

FORM NO. 21

(Sec. Rule 114)

HYDERABAD.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH.

O.A. No.

1100

1996

C. Sundaresan

Applicant(s)

Versus

Mr. D. G. GSI, Calcutta & auett

Respondent(s)

INDEX SHEET

Sl. No	Description of documents & Date	Pages.
1.	Docket orders.	1 to 8
2.	Interim Orders	
3.	Orders in M.A Qs)	
4.	Reply Statement. 23-9-98	u3 to 66
5.	Rejoinder	
6.	Orders in (final orders) 18-2-99	67 to 100

3/3/99
Signature of dealing Head
in Record Section.

Signature of S.O.

C.A.V. SLIP

1. Circulated to Hon'ble Sri B. S. Iyer, Arjunashwar AIR (5)

2. Case No. 6A 1404/96

3. Date of Hearing 6.1.99

4. Date when reserved for judgement 6.1.99

5. Cases cited by the Counsel for Applicant(s) :

i) ~~AIR~~ 1986 SC 2118

ii) ~~82-R~~ 1984 (2) 446

iv) 1990 (1) SLT 385/

v)

vi)

6. Cases cited by the counsel for Respondent(s) :

i) 1998 (3) SCC 227

ii) 1997 (36) AIR 54

iv) 1996 (34) AIR 137

v) 1993 AIR (50) 1478

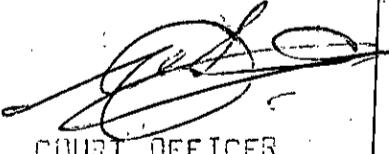
7. Books Circulated :

AIR 1986 SC 2118

8. Departmental files if any :

Dated :

6.1.99


COURT OFFICER

DATE	OFFICE NOTE	ORDERS OF THE TRIBUNAL
		<p><u>4.12.96</u></p> <p>Heard Mr. V. Venkateswaran Adv for the applicant and Mr. N. Satyanarayana for N.R. Davanag Admit.</p> <p><i>D</i></p> <p>HBSJP M(CJ)</p> <p><i>D</i></p> <p>HRRN M(A)</p>
<u>2.9.97</u>	<p>Service completed.</p> <p>Call on 21.10.97 for memo and reply.</p> <p><i>DR</i></p>	
<u>1.10.97</u>	<p>Non present. Call on 2.12.97 for memo & reply.</p> <p><i>DR</i></p>	
<u>9.12.97</u>	<p>None present. Call on 13.1.98 for memo & reply.</p> <p><i>DR</i></p> <p><u>3/2/98</u></p>	
<i>and notice</i> <i>on 5/12/98</i> <i>for memo & reply.</i> <i>Dr. J.</i> <i>Dr. Regr.</i>		

CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH

O.A. No. 1404 of 1995

C. Sundaresan Applicant (S)

VERSUS

Director General, C.S.I., Calcutta & Canth

Respondent (S)

DATE	OFFICE NOTE	ORDERS OF THE TRIBUNAL
19.12.95		List it on 22-12-95 at the request for the applicant. HANM HVNRJ M(A) VC B.O. O(NJ)
<u>3/3/98</u>	<u>Before Dy. Regr</u> None present. Call on 7/4/98 for memo & reply. <u>D.M.</u> <u>Dy. Regr</u> <u>DSR</u>	<u>19.12.95</u> Notice in TA 1104/95. List on 13.2.96. <u>D</u> HRRN M(A) <u>DSR</u> <u>1104/95</u> <u>VC</u>
<u>16/4/98</u>	None present. Include it in the Ready list of 1996. <u>D.M.</u> <u>Dy. Regr</u> <u>DSR</u>	Heard Mr. Venkateswaran for applicant & Mr. Satyanarayana for Mr. N.R. Devaraj for respondents. MA for condoning the delay of 204 days in filing the O.A. is filed. This MA is not opposed. He is allowed to register OA if otherwise advised and list it for admission. PRA is ordered accordingly. <u>J</u> HBSJP M(CJ) <u>HRRN</u> <u>M(A)</u>

5
④
OA 1404/96

DATE : OFFICE NOTE

ORDER

25-11-98

Post on 27-11-98 above

admissions.

R
HBSSP
M(J)

HRRN
M(A)

27-11-98

At the request of the applicant's counsel, list it on 10-12-98 above admission. No further adjournment will be given.

R
HBSSP
M(J)

HRRN
M(A)

10/12/98

List it on 15/12/98 at the request of the applicant's counsel above. Admission. No further adjournment will be given.

R
HBSSP
M(J)

HRRN
M(A)

DIN

1/1

OA. no. 1604/98

DATE : OFFICE NOTE

ORDER

22/9/98

At the request for the Applicant
Council list it on 12/10/98.

P
HBSIP
M(S)

HCRN
M(D)

DSR

23/11/98

None for the Applicant and
no record for the Respondent.
The records in which details
containing the compulsory
detention of the Applicant
as available should be
produced tomorrow.
List it tomorrow.

HBSIP
M(S)

HCRN
M(D)

DSR List it on 25/11/98.

P
HBSIP
M(S)

HCRN
M(D)

av1/

DATE Office Note

7
ORDER

5/1/99

OA/1404/96

list it for judgement on

6/1/99

R
HOSJP
M.S)

✓
HFRW
M(A).

6-1-1999.

Heard Mr.V.Venkateshwar Rao for the Applicant and Mr.B.Narasimha Sharma for the Respondents.

The main points to be considered in this OA are as follows:-

i) Whether the Charge Sheet is maintainable as it relates to an act done by the applicant which is not connected with his Official duties. The arguments on both sides were heard in this connection. A decision has to be given;

ii) On merits the applicant submits that listed documents in the Charge Sheet are not given to him and it was stated by the respondents that he will get an opportunity to inspect the listed documents during the course of enquiry. This in his opinion infringes the Principle of Natural Justice. The learned Counsel for the Respondents submits that in view of the letters at Annexure.2 and Annexure.3, in which particulars have been given even before the starting of the enquiry.

iii) The learned Counsel for the Applicant submits that the Article-II in the Charge Sheet cannot be bifurcated as in Article-I of the Charge Sheet. The respondent-authorities and the Enquiry Officer tried to fix him on the basis of the Charge Article-II and on that basis they came to the conclusion that the Article-I is also proved.

...contd...2

(S.A.) 1404/96.

3

DATE : Office Note

ORDER

15.12.98.

Heard Sri V. Venkateswara Rao
for the applicant and
Sri Narasimha Sharma,
Senior C of HS for the
Respondents. List this
C.O., on 23.12.98 for
further hearing.

✓

HB5358

• μ $\sqrt{v_s}$

585

4 R R | 2

M | A

29-12-98

List this OA for Judgment

tomorrow

4

HB SJP
n(j)

HRRN
π(A)

3012-58-

Deend Sri Vedachaleswara Rao
for the application - and
Sri B. Narasimha Sarma
for respects -.

list this Co A., too

for further hearing on 5-1-99

13

6/26 J. P.
M. ft.

6. Pípav
mora

Case No 1404/96

DATE : OFFICE NOTE

ORDER OF THE TRIBUNAL

-2-

This is incorrect appreciation of the facts. The learned Counsel for the Respondents submits that the reasons stated the charges were framed in accordance with the rules and hence, there is no irregularity.

iv) The third contention of the applicant is that the punishment is disproportionate to the gravity of charge which is contested by the Counsel for the Respondents.

The applicant relies on the Judgment of the Supreme Court reported in AIR 1986 SC, page 2118 and Rule 14(4) of the CCS(CCA)Rules.

Judgment reserved.

Jai
HSSJP
M(J)

HRRN
M(A)

Des.

18/2/98
The OA is dismissed, vide
order on separate sheet
no costs.

B
HSSJP
M(J)

HRRN
M(A)

DSB

S. 19 ghi Astor

OA.1404 / 1996

11.12.1995

1) While the application was working as
Surveyor under the Re was placed w/s WER
8.5.1989 Contingently feeding J. p. gamma min. the By Dir 9
GSI, issued numerous rulings to the applicants
vide his progr. No. 770/C.16013/7/89-Vig. 25/89
The misconduct alleged against the applicants need
not be considered

Fig. A 1

17.7.89 (2) Suspension was of the applicant withdrawn from 12.7.91 and was reinstated into service
16.1.92. The applicant submitted his explanation of
A copy of his explanation is at p. 15 to 16.
gpt&A

The Director-in-charge of TNSP, Madras was appointed in I.O to enquire into the charges. He appears participated into inquiry. The I.O submitted his report of 16.11.91. A copy of the report is Annexure to the reply. The

I.O. recited his findings as under
§ 87(2)(b) A copy of the report of the injury officer
was furnished the applicant. The officer submitted his
rep. d. No. 182
S. 11) p. 29 2/Am 1971 agree w/

Mr I.C. Concerned with his findings and his
progs No 195/C 14013 | 7 | 89 - Virg. d. 10. 2. 92

The applicants approached the faculty of Compulsory Retirement in TSI in CA 123/92. The application was denied on the grounds of disability from service (X) ^{however,} the applicants submitted an appeal. The appeal was filed on 10.2.92 before the High Court of Andhra Pradesh at Hyderabad. The application was allowed on 10.2.92. The application was filed on 10.2.92 before the High Court of Andhra Pradesh at Hyderabad. The application was allowed on 10.2.92.

The Appl is dated 13.3.92. A copy of the appeal
was sent on p 20 to 26 of the PA. The R, by
his proceedings no 485/c-13013/R/CS/SC/DSVJ
d. 13/5/94. dismissed the appeal and
Cognoscente given.

The applicant has filed this of
time following up it

Para 7: p. 8&9

The applicant has challenged
the impugned order on the following
found:-

Reply

The applicant has not filed any
rejoinder.

i. Para 5.1. p. 19 - 920 marks reply - To

Part 4 - charges no 2

The DA agreed with the
objection
of 189 marks
or 308 marks
or 308 marks
on 17.4.89

AA para (ii) p. 33.

A III - 12 - 7 hours

Carry

Roman hollow
Ranbir
(Raw)

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD.

ORIGINAL APPLICATION NO. 1404 of 1996

Shri C. Sundaresan Applicant(E)

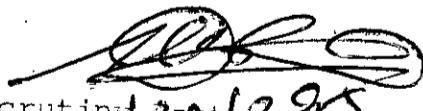
V E R S U S

Div. Genl. of G.S.P.,
Calcutta & another

Respondent(S)

The application has been submitted to the Tribunal by
Shri V. Venkateswaran Advocate/Party in
person, under section 19 of the Administrative Tribunal Act,
1985 and the same has been scrutinised with reference to the
points mentioned in the check list in the light of the
provisions in the Administrative Tribunal (Procedure) Rules
1987.

The application is in order and may be listed for
admission on


Scrutiny No. 146295


DEPUTY REGISTRAR(JUDL)

10. Has the impugned orders Original/duly attested legible copy been filed ? *✓*

11. Have legible copies of the annexures duly attested been filed ? *✓*

12. Has the Index of documents been filed and pagination done properly ? *✓*

13. Has the applicant exhausted all available remedies ? *✓*

14. Has the declaration as required by item No.7 of Form I been made. *✓*

15. Have required number of envelopes (file size) bearing full address of the respondents been filed ? *✓*

16. (a) Whether the relief sought for, arise out of single cause of action ? *✓*

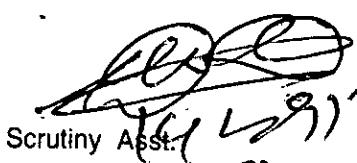
(b) Whether any interim relief is prayed for ? *✓*

17. In case an MA for condonation of delay is filed, is it supported by an affidavit of the applicant ? *_____*

18. Whether this case can be heard by Single Bench ? *NO*

19. Any other point ? *_____*

20. Result of the scrutiny with initial of the scrutiny clerk ? *Appl & filed*


Scrutiny Asst. *(Signature)*

Section Officer.

Deputy Registrar.

Registrar.

CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH

Dairy No. 3782

Report on the Scrutiny of Application

Presented by VV Rao Date of presentation 11/12/92
Applicant (S) C Sundaresan
Respondent (S) D.G., GSP, Calcutta saathi
Nature of grievance Comp. retirement
No. of applicants 1 No. of Respondents 2

CLASSIFICATION

Subject Compulsory (No.) Department GSP (No.)

relief

1. Is the application in the proper form ?
(Three complete sets in paper books form
in two compilations) ✓

2. Whether name, description and addresses
of all the parties been furnished in the
cause title ? ✓

3. (a) Has the application been duly signed
and verified ? ✓

(b) Have the copies been duly signed? ✓

(c) Have sufficient number of copies of
the application been filed ? ✓

4. Whether all the necessary parties are
impleaded. ✓

5. Whether English translation of documents
in a language other than English or Hindi
been filed ? ✓

6. Is the application on in time ? (See
Section 21) ✓

7. Has the Vakalatnama / Memo of Appearance
/ authorisation been filed ? ✓

8. Is the application maintainable ? (u/s 2,
14, 18, or U.R. 8 etc) ✓

9. Is the application accompanied IPO/DD,
for Rs. 50/- ? ✓

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD.

