APLT, Malakpet, Akbarbagh, Hyderabad
4. One copy to Mr. V.Bheemanna, Addl.CGSC.CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

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