I N D E X - S H E E T

O.A. No. 1404 of 1996

CAUSE TITLE C. Sundarayya

V E R S U S

666 D-4, GST, Calcutta & auth

SL. NO.	Description of documents	Page No.
1.	Original Application	1 to 10
2.	Material papers	
3.	Vakalat	1
4.	Objection sheet	
5.	Spare copies 2 (Two)	
6.	Covers 2.9	

T. Reply statement filed by Mr.
N. R. Devan on 23/6/98.

Ref:- To set aside the order imposing the
Penalty of Compulsory Retirement and
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:: HYDERABAD BENCH:: HYDERABAD
declare that the applicant is entitled
to reinstatement. O.A. NO. 1104 OF 1995

Between:

GENERAL

C. Sundaresan

.. Applicant

And

GENERAL GS

Bench The Director General, GSI,
Calcutta and another

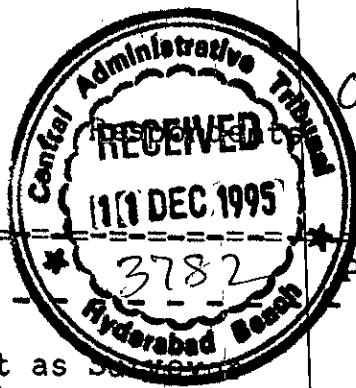
General

GSZ

(C)

CHRONOLOGY OF EVENTS

S.No.	Date	Event	Page No.
1.	02.05.84	Appointment of the Applicant as Surveyor in Geological Survey of India.	2
2.	01.08.87	Confirmation of the services of the Applicant	2
3.	08.05.89	Applicant was placed under suspension on the ground of disciplinary proceedings.	3
4.	05.07.89	Charge Memo issued by the 2nd Respondent	3
5.	12.07.89	Letter of the Applicant addressed to the 2nd Respondent	3
6.	17.07.89	Demand of the Applicant charges levelled against him.	3
7.	24.07.89	Appointment of Enquiry Officer by the 2nd Respondent	3
8.	18.03.91	Submission of written brief by the presenting officer.	4
9.	01.05.91	Applicant submitted his written brief by defence assistant.	4
10.	12.07.91	Suspension of the applicant revoked by the 2nd respondent.	4
11.	16.08.91	Enquiry Officer submitted his report and findings to the disciplinary authority.	4
12.	01.01.92	Copy of the Enquiry Officer's report furnished to the applicant	4
13.	16.01.92	Representation submitted by the applicant to Respondent No.2	4
14.	10.02.92	Imposition of penalty by Respondent No.2 to the Applicant	4
15.	13/17.5.94	Disposal of the appeal of the applicant by Respondent No.1	5
16.	21.02.95	Disposal of O.A.No.123/92	5
17.	05.09.95	Disposal of Review Petition No.42/95	5



Hyderabad,

Dt: 11-12-1995.

Usha
Counsel for Applicant

10

Application under section 19 of the A.T. Act, 1985

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNALS: HYD'BAD BENCH
AT HYDERABAD.

O.A. 1404/95

Between:

C. Sundaresan .. Applicant

and

The Director,
General G.S.I, Calcutta and
another .. Respondents

I N D E X

S.No.	Description	Page Nos.	Annexure
1.	Original Application	1 - 10	
2.	Charge Memo dt 5.7.89	9 - 14	A.1
3.	Reptn. Dt 16.1.92	15 - 16	A.2
4.	Office order dt 10.2.92 imposing penalty	17 - 18	A.3
5	Office order dt 10.2.92 treating the suspension period as E.O.L.	19	A.4
6	Appeal against order of compulsory dt 13.3.1992	20 - 26	A.5
7	Order in OA No.123/92 dt 21.2.95	27 - 29	A.6
8	Order in MA 425/95 in RA 42/95 dt 5.9.95	30 - 31	A.7
9	Office order dt.13/17-5-94 of RA/td>10 C-15073/0/CS/SR/k0-vig	32 - 33	A.8

Hyderabad

Udh
COUNSEL FOR APPLICANT.

Dt. 11.12.95

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:: HYDERABAD BENCH
AT HYDERABAD

O.A.NO. 1404 OF 1995

Between:

C. Sundaresan, S/o. K. ~~Chellappan~~,
aged about 37 years, Occupation: Ex-
Surveyor, Geological Survey of India,
Hyderabad, Resident of Trivandrum. .. Applicant

And

1. The Director General,
Geological Survey of India,
Calcutta.
2. The Senior Dy. Director General,
Geological Survey of India,
Southern Region, G.S.I. Complex,
Bangalguda, Hyderabad. .. Respondents

DETAILS OF THE APPLICATION

1. PARTICULARS OF APPLICANT:

The description and address of the applicant
is the same as shown in the cause title. The address
of the applicant for the purpose of service of summons,
notices, processes etc., is that of his counsel M/s.V.
Venkateswara Rao & K. Phaniraju, Advocates, 1-8-472/1,
Chikkadapally, Hyderabad - 500 020.

2. PARTICULARS OF THE RESPONDENTS:

The particulars of the Respondents for the
purpose of service of summons, notices, processes
etc., are the same as shown in the cause title.

3. ORDERS AGAINST WHICH THE O.A. IS FILED:

This O.A is filed by the applicant challenging
the validity of the order No. 195/C-14013/7/89-Vig
dated 10.2.1992 issued by the 2nd respondent imposing (A.Y. 91/92)

the penalty of compulsory retirement from service and the order No.C-13013/2/CS/SR/90-Vig dated 13/17.5.94 (A8 Pg 32) issued by the 2nd respondent confirming the penalty.

4. JURISDICTION:

The applicant declares that the subject matter of the O.A is within the jurisdiction of this Hon'ble Tribunal as per section 14(1) (a) of the Administrative Tribunals Act, 1985 since the applicant was an employee of Geological Survey of India at Hyderabad.

5. LIMITATION:

The applicant humbly submits that there is a delay of 175 days in filing the above O.A in as much as the applicant is challenging the impugned penalty order dated 10.2.1992 confirmed by the Appellate Authority on 13/17-5-1994. A separate petition seeking condonation of delay is filed under Section 21(3) of the Administrative Tribunals Act, 1985. (A3 Pg 17)

6. FACTS OF THE CASE :

The applicant respectfully submits that he was appointed as Surveyor in Geological Survey of India by the Deputy Director General, Geological Survey of India, Southern Region, Hyderabad vide his office order dated 2.5.1984. He was appointed as such by virtue of his being selected in the direct recruitment. He was put on probation for a period of two years and he completed the same satisfactorily. Therefore, his services were confirmed by the 2nd respondent with effect from 1.8.1987 and

and thus he became permanent employee of the Geological Survey of India.

(b) The applicant was placed under suspension with effect from 8.5.1989 on the ground that disciplinary proceedings were contemplated against him. Later on the applicant was served with the charge memo issued by the 2nd respondent vide ref. No. 770/ C.14013/7/89-Vig. dated 5.7.1989. Two charges were (A19) levelled against him alleging the acts of moral turpitude and misconduct. The applicant vide his letter dated 12.7.89 addressed to the 2nd respondent requested for supply of copies of the documents relied upon by the administration to prove the charges levelled against him. Inspite of specific request made by the applicant copies of the documents were not made available to the applicant. The applicant vide his letter dated 17.7.1989 denied the charges levelled against him and requested for oral enquiry. Therefore the 2nd respondent appointed Sri.P.S.Rao director-incharge, Madras as enquiry officer vide his office order No.C-14013/7/89-Vig dt.24.7.1989. Mr.N.C.Murali, Geophysicist (senior) was also appointed as Presenting officer vide office order dt.24.7.1989. The applicant herein engaged Sri.N.R. Mukherjee as his defence assistant in the enquiry instituted against him. The enquiry officer held the enquiry on 6.3.1990, 24.4.90, 25.4.90, 19.6.90, 11.9.90, 13.9.90, 27.11.90, 28.11.90 and 27.2.91 at Hyderabad, Bangalore and Madras respectively. The enquiry officer who was Director-incharge was promoted to

the post of disciplinary authority during the course of enquiry. After conclusion of the enquiry sittings and the evidence, the presenting officer submitted his written brief on 18.3.91 and the defence assistant of the applicant submitted his written brief on 1.5.91. Thereafter suspension of the applicant was revoked by the ~~thir~~ second respondent vide his office order dt.12.7.91. The enquiry officer submitted his report and the findings to the disciplinary authority on 16.8.1991. Then enquiry officer held the two charges levelled against the applicant as proved and established. The copy of the enquiry officer's report was furnished to the applicant by the 2nd respondent vide his letter dated 1.1.1992. Thereafter the applicant submitted his representation to the 2nd respondent on 16.1.1992 raising his objections to the conclusions arrived at by the enquiry officer and holding him guilty of the charges levelled against him. The 2nd respondent vide his office order No.195/C.14013/7/89-Vig dt.10.2.1992 imposed the penalty of compulsory retirement on the applicant on the basis of the findings of the enquiry officer. The suspension period from 8.5.89 to 11.7.91 was treated as E.O.L (extraordinary leave) which will not count for pensionary benefits vide his office order No.199/C-14013/7/89-Vig dt.10.2.1992. (A₂ P₁₅) (A₄ P₁₉)

(c) Aggrieved by the penalty order dated 10.2.92 (A₄ P₁₈) the applicant herein filed O.A.No.123/92 in this Hon'ble Tribunal without availing the alternative remedy available to him in as much as there is gross violation of

of principles of natural justice during the course of enquiry. The said O.A was admitted and was finally disposed of on dated 21.2.1995 with liberty (A-6) to file appeal against the impugned penalty dated 10.2.1992 within a period of one month and directed that the respondents should dispose of the appeal on merits within a period of 3 months thereafter. After filing the O.A the applicant submitted appeal to the 1st respondent and left to his native place in Kerala. The said appeal was disposed of by the 1st respondent on 13/17-5-94 confirming the penalty of compulsory retirement. Though, the applicant received the said order on the appeal, the same was not communicated to his counsel and resultantly the said fact could not be brought to the notice of this Hon'ble Tribunal. As such the applicant preferred Review Petition No.42/95 which was disposed of on 5.9.1995 giving liberty to the applicant (A) to file fresh O.A impugning the appellate order dt. 13/17.5.1994 if necessary seeking condonation of delay in filing the O.A. Accordingly, the present O.A is filed challenging the impugned order of penalty and the appellate order dt.13/17.5.1994. (A&R)

(c) It is respectfully submitted that the impugned order dated 10.2.1992 issued by the 2nd respondent imposing the penalty of compulsory retirement on the applicant is highly illegal, arbitrary, malafide, unconstitutional and without jurisdiction. As such the impugned order is liable to

be set aside by this Hon'ble Tribunal on the following grounds:

G R O U N D S

(i) The enquiry initiated against the applicant is wholly without jurisdiction. The provisions of C.C.S(C.C.G.A) Rules & Conduct Rules do not attract the alleged act of misconduct. The imputation is totally unconnected with the discharge of official duties and relates purely to a criminal offence against a private citizen. In this connection, the applicant relies upon 1990(1)SLJ(CAT) 385 (Mad) whose finding is as follows:

"Whether the imputation is with respect to conduct, totally unconnected with the discharge of official duties but it relates purely to a criminal offence against a private citizen, just because the matter is brought to the attention of the disciplinary authority, it is not justified in straightaway initiating disciplinary proceedings, without even ascertaining whether the criminal law is set in motion by the affected citizen".

(ii) The enquiry officer and the disciplinary authority are prejudices and biased throughout the enquiry which is apparent on the face of the record.

(iii) The originals of the documents relied upon by the administration have not been marked in the enquiry. The applicant was not furnished with the copies of the documents requested for by him. The enquiry officer unnecessarily interfered with the cross-examination of the witnesses of the administration and did not permit the defence assistant to cross-examine the witnesses on vital and important points. Thus, the applicant was denied reasonable opportunity to defend his case in the enquiry.

(iv) There is no evidence on which the enquiry officer could have relied to arrive at his conclusions and hold the applicant as guilty of the charges levelled against him. His findings are wholly perverse and baseless and are only based on his surmises and presumptions.

(v) There is no independent application of mind by the disciplinary authority to the enquiry proceedings. He issued the impugned proceedings punishing the applicant in almost mechanical way.

(vi) Extraneous considerations were weighed in the minds of the enquiry officer and the disciplinary authority to prove the charges against him and punish him with major penalty of compulsory retirement out of their bias and prejudice. On account of this the entire enquiry proceedings are vitiated in law and are not valid in law.

(vii) It is evident on the face of the record that the authorities are predetermined to punish the applicant which lead to the issue of the impugned proceedings imposing major penalty on the applicant.

(viii) The enquiry was held in utter violation of the procedure laid down in the C.C.S(CCA) Rules for imposing the major penalty and violating the principles of natural justice.

(ix) The alleged acts of misconduct on the part of the applicant are not attracted by the provisions the C.C.S(Conduct) Rules. Therefore the enquiry instituted against the applicant is without

any authority of law and the same is liable to be quashed.

(x) At any stretch of imagination, it cannot be held that the charges are proved against him without any cogent evidence on record.

(e) It is further submitted that the Appellate Authority order dated 13/17.5.1994 is also liable to be set aside by this Hon'ble Tribunal in as much as there is no application of mind by the appellate authority to the various issued raised by the applicant in his appeal and the order is passed by the appellate authority confirming the impugned penalty in a most mechanical manner. He ought to have noticed that the punishment of compulsory retirement imposed on the applicant is highly disproportionate to the charges held to be proved against him and the evidence available on record.

7. MAIN RELIEF:

Therefore, it is prayed that this Hon'ble Tribunal may be pleased to call for the records pertaining to the office order No.195/C.14013/7/89-Vig dated 19.2.1992 and No.199/C.14013/7/89-Vig. dated 10.2.1992 issued by the second respondent and the appellate authority order No.C-13013/2/CS/SR/90-Vig dated 13/17.5.1994 and set aside the same by holding them as illegal, arbitrary, malafide, unconstitutional and without jurisdiction and declaring

that the applicant is entitled for reinstatement with all consequential benefits such as seniority, back wages, promotion etc., and pass any other order or orders as is deemed fit, proper, necessary and expedient in the circumstances of the case.

8. INTERIM RELIEF:

The applicant pray that this Hon'ble Tribunal may be pleased to fix an early date for final disposal of the above O.A in view of the fact that he is out of employment since 1992.

9. REMEDIES EXHAUSTED:

The applicant declares that he availed the alternative remedy available to him under service rules by submission of appeal on dated 13.5.1992 to the 1st respondent which was disposed of by him on dated 13/17.5.1994. Hence, he complied (AS) with the provisions of Section 20 of the Administrative Tribunals Act, 1985.

10. MATTERS NOT PENDING WITH ANY OTHER COURT:

The applicant further declares that the matter regarding which the application has been made is not pending before any court of law or any other authority or any other bench of the Tribunal. The applicant has not moved any other court or authority for the relief claimed in the present O.A.

11. PARTICULARS OF THE POSTAL ORDER TOWARDS OA FEE

I.P.O No. 09 570060 dt. 16/12/95 for Rs.50/-
to the credit of Registrar, Central Administrative
Tribunal, Hyderabad Bench is enclosed.

~~I.P.O. B.C. D.P. Remained~~

12. DETAILS OF INDEX :

An Index of material papers in duplicate conta-
ining the details of the documents to be relied
upon is enclosed.

13. LIST OF ENCLOSURES:

1. I.P.O. for Rs.50/-
2. Index of Material Papers.

VERIFICATION

I, C.Sundaresan, S/o.K.Challappan, aged about
37 years, Occupation: Ex-Surveyor, Geological Survey
of India, Resident of Trivandrum, applicant in the
above O.A do hereby verify that the contents of the
paragraphs 1 to 13 are true and correct to the best
of my knowledge and are believed to be true on legal
advice and we have not suppressed any material facts.

Hence, verified on this the 10th day of December,
1995.

To

The Registrar,
Central Administrative
Tribunal,
Hyderabad Bench,
Hyderabad.

Hyderabad,

Dt: 11-12-1995.

Wade
COUNSEL FOR THE APPLICANT

Sundaresan
APPLICANT

Geological Survey of India,
Southern Regional Office,
Hyderabad - 500 001.

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No. 770 / C.14013/7/89-Vig

Dated, the 5 July, 1989

MEMORANDUM

The undersigned proposes to hold an enquiry against Shri C. Sunderesan, Surveyor (Under Suspension) under rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The substance of the imputations of misconduct or misbehaviour in respect of which the enquiry is proposed to be held is set out in the enclosed statement of article(s) of charge (Annexure-I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which, and a list of witnesses by whom the article(s) of charge is/are proposed to be sustained are also enclosed (Annexure-III and IV).

2. Shri C. Sunderesan, Surveyor (Under Suspension) is directed to submit within 10 (ten) days of the receipt of the Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

3. He is informed that an enquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

4. Shri C. Sunderesan, Surveyor (Under Suspension) is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the enquiring authority or otherwise fails or refuses to comply with the provisions of Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 or the orders/directions issued in pursuance of the said rule, the enquiring authority may hold the enquiry against him ex-parte.

5. Attention of Shri C. Sunderesan, Surveyor (Under Suspension) is invited to rule 20 of the Central Civil Services (Conduct) Rules, 1964 under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed that Shri C. Sunderesan, Surveyor (Under Suspension) is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of rule 20 of the Central Civil Services (Conduct) Rules, 1964.

6. The receipt of this Memorandum may be acknowledged.

R.V. Chalapathi Rao
(R.V. CHALAPATHI RAO)
Dy. Director General,
Disciplinary Authority.

Encl: as above.

To
Shri C. Sunderesan, Surveyor (Under Suspension)

Geological Survey of India,

P&C Division, GSI, 580, . . .

Hyderabad.

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STATEMENT OF ARTICLE OF CHARGE FRAMED AGAINST SRI C.SUNDERESAN
SURVEYOR, GEOLOGICAL SURVEY OF INDIA, SOUTHERN REGION, HYDERABAD

Article - I

That the said Shri C.Sunderesan, Surveyor while functioning in Panankallur Geophysical Camp has misbehaved with Smt. Rama Devi wife of Shri K.Chandramauli, Asst. Geophysicist and tried to molest and outrage her modesty around 3.30 PM on 8th April, 1989 which amounts to MORAL TURPITUDE.

Shri C.Sunderesan has thus failed to maintain absolute integrity and behaved in a manner unbecoming of a Government Servant in violation of Rule 3(1)(i)&(iii) of CCS(Conduct) Rules, 1964.

Article - II

That the said Shri C.Sunderesan, Surveyor while functioning in the Panankallur Geophysical Camp had sent the Watchman on duty out of the Camp around 3.15 PM on 8th April, 1989 without having any authority to do so for his private work with the sole intention of trespassing into the tent of Shri K.Chandramauli, Asst. Geophysicist in his absence as well as in the absence of the watchman on duty.

The above act of Shri C.Sunderesan to send the watchman on duty out of the camp not only resulted in exposing the Government Properties in the Camp to the security threat but also goes to prove that Shri Sunderesan had ulterior motive to misbehave with Smt.K.Rama Devi w/o Sri K.Chandramauli.

Shri C.Sunderesan, Surveyor has thus failed to maintain absolute integrity and devotion to duty and behaved in a manner unbecoming of a Government Servant in violation of Rule 3(1)(i)(ii) & (iii) of CCS(Conduct) Rules of 1964.

ANNEXURE - II

Statement of imputation of misconduct in respect of Article of Charge framed against Shri C.Sunderesan, Surveyor, GSI, Hyderabad

Article - I

That while functioning in Panankallur Geophysical Camp of GSI, SR Shri C.Sunderesan, Surveyor in a pre-planned manner and ensuring that there was nobody in the camp, by sending away the watchman on a petty mission except Smt.K.Rama Devi, W/o Shri K.Chandramauli, Asst. Geophysicist entered into the tent

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of Shri K.Chandramauli, Asst.Geophysicist ~~extremely intaxxxex~~ around 3.30 Pm on 8th April, 1989 and misbehaved with his wife Smt. K.Rama Devi and tried to molest and outrage her modesty.

This action on the part of Shri C.Sunderesan, amounts to Moral Turpitude and crime on woman, thus has failed to maintain absolute integrity and behaved in a manner unbecoming of a Government Servant in violation of Rule 3(1)(i) & (iii) of CCS (Conduct) Rules, 1964.

Article - II

IMPUTATION OF MISCONDUCT

That the said Shri C.Sunderesan, Surveyor while functioning in Panankallur Geophysical Camp and after seeing that S/Shri K.Chandramauli, Asst.Geophysicist, RK Gedaum, STA(Geoph) (Workshop Instt) and Puran Bahadur, Driver had left the Camp around 3 Pm on 8th April, 1989 for field duty had asked the watchman on duty Shri Mehaboob to go to MEC Camp to hand over some mangoes to one Shri Abraham with the sole intention to trespass into the tent of Shri K.Chandramauli, Asst.Geophysicist in his absence as well as in the absence of the Watchman on duty. Later on his misbehaviour with Smt.K.Rama Devi, W/o Shri Chandramauli, Asst.Geophysicist when he tried to molest and outrage her modesty, when there was nobody in the camp clearly shows that Shri Sunderesan had sent the watchman out of the camp without having any authority to do so in a preplanned manner with ulterior motive. The above act of Shri Sunderesan to send the ~~mk~~ watchman out of the camp also resulted in exposing the Govt. Properties in the camp to the security threat which shows that Shri Sunderesan had shown lack of devotion to duty.

Shri Sunderesan, Surveyor has thus failed to maintain absolute integrity and shown lack of devotion to duty and behaved in a manner unbecoming of a Govt. Servant in violation of Rule 3 (1) (i) (ii) & (iii) of CCS(Conduct) Rules 1964.

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List of Documents by which the Article of Charge framed
against Shri C.Sunderesan, Surveyor, GSI, Hyderabad are
Proposed to be sustained

1. Written Statement dated 17-4-1989 of Smt.K.Rama Devi w/o Shri K.Chandramauli, Asst.Geophysicist
2. Letter dated 17-4-1989 addressed to S.P.Shankaran, Geophysicist(Sr), GSI Camp, Pamankallur by Shri K.Chandramauli, Asst. Geophysicist
3. Written Statement made by Shri R.Madhusudan, Geologist Op: Karnataka & Goa, Economic Geology -I, Bangalore on 30-4-1989
4. Letter dated 21-4-1989 addressed to Shri S.P.Shankaran, Officer-in-Charge, GSI, Pamankallur Camp by Shri RK Gedam S.T.A.(Geophysical Workshop Instt.)
5. Letter dated 18-4-1989 from Shri Puran Bahadur, Driver, Geophysical Party addressed to the Party Chief, GSI Camp, Pamankallur
6. Letter dated 17-4-1989 from Shri Mahboob, Watchman, addressed to Shri S.P.Shankaran, Geophysicist(Sr) on Pamankallur Geoph.Camp
7. Letter dated 17-4-1989 from Shri Moula S/o Hussain Saheb Priyara, attached to Geologist Camp addressed to the Officer-in-Charge, Panamkallur Geophysical Camp

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List of Witnesses by whom the articles of charge framed
against Shri C.Sunderesan, Surveyor are proposed to be sustained

1. Smt. K.Rama Devi, W/o Shri K.Chandramauli, Asst.Geophysicist GSI, SR, Hyderabad.
2. Shri K.Chandramauli, Asst.Geophysicist, GSI, SR, Hyderabad
3. Shri R.Nadhusudan, Geologist, Op:Karnataka & Goa, Economic Geology Division-I, GSI, Bangalore.
4. Shri Mehabeb, Watchman
5. Shri S.P.Shankaran, Geophysicist(Sr), GSI, Hyderabad
6. Shri R.K.Gedam, STA(Geoph.Workshop), GSI, Hyderabad
7. Shri Puram Bahadur, Driver, GSI, Hyderabad
8. Shri Maula Saab, S/c Hussain Sab Finaara, Ramankallur

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From: C.S.Sundaresan
 Surveyor
 P.C. Division
 GSI, SRD,
 Hyderabad

To
 The Sr.Dy.Director General
 and
 Disciplinary Authority
 Geological Survey of India
 Southern Region
Hyderabad

Sub : Disciplinary proceedings under Rule-14 of CCS
 (CCA) Rules, 1965.

Ref : Your Confidential letter No.30/C.14013/7/89-Vig
 dated 1.1.92.

Sir,

I gratefully acknowledge the receipt of the above forwarding the report of the Inquiry Officer and calling upon me to make a representation on it, if I so like.

I have gone through the report very carefully and have, with a heavy heart, found how the Inquiry Officer, jumped to his own conclusions, disadvantageous to the charged official, mainly due to inadequate appreciation of the points clarified during the course of cross-examination of the prosecution witnesses. The findings of the Inquiry Officer should have been based only on evidence adduced during the enquiry. His conclusion should have been logical unlike the one he has presented that appears as if he had already made up his mind and that he is making a one-sided presentation of the case to support it. It would have been judicious for him to probe into the relevant issues only.

The charged official feels confident that the Disciplinary Authority, after going through the papers connected with the enquiry, will not fail to take his own decision that would meet the both ends of justice. The applicant, however, elect to utilise this opportunity to bring out a few points.

According to charge-sheet, the crime that alleged to have committed by the charged official on 8.4.89 was against one Smt.K.Rama Devi who was an outsider and non-official. The defence was interested to know from the aggrieved party as to what prevented them to react immediately and lodge the complaint with the law and order machinery of the country particularly when the Local Police station was nearby. Instead of doing so, on what consideration the complainant keeping quiet for a long period of nine days and made a complaint on 17.4.89. Finding the reply of the prosecution witnesses not satisfactory enough, the Inquiry Officer in his report has come forward in their succour. In page 9, para 5.1 of the Inquiry Report, the Inquiry Officer's reply to above is that when a person has more than one legal channel of redress, it is for him(the aggrieved) to make his choice. It is the inherent right of every citizen of India and it can not be questioned".

The Inquiry Officer in making such comment has completely overlooked the more pertinent point that Smt.Rama Devi, being a private person, the Central Civil Service Rules are not binding on her personal affairs. The intention of the defence has been misconstrued by the Inquiry Officer when he says that

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inherent right of a citizen can not be questioned. The intention was to ascertain from the aggrieved as to what prevented them to exercise the right enjoyed by them as citizen. Unfortunately enough, the Inquiry Officer in his bid to protect the right of a citizen, forgets to exhibit his concern for the rights of a Govt. servant.

The connected issue will be further elucidated, if a similar case adjudicated at the Central Administrative Tribunal, is referred to. The case is C.Kanniappan Vs. Director, Jawaharlal Institute of Post Graduate Medical Education and Research, 1990(I) SLJ(CAT) 385(Madras). The opinion of the Tribunal in the case is reproduced below :-

"Where the imputation is with respect to conduct, totally unconnected with the discharge of official duties but it relates surely to a criminal offence against a private citizen, just because the matter is brought to the attention of the disciplinary authority, it is not justified in straightway initiating disciplinary proceedings, without even ascertaining whether the criminal law is set in motion by the affected citizen."

The charged official believes that the disciplinary authority will, after going through the papers of the enquiry, find that the Inquiry Officer has, on almost all points of his analyses and conclusions, relied more on extraneous events than on evidences. At this stage, the applicant feels that all those points are not required to elaborate since those are so palpable. It is, however, seen that the Inquiry Officer has forgotten to mention in his report that the Presending Officer has lost all original documents relating to the case and was kept at his disposal as far back as 26th February, 1991 though the matter was mentioned during the enquiry.

Yours faithfully,

Hyderabad,
Dated: 16.1.92.

(C.Sundaresan)
Surveyor, P & C Division
CSI, SRQ, Hyderabad

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GOVT. OF INDIA

No. 195/C.14013/7/89-Vig.

Geological Survey of India
Southern Region
GSI Complex : Bandlaguda
Hyderabad-500 660, AP

Dated, the 10th Feb. '92

O R D E R

Whereas charges against Shri C. Sunderesan, Surveyor, Geological Survey of India, Southern Region, Hyderabad, were framed under Rule 14 of the C.C.S. (CC&A) Rules 1965 and charge Memorandum with Articles of charges, statement of imputations, list of documents and witnesses at Annexure I to II was served on Shri C. Sunderesan, vide this office order No. 770/C.14013/7/89-Vig dated 5-7-1989.

And whereas Shri C. Sunderesan, Surveyor, in his statement of defence denied the charges levelled against him and expressed his desire to be heard in person through his reply dated 17-7-1989.

And whereas Shri P.S. Rao, then the Director-in-Charge and now Deputy Director General, Op:TNK&P Madras, was accordingly appointed as Inquiring Authority to inquire into the charges framed against Shri C. Sunderesan, Surveyor, and Shri N.C. Murali, Geophysicist (Sr.) was appointed as presenting officer vide O.O.Nos. 843 & 845/C.14013/7/89 dt. 24-7-89.

And whereas the Inquiry Officer on consideration of oral deposition made and examination of the documentary evidence produced before him in the subject case has come to the definite conclusions that the charges framed under Article I & II have been proved.

Article I

The charge under Article I, is that Shri C. Sunderesan, Surveyor, while functioning in Penankallur Geophysical Camp, has misbehaved with Smt K. Rama Devi W/o Shri K. Chandra Mauli, Assistant Geophysicist and tried to molest and outrage her modesty around 3.30 p.m. on 8th April, 1989, which amounts to moral turpitude.

In the oral deposition made by the charged official/ witnessess and the Defence Assistant, the I.O. has come to the conclusion that the charge under the Article is proved.

I, concur with the conclusion of the I.O. that the allegation under article stand proved.

Article II

The charge under Article II, is that Shri C. Sunderesan, Surveyor, while functioning in the Penankallur Geophysical Camp had sent the watchman on duty out of the camp around 3.15 p.m. on 8th April 1989 without having any authority to do so for his private work with the sole intention of trespassing into the tent of Shri K. Chandra Mouli, Asstt. Geophysicist, in his absence as well as in the absence of watchman on duty.

The above act of Shri C. Sunderesan to send the watchman on duty out of the camp not only resulted in exposing the Government property in the camp to the security threat but also goes to prove that Shri Sunderesan had ulterior motive to misbehave with Smt. K. Rama Devi.

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In the oral deposition made by the charged official, witnesses and Defence Assistant, the I.O. has come to the conclusions that the charge is proved.

I concur with the conclusions of the I.O. that the allegation under Article II, stands proved.

I therefore, consider that the ends of the justice will be met by passing the following order.

O R D E R

Whereas on consideration of the records of the disciplinary proceedings instituted against Shri C. Sunderesan, Surveyor, Geological Survey of India, Southern Region, Hyd. the undersigned is satisfied that good and sufficient reasons exist for imposing upon the said Shri C. Sunderesan, Surveyor, the penalty hereinafter specified.

Now, therefore, the undersigned hereby impose on Shri C. Sunderesan, Surveyor, Geological Survey of India, S.R., the penalty under Rule 11(VII) of the C.C.S.(CC&A) Rules 1965, & order that Shri C. Sunderesan, Surveyor, G.S.I., S.R.O., Hyd. is retired compulsorily from the Government Service with immediate effect.

L. N. Balasubrahmanian
(10/21/72)
(M.N. BALASUBRAHMAMIAN)
Sr.Dy.Director General &
Disciplinary Authority

To

Shri C. Sunderesan,
Surveyor,
G.S.I., S.R., Hyd.

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GOVT. OF INDIA

Geological Survey of India
Southern Region
GSI Complex, Bandlaguda
Hyderabad-500 660, AP

No. 199/C.14013/7/89-Vig.

Dated, the 10th Feb. '92

O R D E R

Sub :- Disciplinary proceedings against
Shri C. Sunderesan, Surveyor & the
treatment of period of suspension -Reg.
- - - -

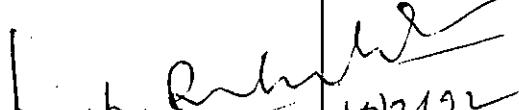
Whereas Shri C. Sunderesan, Surveyor,
Geological Survey of India, Southern Region, Hyderabad,
was placed under suspension with effect from 8-5-89
vide this office order No. 527/C.14013/7/89-Vig. dated, the
8th May, 1989.

And whereas the said suspension was revoked with
effect from 12-7-1991 pending appropriate action in the case,
and departmental disciplinary proceedings against him vide
this office order No. 765/C.14013/7/89-Vig. dt. 12-7-1991.

And whereas on completion of the Enquiry proceedings
against Shri C. Sunderesan and based on the report of the
Enquiry Officer (vis-a-vis the depositions made by the
charged official, and witnesses and the Defence Assistant),
the undersigned had imposed Major penalty on Shri C.
Sunderesan, Surveyor.

And whereas the admissibility of Pay and allowances
and treatment of service during the period of suspension of
Shri C. Sunderesan from 8-5-89 to 11-7-91 are to be decided in
terms of Rules.

Now, therefore, the undersigned after careful
consideration of the case has come to the conclusion that
since a Major Penalty has been imposed against the said Shri
C. Sunderesan. The entire period of suspension from 8-5-89 to
11-7-1991 shall be treated as E.O.L. (which will not count
for pensionary benefits).


(M.N. BALASUBRAHMANIAN)
Sr.Dy.Director General &
Disciplinary Authority
(16)2/1992

To
✓ Shri C. Sunderesan,
Hyderabad




To

The Director General,
Geological Survey of India,
27, Jawharlal Nehru Road,
C A L C U T T A - 700 016.

Sub: APPEAL against order of Compulsory Retirement under Rule 23(ii) of CCS (CCA) Rules, 1965 -

Ref: Order No.195/C.14013/7/89-Vig. dated 10-2-1992 relating to compulsory retirement under Rule 11 (viii) of CCS (CCA) Rules, 1965 issued by the Sr. Dy. Director General, Geological Survey of India, Southern Regional Office, Hyderabad - A.P. -

S I R ,

The Appellant prefers this appeal before your benignself in terms of Rules 23(ii) of CCS (CCA) Rules, 1965 against the order of compulsory retirement passed by the Senior Deputy Director General, Geological Survey of India, Southern Region, Hyderabad, under Rule 11 (viii) of CCS (CCA) Rules, 1965 -vide - Order referred to above (copy enclosed) as disciplinary authority of Southern Regional Office, Hyderabad;

1. That the Appellant has got adequate ground to feel aggrieved of the punishment inflicted upon the Appellant by the Disciplinary Authority on the basis of the report submitted by the Inquiry Officer though it has been established beyond doubt that the imputation of charges has neither been proved with documentary evidence nor it could produce prosecution witnesses but the observation recorded by the Inquiry Officer in his report exhibited the facts of

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gross inconsistencies apart from the fact that it was a peremptory judgement out of prejudiced outlook.

2. That, it is, therefore, necessary to consider appeal of the appellant on the basis of three major guidelines enumerated below :

- (i) Whether the procedure laid down in the rules has been complied with and if not whether such non-compliance has resulted in violation of any provision of the constitution or in the failure of justice ;
- (ii) Whether findings of the disciplinary authority are warranted by the evidence on the record of the case; and
- (iii) Whether the penalty or the enhanced penalty is adequate, inadequate or severe.

3. That the Appellant further humbly submits that the order relating to inflicting severe punishment is not maintainable for various other factors connected with the case and are explicitly enumerated below for sympathetic consideration of the Appellate Authority.

4. That the Appellant had submitted suo-moto statement in response to the Letter No.30/C.14013/7/89-vig. dated 1-1-1992 to the disciplinary authority and urged for impartial view so that natural justice is not denied in any extraneous consideration.

5. That according to the context of the charge-sheet served on the appellant under Rules 14 of CCS (CCA), 1965 the ~~the~~ crime alleged to has been committed by the Appellant on 8-4-1989 against one SMT.K. RAMA DEVI who was an outsider and non-official and it remains to be a matter of doubt and

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suspicion as to what has prevented the complainant to explore law and order machinery of the State against the alleged crime of the Appellant. This material factor remained unresolved during the enquiry proceedings and facts remain that Inquiry Officer has hastily arrived at a conclusion to establish the imputation of charges against the accused-appellant without any valid ground. It is also inseparable question that the complainant had considered it judicious to submit written complaint to Geological Survey of India authorities after a lapse of nine days from the date of alleged incident. Whereas in case of ~~any~~ criminal involvement of Central Government Employee with an outsider it would have been a matter of logical consequence to lodge P.I.R. at the nearest Police Station against such criminal offence.

6. That the appellant rightfully contends that unless this ~~cordial~~ point of the case is not resolved with documentary evidence there is hardly any scope for the disciplinary authority to summarise the enquiry to establish the bonafide of the complaint and consequently the decision of the disciplinary authority cannot be fair and just. Deposition of prosecution witness before the Inquiry Committee was not adequate to establish the correctness of the complaint and the Inquiry Officer has taken undue liabilities to establish the validity of the deposition for violating the regulatory norms of the proceedings. The Inquiry Officer while recording his observations stated on page (9) Part 5. 1

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Page (9) Para 5.1 of the Inquiry Report that the person who has option to select any kind of modalities to exhaust against criminal offence, it can be done independently without going to the question of propriety of preferring official proceedings by an outsider instead of seeking redressal through the Law and Order Machinery of the State.

7. That it is further pertinent to place it in record for kind consideration of the Appellate Authority that the complainant is an outsider and involvement of an outsider in criminal case with a Central Employee it is the only course left for an outsider to seek remedy against alleged criminal offence of the Appellant of the Law and Order Machinery of the State Government.

8. That the Disciplinary Authority on receipt of complaint against the Central Employee from an outsider cannot arbitrarily decide to initiate disciplinary proceedings under Rule 14 of CCS (CCA) Rules of 1965 unless there is a *prima facie* merit of the case. The complainant has not gone ~~to~~ the nearest Police Station for lodging F.I.R. instead of preferred to lodge written complaint to the Authority after the lapse of nine days from the date of incident out of instigation of some vested interest. It can therefore fairly adjudged that there was no *prima facie* evidence before the Disciplinary Authority for favour of initiating disciplinary proceedings against the appellant though the entire disciplinary proceedings carried on by the Inquiry Officer out of prejudicial outlook and apparently it was manifestation of the determination to inflict punishment on the appellant on some pretext or the other.

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9. That it is further necessary to place it on record in this appeal that all the original documents relating to this case have been wilfully and purposely misplaced by the Custodian and this factor alone gives an evidence of fact as to how the entire matter has been concocted with meticulous planning out of malafide intention, vendetta and personal animosity. That the connected issue can further be overviewed from the judgement delivered by the Central Administrative Tribunal, Madras Bench, in identical adjudication between - C. Kaniappan vs. Director, Jawaharlal Institute of Postgraduates Medical Education and Research, 1990 (1) SLJ (CIT) 385 (Madras). The opinion of the Tribunal is reproduced below :

"... Where the imputation is with respect to conduct, totally unconnected with the discharge of the official duties but it relates purely to criminal offence against the private citizen, just because the matter is brought to the attention of the disciplinary authority, it is not justified in a straightway initiating disciplinary proceeding, without even ascertaining whether the criminal law is set in motion by the affected citizen"

10. The above judgement of the CIT, Madras Bench, upheld the validity of the contention of the petition that the disciplinary authority cannot and could not abruptly decide the initiation of disciplinary proceedings against the complaint of a private citizen who instead of exhausting the Law and Order Machinery of the State against alleged criminal offence of the appellant preferred to utilize the CCS (CCA) Rules, 1965 obviously out of extraneous influence which is bad and improper for maligning ~~and~~ an innocent

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Government Official. Apart from the fact that the punishment inflicted by the disciplinary Authority is not maintainable and does not hold good in terms of the provision of the rules in consideration of the salient factor that the complainant was an outsider and did not exhaust normal channel for remedy.

11. That the appellant has adequate reasons to believe that the disciplinary authority out of prejudicial outlook could not apply his mind to the main context of the report of the Inquiry Officer who has on almost all points of his analyses and conclusion relied more on extraneous event than the evidences which had its inherent legacy to substantiate the charges. Moreover, it is also important feature to note that the enquiry officer did not wilfully mention in his report that the Presenting Officer has lost all original documents relating to this case which is unintelligible and smacks malafide intention of the officers for inflicting punishment to the appellant.

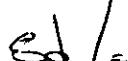
The appellant on the strength of the sums and substances of the case described in this Appeal urges upon the Appellate Authority for favour of setting aside the order of the compulsory retirement invoked by the disciplinary authority -vide- Order dated 10-2-1992 for favour of restoration of justice and equity which have been denied, overlooked and enforced out of prejudicial consideration. The order of compulsory retirement of the disciplinary authority is not maintainable in ~~terms~~ terms of various grounds mentioned in the Appeal and it is

TC
W/Dr

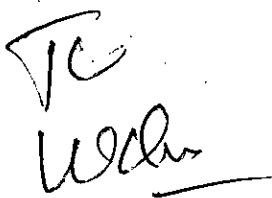
established beyond doubt that entire exercise has been carried on by the Administration on some extraneous consideration though this ^{is} one of the important factors deserves to be taken note of in this case that the husband of the complainant who was an employee of GSI left permanently and does not have interest or link whatsoever with Geological Survey of India for which Geological Survey of India cannot take care of the interest of the complainant in any consideration whatsoever under the provision of Rule 14 of C.C.S. (C.C.S.) Rules, 1965.

Appellant prays for favour of admission of this Appeal in the interest of restoration of justice.

Yours faithfully,



(C. SUNDERESAN)
Surveyor,
Geological Survey of India,
Planning & Co-ordination Divi,
Southern Regional Office,
"GSI Complex", Bendlaguda,
HYDERABAD-500 660.


TC
Wdhr

X As per Hon'ble Shri A.V.Haridasan, Member (Judl.) X

This application has been filed by the applicant who was a Surveyor in Geological Survey of India impugning the order dt. 14.2.92 by which he was compulsorily retired from service by way of punishment. The respondents in their reply have inter-alia taken a contention that the application is not reasonable as the applicant has failed to exhaust the departmental remedy statutory provided. But the application has already been admitted. When the application came up for final hearing it is noted that the dispute in this case is not which can be finally adjudicated by a Single Member. But the counsel on either side submits that as the applicant has not preferred an appeal to the appellate authority against the impugned order if he files an appeal now the same would be considered and disposed of by the appellate authority and in view of the matter the application may be disposed of without entering into an adjudication with a proper direction to the applicant and to the respondents with regard to the filing of the appeal there of by the appropriate appellate authority.

2. In the light of the above submission of the learned counsel on either side the application is disposed of with the following directions:

The applicant may file an appeal against the impugned order dated 10.2.92 within a period of one month from the date of receipt of a copy of this order.

* * *

AB 38
27

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH
AT HYDERABAD.

C.A.NO.123 of 1992.

Between

Dated : 21.2.1995.

C.Sundaresan

...

Applicant

Vs.

1. The Union of India, reptyd by the Secretary, Department of Mines, Ministry of Steel & Mines, ~~Ministry~~ Central Secretariat, New Delhi.
2. The Director General, Geological Survey of India, Calcutta.
3. Senior. Dy. Director General, Geological Survey of India, Southern Region, G.S.I.Complex, Sandalagude, Hyd.

...

Respondents

Counsel for the Applicant : Sri. V.Venkateswara Rao

Counsel for the Respondents : Sri. N.R.Devaraj, Sr. CRSC.

CORAM:

Hon'ble Mr. A.V.Haridasan, Judicial Member

Contd:....2/-



.. 3 ..

If such an appeal is filed within the aforesaid period the second respondent shall as agreed to by the respondents counsel dispose of the appeal on merits by passing a reasoned order within a period of three months from the date of receipt of the appeal though filed beyond the period prescribed for filing the appeal. No order as to costs.

CONTINUED TO BE TRUE COPY
L. N. Dandekar
Dated 24/3/85
Court Officer
Central Administrative Tribunal
Hyderabad Bench
Hyderabad.

SC

Copy to:-

1. Secretary, Department of Mines, Ministry of Steel & Mines, Union of India, Central Secretariat, New Delhi.
2. The Director General, Geological Survey of India, Calcutta.
3. Senior Dy. Director General, Geological Survey of India, Southern Region, G.S.I. Complex, Sandalaguda, Hyd.
4. One copy to Sri. V. Venkateswara Rao, advocate, C.I.T, Hyd.
5. One copy to Sri. N.R. Devaraj, Sr. CSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

TC
MLR

ASW/-

3)

: 2 :

Copy to:-

1. The Secretary, Ministry of Steel & Mines, Union of India, New Delhi.
2. The Director General, Geological Survey of India, Calcutta.
3. The Sr. By Director-General, Geological Survey of India, Southern Region, Hyderabad.
4. One copy to Sri. V.Venkateswara Rao, advocate, CAT, Hyd.
5. One copy to Sri. N.R.Severaj, Sr. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

Rept/-

MIA 425791

22/12/42

42/42

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22/42

✓

A7
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CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD

M.A. No. 425/95 in
in
R.A. No. 42/95
in
OA 123/92

Hyderabad this day the 5th September, 1995

Hon'ble Mr. A.V. Haridasan, Vice Chairman (J)

Shri C. Sundaresan

Petitioner

Vs.

The Union of India represented
by its Secretary to Govt.
Ministry of Steel & Mines and
2 others.

Respondents

O R D E R

M.A. No. 425/1995 is only for permission to file a copy of his appeal dated 13.3.1992 and the order dated 13.5.1994 of the appellate authority. The O.A. was filed by the applicant impugning ^{an order} dated 14.2.1992 by which he was compulsorily retired from service. This application was disposed of by Order dated 21.2.1995 as a counsel on either side submitted that the same may be disposed of with a direction to the applicant to file an appeal against the Order of compulsorily retirement which would be considered by the appellate authority on merits. Now the review petitioner states that an appeal had already been filed by him which was rejected by the appellate authority vide his order dated 11.5.1994 and that this fact was not brought before the notice of the Bench by inadvertence. This is not a valid ground for a review of the Order. Therefore, the Review Application is rejected. It will be open for the applicant to file an Original Application impugning the appellate authority dated 13.5.1994 if necessary seeking condonation of delay in case the O.A. could not be filed within the period prescribed.

CERTIFIED TO BE TRUE COPY

.....

Date..... 12.9.95

Court Officer

Central Administrative Tribunal

Hyderabad Bench

Hyderabad

SC
W.H.

32/41

A8

GOVERNMENT OF INDIA

Geological Survey of India
27, Jawaharlal Nehru Road,
Calcutta-16.

No.

1435
C-13013/2/CS/SR/90-Vig

Date the 13th May, 1994.

OFFICE ORDER

Whereas Shri C. Sunderesan Ex-Surveyor, GSI, SR, Hyderabad was charge-sheeted under Rule 14 of CCS(CC&A) Rules, 1965 for alleged misbehaviour and misconduct with Smt. K. Rama Devi wife of Shri K. Chandramauli, Asstt. Geophy. and for sending the watchman out of the Camp without having any authority and thereby violating the provisions of Rule 3 of CCS(Conduct) Rules, 1964.

And whereas departmental enquiry was ordered by the disciplinary Authority and the inquiry was conducted in accordance with procedure laid down in CCS(CC&A) Rules, 1965.

And whereas on the basis of the findings of the Inquiry Report, the Disciplinary Authority awarded the major penalty of "Compulsory Retirement".

And whereas Shri Sunderesan, Ex-Surveyor has submitted an appeal dated 13.3.92 to the undersigned wherein he has mentioned the following points :

- (i) Smt. K. Rama Devi, wife of Shri K. Chandramauli, Asstt. Geophysicist was an outsider and a non-official person, whose complaint should not have been the basis of any disciplinary action.
- (ii) As an outsider Smt. K. Rama Devi should have complained to the Law and order machinery of the state and lodged FIR in the Police Station.
- (iii) The Inquiry Officer was prejudiced against him.
- (iv) Original documents relating to the case had been wilfully misplaced.
- (v) The Inquiry Officer relied more on extraneous events than the evidences which has vitiated the proceedings.
- (vi) Shri Sunderesan has urged the undersigned for setting aside the order of compulsory retirement imposed by the disciplinary authority.

And whereas, the undersigned in exercise of the powers of Appellate Authority under CCS(CC&A) Rule, 1965 has considered the appeal with reference to the entire disciplinary case, prescribed rules and procedures and the documents on records and concludes the following :

- (i) Shri Sunderesan has committed grave misconduct unbecoming of a Govt. servant towards K. Rama Devi, wife of Sri K. Chandramauli, Asstt. Geophy. during office hours in the office premises. As a Govt. servant Shri Sunderesan is expected to behave in a manner befitting of a Govt. servant not only with relation to his colleagues in the office but with the public also.

PC
Wb

(ii) Smt. K.Rama Devi, wife of K.Chandramauli, who is an officer of the GSI had every right to complain to the Administrative Authority for the misconduct committed to her by Sri Sunderesan who was/colleague of her husband and it was her prerogative to decide whether to lodge an FIR with Police or not.

(iii) The Presenting Officer produced relevant seven documents in original and xerox copy of one document only which was accepted by the Inquiry Officer as an evidence only with the concurrence of Shri Sunderesan and his Defence Assistant.

(iv) The Inquiry proceedings under CCS(CC&A) Rules are quasi-judicial proceedings and the inquiry officer has come to his conclusion after taking into consideration the preponderance of probability.

(v) There is no evidence of bias on the part of the Inquiry Officer who has conducted the inquiry strictly in accordance with the laid down rules.

Now, therefore, I hereby confirm the penalty of 'Compulsory Retirement' awarded by the disciplinary Authority.

Please acknowledge the receipt of the order.

13/5/94.
(D. B. Dimri)
Director General(Actg.)
Geological Survey of India.

To
Sri C.Sunderesan,
Ex-Surveyor,
Southern Region,
Geological Survey of India
Hyderabad.

No. C-13013/2/CS/SR/90-Vig Date 13th May, 1994.

Copy forwarded to Dy. Director General, S.R., GSI, Hyderabad for favour of information and necessary action and endorsement of copies to appropriate authorities. This has reference to their letter No.988/C-14013/7/89-Vig dated 21.7.93.

Recd. C/S
(P. N. Maulik)
Officer on Spl. Duty (Vig.)
Geological Survey of India.

PC
Vig.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

O. A. NO. 1404/1995

Between:

Shri C. Sundaresan

Petitioner/Applicant

And

1. The Director General,
Geological Survey of India,
Calcutta.
2. Sr. Dy. Director General,
Geological Survey of India,
Southern Region,
Hyderabad.

Respondent/Respondents

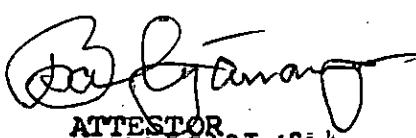
REPLY STATEMENT

I A.V.P.Rao, S/o Shri Somasekhara Rao, aged 56; years
occupation Government Servant resident of Hyderabad
hereby solemnly affirm and state as follows:

I am the Regional Administrative Officer in the office
of the second respondent and as such I am fully acquainted
with all the facts of the case. I have read the application
filed by the petitioner/applicant and noted the contents
thereof. I am filing this counter affidavit on behalf of
the respondents as I have been authorised to do so. The
material averments in the application are denied severally
except those that are expressly admitted herein. The applicant
is put to strict proof of all such averments except those
that are specifically admitted here under.

Ans Col
Wlws
22/1/95

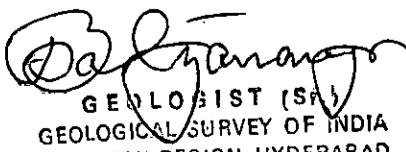
It is submitted that the paras 1 - 5 are pertaining
to the formalities of application.


ATTESTOR
GEOLOGIST (S.I.)
GEOLOGICAL SURVEY OF INDIA
SOUTHERN REGION, HYDERABAD.


DEPONENT
[A. V P RAO]
Regd. Admin. Officer
Geological Survey of India
Southern Region,

It is submitted that the sub-para (a), (b) & (c) of para 6 pertain to the facts of the case. However, the statements made in sub-para (b) that "Inspite of specific request made by the applicant the copies of the documents were not made available to the applicant" and "The inquiry officer who was Director-in-charge was promoted to the post of Disciplinary Authority during the course of Inquiry" are denied as discussed below:

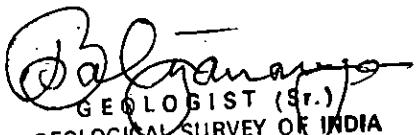
Under CCS(CCA) Rules a list of documents which are proposed to be relied upon as proof of the charge and the facts stated in the statement of imputation should be drawn up at the time of framing the charge. The list so prepared should be supplied to the Officer either along with the charge sheet or as soon thereafter as possible and the Officer should be permitted access to the documents mentioned in the list if he so desired. Therefore it is not necessary to supply copies of various documents and it would be sufficient if the government servant is given such access as permitted under the rules. The department in its reply to his request for supply of copies assured such access to inspect the listed documents during the course of inquiry vide its letter No.1164/C.14013/17/89.Vig. dated 11.10.89(annexure-I). The inquiry officer also ordered vide his orders dated 12.9.89 and 24.1.90 communicating the applicant (charged official) to inspect the documents listed in the charge sheet(annexure-II). The Inquiry Officer also inquired from the charged official and defence assistant during the proceedings of the inquiry dated 6.3.90 as to why they have not complied with the office order to inspect the documents listed in the charge sheet before the beginning of the inquiry. The applicant (charged official) explained that it could not be complied with because his defence assistant was stationed in Calcutta and there is not enough time to comply with the same (annexure-III).

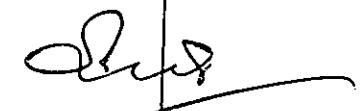

D. V. P. RAO
GEOLOGIST (S)
GEOLOGICAL SURVEY OF INDIA
SOUTHERN REGION, HYDERABAD.
ATTESTOR


D. V. P. RAO
Regd. Admin. Officer
Geological Survey of India
Southern Region.

Regarding the averment that the Inquiry Officer has been promoted, it is submitted that though the Inquiry Officer was promoted to the post of Dy. Director General, at Operations: TNP&K at Madras, the Senior Deputy Director General stationed at Hyderabad was the Appointing Authority / Disciplinary Authority who is a superior officer to the Inquiry Officer even after his promotion as Dy. Director General. The requirements of Rule 14(2) of CCS(CCA) Rules 1965 and the guidelines of OM. No. F-6/26/60-ESTS(A) dated 16.2.1961 and 7/12/70-ESTS(A) dated 6.1.1971 were also fulfilled in the subsequent case.

It is submitted that under grounds (i) of sub-para (d) the applicant relied on the judgement delivered by the Central Administrative Tribunal, Madras between Shri C. Kariappan Vs. Director to the Jawahar Lal Institute of Post Graduate in Medical education and Research 1990(1) SLJ(CAT) 385 (Madras) which is not applicable to this case. In the present case the effected party Smt. K. Ramadevi can not be considered purely a private person. She is the wife of Shri K. Chandra Mouli, who was serving in GSI as Assistant Geophysicist and she was staying with her husband on duty at Pomankallore, GSICamp, Raichur District Karnataka. In Geological Survey of India Scientific Officers proceed on long tours to distant isolated places in connection with Earth Science activities as approved by the Government of India. They are therefore permitted to take their families along in public interest. The families of government servants staying in the Government camps are also covered under the welfare programmes of the Government in matters of their health, safety & security. The applicant has tried to molest and outrage the modesty of Smt. K. Ramadevi after sending away the watchman on duty. He has committed the heinous act after removing the security provided in the government camp and hence the conduct is connected with the discharge of official duties. The misconduct committed by


BALGOPAL
GEOLOGIST (Sr.)
GEOLOGICAL SURVEY OF INDIA
SOUTHERN REGION, HYDERABAD.


A. V. P. RAO
Regd. Admin. Officer
DEponent
Geological Survey of India
Southern Region.

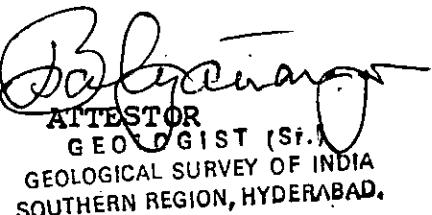
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the applicant is covered under 3(1) (i) & (iii) of CCS(Conduct) Rules 1965 which was clearly mentioned in the charge sheet issued to the applicant by the Disciplinary Authority.

In reply to the grounds (ii) of sub-para (d), it is submitted that no prejudice or bias can be attributed to the chair of Disciplinary Authority. In fact different persons were holding the chair of Disciplinary Authority as the Inquiry was spread over 31 months.

It is further submitted that in terms of GICS (Department of Personnel) OM No. 39/40/70-ESTS(A) dated 9.11.1972 the CCS(CCA) Rules provide for moving of application of bias by the Government Servant against the inquiry officer if any such bias is perceived by the applicant and the applicant never preferred any bias application against inquiry officer and it is now barred for him to complain any bias against the inquiry officer.

In reply to the grounds(iii), it is submitted that the documents relied upon by the inquiry were duly authenticated witnesses in the inquiry. As regards to the furnishing of copies of documents it is submitted that the applicant failed to inspect the documents as explained in the above paras. Apparently the applicant (charged official) was of opinion that inspection of documents was not vitally relevant to him for his defence and the statement that the applicant was not furnished with the copies of the documents required for, by him, at this stage is not tenable. The Inquiry Officer had never interfered with the cross examination of state witnesses. Every objection raised by the defence assistant in the Inquiry was sustained. The Inquiry proceedings were held with a principle of giving utmost consideration to the Defence (annexure - IV) as per provisions of CCS(CCA) Rules.


 ATTESTOR
 GEOLOGIST (Sr.)
 GEOLOGICAL SURVEY OF INDIA
 SOUTHERN REGION, HYDERABAD.


 [A. V. P. RAO]
 DEponent
 Regd. Officer
 Geological Survey of India
 Southern Region.

47

It is submitted that in reply to the items (iv) and (v) of the grounds that all the evidence adduced during the inquiry indicate the probability of the misconduct committed by the applicant. The role of the inquiry officer was dutiful. In terms of GIMHA OM No. 30/40/52-ESTS, dated 4.10.52, the inquiry officer is not bound by the rigid limitations regarding the admissibility of the evidence. In the disciplinary proceedings the degree of proof required is that of preponderance of probability and not the proof beyond reasonable doubt as in criminal proceedings (Union of India vs. Sardar Bahadur 1972 SLR 353(S1)). The inquiry officer had rightly assessed the evidence adduced in the inquiry and correlated the facts and brought out the inconsistencies, contradictions and irreconcilables of the various statements made by the applicant (charged official) before arriving at the conclusion that the charges are maintainable (annexure - V).

In reply to Grounds (vi), to (viii) it is submitted that no extraneous considerations were weighed in the mind of the Disciplinary Authority. The Disciplinary Authority after careful consideration of the findings of the inquiry and the submission of the delinquent official on the findings of inquiry opined that the ends of justice in this case would be met only by dismissing the said employee. However keeping in view the comparative youth of the delinquent official, the fact that he has a family to support and that he belongs to weaker section of the society imposed the penalty of compulsory retirement from service (annexure - VI). The statement that the authorities are predetermined to punish the applicant is false. The authorities have acted in a considerate manner throughout the inquiry proceedings and also after conclusion of the proceedings. This is evident from the fact that the request of the applicant (charged official) for revocation of suspension was considered.


 ATTESTOR
 GEOLOGIST (S.Y.)
 GEOLOGICAL SURVEY OF INDIA
 SOUTHERN REGION, HYDERABAD.


 DEPONENT
 [A. V. P. RAO]
 Regd. Admin. Officer
 Geological Survey of India
 Southern Region,

sympathetically pending submission of Inquiry report and the suspension was revoked on 12.7.1991 without prejudice to the disciplinary proceedings even before the penalty is imposed. Also the disciplinary authority had imposed only compulsory retirement by taking a considerate view, though he had opined that dismissal would be best suited in this case.

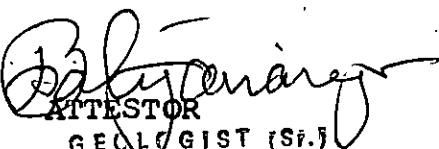
In reply to the contention in Grounds (ix) & (x) it is submitted that the averment that the alleged act of misconduct on the part of the applicant are not attracted by the provisions of CCS(Conduct) Rules is not tenable and the conclusion drawn by the inquiry is the only fact as already explained in the above paras.

In reply to the contention in sub-para(e) of para 6 it is submitted that the appellate authority has considered the appeal of the applicant with reference to the entire disciplinary case and confirmed the penalty of compulsory retirement imposed by the disciplinary authority.

In the light of the above it is respectfully submitted that this Hon'ble Court may be pleased to dismiss the OA for not having any merit and pass any such order or orders as deemed fit in the interest of justice.

Solemnly and sincerely affirmed and signed before me on this 21st day of Sept 1998.


DE PONENT
[A. V. P. RAO]
Regd. Admin. Officer
Geological Survey of India
Southern Region.


ATTESTOR
GEOLOGIST (Sr.)
GEOLOGICAL SURVEY OF INDIA
SOUTHERN REGION, HYDERABAD.

H9

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH AT HYDERABAD

OA NO. 1404 of 1995

Between

C. Sundaresan

Applicant

And

1. Director General
Geological Survey of India
Calcutta.
2. Dy. Director General,
Geological Survey of India
Southern Region,
Hyderabad.

MATERIAL PAPERS

ANNEX. NO.	DESCRIPTION	PAGE NOS.
I	Lr.No.1164/C.14013/17/89.Vig., dated 11.10.1989.	1 - 2
II	Orders of the Inquiry Officer dated 12.09.1989.	3 - 6
III	Proceedings of the inquiry dated 06.03.1997 wherein statement of the applicant (charged official) recorded.	7 - 8
IV	Daily order sheet of the Inquiry Officer dated 23.05.1990.	9 - 10
V	Inquiry report	11 - 30
VI	Note on page No.35 & 36 on file No.C.14013/7/89.Vig., of the Dy. Director General.	31 - 32

Certified to be true copies.

Sh

DEPONENT

[A. V. P. RAO]
Regd. Admin. Officer
Geological Survey of India
Southern Region.

Confiden.

ANNEXURE I

GOVERNMENT OF INDIA

Geological Survey of India,
Southern Region,
Hyderabad.

No. 1164 c/14013/7/89. Vig

Date 11-10-1989

Memo

Sub: Inquiry under Rule 14 of CCS (CC&A) rules 1965 against.
Sri C. Sundaresan, Surveyor (Under Suspension)-reg.

Ref: His representation, dated 28-9-1989.

- 000 -

With reference to his above representation Shri C. Sundaresan, Surveyor (Under Suspension) is hereby informed that as per the Government of India Orders No. 24 below rule 14 of CCS (CC&A) rules 1965 the documents can not be provided at this stage, he ~~may~~ however informed that he would get the full opportunity to inspect the listed documents during the course of inquiry.

(A. M. Ramgopal)
(A. M. Ramgopal)
Administrative Officer
for D.D.G

To:

Shri C. Sundaresan, Surveyor,
Planning & Coordination,
Geological Survey of India,
Southern Region,
HYDERABAD.

(Under signature)

ADM 1986 SC 2118

GOVERNMENT OF INDIA

GEOLOGICAL SURVEY OF INDIA
SOUTHERN REGION
HYDERABAD - 500 001.

No. 154 VIG/PSR/89

Dt. 12-9-1989

O R D E R

Sub: Inquiry under Rule 14 against
Sri Sunderesan, Surveyor, GSI,
SR, Hyderabad.

At the Preliminary hearing of the inquiry, whereas Sri C. Sunderesan, Surveyor, GSI, SR, Hyd, has denied all the articles of charge, the Inquiry Officer orders that Sri Sunderesan may (a) inspect within 5 days documents, a list of which was sent to him with the charges; (b) submit a list of witnesses to be examined on his behalf with their addresses indicating what issues they will help in clarifying; and (c) submit a list of additional documents which he wishes to have accessed to, indicating the relevance of documents to the presentation of his case. These may be submitted within 10 days of today, the 12th September, 1989.

It is ordered that the Presenting Officer supply copies of previous statements of witnesses to Sri C. Sunderesan, the Charged Official. He may also allow the documents listed in the charge sheet inspected by the Charged Official in the presence of a Gazetted Officer within the next 5 days.

1. Sri N.C. Murali, Geophysicist (Sr)
Presenting Officer
2. Sri C. Sunderesan, Surveyor
Charged Official

12/9/89
(P.S. RAO)
INQUIRY OFFICER
DIRECTOR - IN - CHARGE
OP. TNKP

To:

1. Sri N.C. Murali, Geophysicist (Sr), Presenting Officer.
2. Sri C. Sunderesan, Surveyor, Charged Official.

Copy forwarded for favour of information to :

1. The Dy. Director General, GSI, SR, Hyderabad.
2. The Director-in-charge, Geophysics Division, GSI, SR, Hyd. with the request to provide necessary facilities to Sri N.C. Murali, Geophysicist (Sr) & Presenting Officer to enable to show any documents in the presence of a Gazetted Officer to Sri C. Sunderesan, Charged Official within the next 5 days.

(P.S. RAO)
INQUIRY OFFICER

2 copy
original
(N.C. MURALI) 18/9/89

Report No. 99

(5)

99

GOVERNMENT OF INDIA

458-460

No. _____/PSR/Vig./89

Geological Survey of India,
Operations: TN, K & P.,
Madras - 600 018.

D/ 24th January, 1990.

Office Order

The next hearing of the inquiry will be held at 10.30 A.M. on the 6th Tuesday, March, 1990 in the premises of the Office of Director (Geophysics)-in-Charge, Geological Survey of India, Southern Region, Bandelguda, Saroor Nagar P.O., Hyderabad - 500 035.

Notice is hereby served to the following officials/officers that they may present themselves at the above inquiry which may last for a couple of days.

1. Shri N.C.Murali, Geophysicist (Jr.) - Presenting Officer
2. Shri C.Sundaresan, Surveyor - Charged official
and 3. Shri N.K.Mukherjee, A.Cm. Officer - Defence Assistant
Coal Wing, G.S.I.

Shri N.C.Murali, Presenting Officer may please arrange to produce the witnesses, stationed at Hyderabad, for verification of their statements etc. He may also allow the charged official and his Defence Assistant to inspect the documents listed in the presence of a Gazetted Officer on a convenient date prior to the present inquiry date.

(Sd/-)

(P.S. RAO)

Inquiry Officer &
Director-in-Charge
Ops: TKP, GSI, Madras.

To

S/Shri

1. N.C.Murali, Geophysicist (Jr.) & Presenting Officer, Geophysics Division, G.S.I., SR, Hyderabad-35.
2. C.Sundaresan, Surveyor, P & C Division, G.S.I., SR, Hyderabad.
3. Shri N.K.Mukherjee, A.C., Coal Wing, G.S.I., Calcutta.

Endt. No. _____/PSR/Vig./89 D/ 24th Jan., 1990.

Copy forwarded for favour of information & necessary action to:-

- 1) The Dy. Director General, S.R., G.S.I., Hyderabad-35.
- 2) The Director-in-Charge, Geophysics Division, S.R., G.S.I., Hyderabad-35, with the request to provide necessary facilities to Shri N.C.Murali, Presenting officer to enable to show the documents in the presence of a Gazetted Officer; He is also requested to provide accommodation, stenography assistance and other facilities to conduct the Inquiry from 6th to 6th March, 1990.
- 3) The Deputy Director General, Coal Wing, G.S.I., Calcutta-16.

(P.S. RAO)

Inquiry Officer &
Director-in-Charge,
Ops: TKP, GSI, Madras-18.

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because his defence official is stationed in Calcutta and there is not enough time to comply with the same. The IO requested the CO to give a formal letter explaining the reasons so that a decision can be taken as per the rules and practises in such ~~exceptional~~ circumstances. The CO agreed.

The IO in consultation with the PO, CO and his DA has prepared the following time table for the completion of the inquiry. The next hearing will be held in the fourth week of April at Hyderabad when all the witnesses generally residents at Hyderabad, will be called ^{to} and attend the inquiry by the PO. The next hearing will be held in the third week of May at Bangalore and all those witnesses ^{who are} generally stationed in Karnataka will be called to attend the inquiry by the PO.

b/2
04/03/90.
(P.S. RAG)
INQUIRY OFFICER

Received a copy each

Chandram - C
6-3-90.

Recd a copy

D. Kommoali 6/3/90
(Ch. Com. P.O.)

PROCEEDINGS OF THE INQUIRY UNDER RULE 14 OF C.C.S., C.C.A.

RULES AGAINST SRI C. SUNDERESAN, SURVEYOR, G.S.I., S.R., HYD.

Inquiry Officer : Sri P.S. Rao

Presenting Officer : Sri N.C. Murali

Defence Assistant : Sri N.R. Mukherjee

Charged Official : Sri C. Sunderesan

In the begining the IO inquired from the Presenting Officer (hereafter referred to as PO) why he had called only one of the witnesses, Sri R.K. Gedam, STA (Geoph. W/S) to attend the inquiry and not others who are stationed at Hyderabad as per the IO's officer order dt. 24th January '90. The PO explained that all other witnesses listed are in the routine field camps and so he could not called them as he thought that he should call only those ^{W/S.} two are at Hyderabad, headquarters at that particular time. The IO explained that the word "stationed" means those who are generally residing at Hyderabad. He further stated that ^{if} the PO has ^{any} difficulty in calling witnesses who are on tour, ^{he} may inform the IO about the same so that the IO can give formal orders for the witnesses present at the inquiry.

The IO inquired from the Charged Official (hereafter referred to as CO) and Defence Assistant (hereafter referred to as DA) why you have not complied with the office order of the IO dt. 24th January '90 and the office order of the PO, dt. 8-2-90 informing the CO and his DA to inspect the documents listed in Charge Sheets before the beginning of the inquiry on ^{the} 6th March '90. The CO explained that it could not be complied with

Dt. 23.5.90

DAILY ORDER SHEETPROCEEDINGS OF THE INQUIRY UNDER RULE 14 OF C.C.S., C.C.A.
RULES AGAINST SRI C. SUNDERASAN, SURVEYOR, GSI, SR, HYDERABADDetailed
ReportPresent : Sri P.S. Rao, Inquiry Officer

Sri N.C. Murali, Presenting Officer

Sri C. Sunderasan, Charged Official

Sri C. Sunderasan, Surveyor, GSI and charged official has informed that Sri NR Mukherjee, Defence Assistant is not able to come to Hyderabad to attend the enquiry due to dislocation of train services. He requested that the enquiry may be postponed to other suitable dates.

The Inquiry Officer enquired from the Presenting Officer whether he has any comments on the request of Sri C. Sunderasan. The Presenting Officer has said that he has none.

In continuation of this office letter dated 23.5.90 it is further noted that with It is regrettable that the Defence Assistant has not informed about his inability to attend the enquiry as scheduled in advance. This would have avoided the time spent by the Inquiry Officer in coming to Hyderabad and he could have utilised the same for other official work. It is hoped that the Defence Assistant will be more cooperative with the Inquiry Officer so that the enquiry can be completed at the earliest.

In order to give the Defence the utmost consideration, it is decided to postpone the inquiry to the 18th June '90. The venue and time will remain the same, and the inquiry is likely to last for 2 to 3 days.

23/5/90
(P.S. RAO)
INQUIRY OFFICER

16/5/90 A. Head of Office
Jm n/a fm

16/5/90 We may inform the observations of I.O. to the Def. Ass't and also the delinquent Official and to extend till 20th September to the I.O.

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1.1.2.a The above act of Shri C.Sundaresan to send the Watchman on duty out of the camp not only resulted in exposing the Government Properties in the Camp to the security threat but also goes to prove that Shri Sundaresan had ulterior motive to misbehave with Smt. K. Rama Devi, W/o Shri K.Chandramouli.

1.1.2.b Shri C.Sundaresan, Surveyor has thus failed to maintain absolute integrity and devotion to duty and behaved in a manner unbecoming of a Government Servant in violation of Rule 3(1)(i)(ii) & (iii) of CCS (Conduct) Rules of 1964.

1.2 Statement of imputation of misconduct in respect of Article of Charge framed against Shri C.Sundaresan, Surveyor, G.S.I., S.R., Hyderabad.

1.2.1 Art. 1. That while functioning in Pamankallur Geophysical Camp of G.S.I., S.R., Shri C.Sundaresan, Surveyor in a preplanned manner and ensuring that there was nobody in the camp, by sending away the Watchman on a petty mission except Smt. K. Rama Devi, W/o Shri K.Chandramouli, Asst. Geophysicist entered into the tent of Shri K.Chandramouli, Asst. Geophysicist around 3.30 PM on 8th April, 1989 and misbehaved with his wife Smt. K. Rama Devi and tried to molest and outrage her modesty.

1.2.1.a This action on the part of Shri C.Sundaresan, amounts to Moral Turpitude and crime on woman, thus has failed to maintain absolute integrity and behaved in a manner unbecoming of a Government Servant in violation of Rule 3(1)(i) & (iii) of CCS (Conduct) Rules, 1964.

1.2.2. Article-II - Imputation of Misconduct

That the said Shri C.Sundaresan, Surveyor while functioning in Pamankallur Geophysical Camp and after seeing

REPORT ON THE INQUIRY UNDER RULE 14 OF THE CENTRAL CIVIL SERVICES (C.C.A.) RULES, 1965 AGAINST SHRI C. SUNDARESAN, SURVEYOR, P AND C DIVISION, GEOLOGICAL SURVEY OF INDIA, SOUTHERN REGION, HYDERABAD.

1.0 The Deputy Director General, Geological Survey of India, Southern Region, had appointed the undersigned as Inquiry Authority, under C.C.S. (C.C.A.) Rule 14, Sub-Rule (2), to inquire into the charges framed against Shri C. Sundaresan, Surveyor, G.S.I., S.R., Hyderabad, vide the Office Order No. 844/C.14013/7/89-Vig. dt, 24.7.1989.

1.1 Shri Sundaresan, had been charged under two Articles which are as under:-

1.1.1 Article-I

That the said Shri C. Sundaresan, Surveyor while functioning in Pamankallur Geophysical Camp has misbehaved with Smt. Rama Devi, wife of Shri K. Chandramouli, Assistant Geophysicist and tried to molest and outrage her modesty around 3.30 PM on 8th April, 1989 which amounts to MORAL TURPITUDE. Shri C. Sundaresan has thus failed to maintain absolute integrity and behaved in a manner unbecoming of a Government servant in violation of Rule 3(1) (i) & (iii) of CCS (Conduct) Rules, 1964.

1.1.2 Article-II

That the said Shri C. Sundaresan, Surveyor while functioning in the Pamankallur Geophysical Camp had sent the Watchman on duty out of the Camp around 3.15 PM on 8th April, 1989 without having any authority to do so for his private work with the sole intention of trespassing into the tent of Shri K. Chandramouli, Asst. Geophysicist in his absence as well as in the absence of the Watchman on duty.

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6/4/89

PE 1) Letter of Shri R.K.Gedam, STA (Geophy. Workshop Instt.), GSI, SR, dt. 21.4.89 in English, addressed to Shri S.P.Sankaran, O-i-C., Geophysical/GSI Camp, Pamankallur.

PE 2) Letter of Shri Puran Bahadur, Driver, GSI, SR in English addressed to the Party Chief, Geophysical Camp: Pamankallur, G.S.I.

PE 3) Letter dt. 17.4.89 from Shri K. Chandramouli, Asst. Geophysicist, GSI, SR, in English, addressed to Shri S.P.Sankaran, Geophysicist (Sr.), GSI.

PE 4) Written statement of Shri R.Madhusudanan, Geologist, of GSI, Op: Karnataka and Goa, GSI, Bangalore, dt. 30.4.89 in English.

PE 5) Letter dt. 17.4.89, in Kannada from Shri Mehboob, Watchman, addressed to the Officer-in-Charge, GSI, Geophysical Camp, Pamankallur (Its English Translation by Shri K.S.Rao, Geologist (Sr.), Op: Karnataka & Goa, Bangalore, is also enclosed).

PE 6) Letter dt. 17.4.89, in Kannada from Shri Moula ^{Saah}, daily wage worker in Geologists' Camp, addressed to the Officer-in-Charge, Geophysical Camp, GSI, Pamankallur (Its English translation by Shri K.S. Rao, Geologist (Sr.), Op: Karnataka & Goa, Bangalore is also enclosed).

PE 7) Written statement dt. 17.4.89 of Smt. K. Chandramouli, w/o Shri K. Chandramouli, Asst. Geophysicist, in English.

PE 9) Xerox copy of the letter, in English, dt. 30.4.89 from Shri C.Sundaresan, Surveyor, GSI and charged official addressed to Shri S.P.Sankaran, Geophysicist (Sr.), GSI, Geophysical Camp: Pamankallur.

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that S/Shri K. Chandramouli, Asst. Geophysicist, RK Gedeum, STA (Geoph.) (Workshop Instt.) and Puran Bahadur, Driver had left the camp around 3 PM on 8th April, 1989 for field duty had asked the Watchman on duty Shri Mehaboob to go to MEC Camp to hand over some mangoes to one Shri Abraham with the sole intention to trespass into the tent of Shri K. Chandramouli, Asst. Geophysicist in his absence as well as in the absence of the Watchman on duty. Later on his misbehaviour with Smt. K. Rama Devi, W/o Shri Chandramouli, Asst. Geophysicist when he tried to molest and outrage her modesty when there was nobody in the camp clearly shows that Shri Sundaresan had sent the Watchman out of the camp without having any authority to do so in a preplanned manner with ulterior motive. The above act of Shri Sundaresan to send the Watchman out of the camp also resulted in exposing the Govt. properties in the camp to the security threat which shows that Shri Sundaresan had shown lack of devotion to duty.

1.2.2.a Shri Sundaresan, Surveyor has thus failed to maintain absolute integrity and shown lack of devotion to duty and behaved in a manner unbecoming of a Govt. servant in violation of Rule 3(1) (i) (ii) & (iii) of CCS (Conduct) Rules, 1964.

1.3. The charged official (C.O.) denied the charges and pleaded not guilty to both the charges. Hence this Inquiry was constituted.

1.4. The Presenting Officer (P.O.) Shri N.C.Murali, Geophysicist (Jr.), G. S.I., S.R., produced eight documents as evidences. These are marked as Public Exhibits PE 1 to 7 and 9 and are listed below:-

1.8 PW-2 was examined on two days 24.4.90 and 25.4.90, PW-3 on three days 25.4.90, 26.4.90 and 19.6.90, PW-4 on two days 19.6.90 and 20.6.90 and DW-1 on three days 27.11.90, 28.11.90 and 27.2.1991.

1.9 The P.O. and Defence were advised to submit their written briefs. A copy of the P.O.'s brief was furnished to the Defence to prepare their brief. The written briefs of the P.O. and the Defence, marked as B.P.O. and B.O.D. respectively, are enclosed.

2.0 The case in brief is as follows;

A Geophysical party of the Geological Survey of India, SR, under the party chief/Officer-in-Charge Shri S.P.Sankaram, Geophysicist (Sr.), was camping in tents near Pamankallur village, Raichur dt., Karnataka from December, 1988 to May, 1989. The party consisted of, besides Shri Sankaram, 2 Asst. Geophysicists, 2 Surveyors, ^{WORKERS} one STA (Geoph. Inst.), one JTA (Geophy. Inst.) and two Drivers. Of these S/Shri N. Chandramouli, Asst. Geophysicist and C.Sundaresan, Surveyor, were with their wives. On the 8th April, 1989 Shri Sankaram and some other officials were out of camp on leave. Shri Sundaresan's wife left the camp two or three weeks earlier. Shri Chandramouli, being the senior most official present, was acting as party-in-charge. Around 15.00 hrs. on 3.00 PM on the 8th April, 1989 S/Shri Chandramouli, R.K.Gedam, STA (Geoph. Inst.) along with Shri Puran Bahadur, went out in jeep for field work. But Shri Sundaresan stayed back. Shri Mehaboob of Pamankallur village, employed as daily wage worker, was performing the Watchman duty from 2 to 10 PM. Around 3.15 PM Shri Sundaresan sent the Watchman out of the camp to deliver a

1.4.1 (The original of the PE-9 could not be produced by the Presenting Officer, as it had been said to have been lost along with his brief case, which was stolen while the P.O. was travelling by train from Hyderabad to Madras to attend the Inquiry on 26.02.1991. The Defence, however, agreed to have the xerox copy admitted as evidence).

1.4.2 The charged official (C.O.) made an oral statement in his defence on 27.11.1990 during the course of the Inquiry, which was recorded by the Inquiry Authority. This is produced as PE-8.

1.5 The Presenting Officer examined 8 witnesses listed below, and these were cross examined by the Defence.

Inst.

P.W.1 - Sri R.K.Gedam, STA (Geophy. Workshop), GSI, SR, Hyd.

P.W.2 - Shri Puran Bahadur, Driver, GSI, SR, Hyderabad.

P.W.3 - Shri S.P.Sankaram, Geophysicist (Sr.), GSI, SR, Hyd.

P.W.4 - Shri K. Chandramouli, Asst. Geophysicist, -do-

P.W.5 - Shri R.Madhusudanan, Geologist, Op: Karnataka & Goa, GSI, Bangalore.

P.W.6 - Shri Mehaboob, Hatchman, GSI Geophysical Camp, Pamankallur.

P.W.7 - Shri Moula Saheb, S/o Hussein Sab Pinzara, Pamankallur.

and

P.W.8 - Smt. K. Rama Devi, W/o Shri K. Chandramouli, Asst. Geophysicist, GSI, SR, Hyderabad.

1.6 The Defence produced the charged official himself as their witness, and the P.O. cross examined him.

D.W.1 - Shri N.Sundaresan, Surveyor, GSI, SR, Hyderabad.

1.7 The proceedings of the Inquiry comprising the examination, cross-examination etc. of each of the 9 witnesses are marked as DPW-1 to DPW-8 and DDW-1 and appended with this report. (DPW - Deposition of prosecution witness; DDW - Deposition of Defence Witness).

4.3. In his deposition as D.W.1 (D.D.W.1; P.1 Ans. to Q.6.) the C.O. stated that, after sending away the Watchman he himself went out of the camp. He was fully aware that he was the only official and male member present at that time in the camp, yet he left the camp. This shows the C.O.'s utter disregard for the safety and security of the Govt. property.

4.4 The C.O. in his written explanation dt. 30th April, 1989 (PE.9) submitted to the Officer-in-Charge of the Geophysical party, stated "the undersigned after finishing the scheduled work for the day, had gone in Pamanakallur village to take his meals" (PE-9, P.2, para-1, lines 1-5). This contradicts his deposition as D.W.1. In the examination by the Defence Assistant the C.O. said that after return to camp from the market around 12.30 PM he "prepared meals, took bath, ate my meals and thereafter I took rest" (DDW-1; P.1; Ans. to Q.2 and 3).

4.4.1 A few questions arise out of this contradictory statements.

1) Why did the C.O. contradict his own statement in P.E.9?

2) Why should he sent the Watchman to MEC Camp near Pamankallur to deliver mangoes to his friend when he himself was going to Pamankallur for 'meals'?

3) Why should he sent the watchman away at an odd hour of 3.30 PM when no other official or male member was present in the camp? What was the urgency or compulsion to choose that particular time?

4.4.2 The glaring contradictions in the C.O.'s statements and the unauthorised sending of the Watchman out of the camp at an odd hour of the day when no other member except the C.O. himself and Mrs. Rama Devi were present in

a few mangoes to his friend in the MEC Camp. Shri Sundaresan, after sending away the watchman from the camp, tried to molest Smt. K. Ramadevi w/o Shri K. Chandramouli, in her residential tent. Shri Ramadevi got shocked, pushed away Sundaresan and ran out of the tent calling the Watchman. When she found the watchman missing, she ran to the camp of the Geologist, Op: Karnataka & Goa, G.S.I., which was about 2 furlongs away, and sought the help of Shri Madhusudanan, Geologist (Jr.) and his wife.

3.0 The two Articles of charge, framed by the Department against the C.O. have been examined, analysed and evaluated in the light of the documents and written statements admitted (PE-1 to PE-9), and the depositions of the witnesses produced by the P.O. (DPW-1 to DPW-8) and the Defence (DDW-1).

4.0 Charges - 2 (Article-2) is examined first as it has a vital bearing on the Charge-1.

4.1 The Defence has admitted that the C.O., on his own, had sent the Watchman out of the camp around 3.30 PM to deliver a few mangoes to a friend of his (C.O.'s) in the MEC Camp (P.3, lines 19 to 22 of the B.O.D.). This proves the charge that the C.O. had sent the watchman out of the camp without any authority and thereby exposed the Govt. property in the camp to security threat.

4.2 The C.O. was aware that he was the only official present at that time in the camp, as others had left the camp for field work as admitted by the Defence itself "The team left the camp at about 3 PM .. the Charged Official stayed back" (P.3, lines 17-19 of the B.O.D.). This confirms that the C.O. acted on his own authority in sending away the Watchman out of the camp.

Q.14. P.O. Did you collect statements also from Smt. Ramadevi, w/o of Shri Chandramouli?

W.3. Yes. I also asked Mr. Madhusudan, Geologist, to give a statement. I also collected the statements from Watchman on duty on that day and also a statement from Watchman at Geologist's camp on that day".

5.2.2 P.W.3, had rightly, not collected statements from those officials who were not in the camp on that day. In the case of the Geologist's camp he got statements from the Officer Shri R.Madhusudanan (P.W.5) and a Watchman of that camp Shri Mola Saab (P.W.7) who have knowledge of some aspects of the incidents of that day. It is not necessary to collect statements from everybody and anybody.

If the Defence had any suspicion that the Department had intentionally left any important witness/es and not collected statements from her/him/them, then the Defence could have exercised their right of calling him/her/them as their witness/es; but they did not do so.

5.2.3 Similarly an examination ~~of~~ of the depositions of the Prosecution witnesses clearly brings out that P.W.3 had merely asked each one of them to state what they know of the happenings of that day; For example Shri R.K.Gedam (P.W.1) in his cross examination by the Defence answered (DPW.1, P.2) - "18. W.1. Instructions are like that 'Give a statement regarding whatever you have seen or happened on 8-4-89'.

The Defence in its cross examination of Shri Mehaboob (P.W.6) asked the witness (DPW.6, P.2)

"4. D.A. What he told you exactly?

W.6. Whatever happened in your presence when you are on duty, same thing you write it and give it".

the camp, clearly point out that there is more to the motive of the C.O. than he is prepared to admit. The probability that the C.O. had ulterior motive in sending the watchman out of the camp is quite strong.

4.5 The charge is thus established.

5.0 Charge-1 (Article-1)

This charge was denied by the Defence and they advanced many points and arguments to claim that the case is baseless and false. These points and arguments are analysed in the following paragraphs.

5.1 The first point is that Shri Chandramouli (PW-4), husband of Smt. Ramadevi (PW.8) had not reported the case to the Law and Order Machinery, ie., Police. When a person has more than one legal channel of redress it is for him (the aggrieved) to make his choice. It is the inherent right of every citizen of India, and it cannot be questioned.

5.2 The second point is that Shri S.P.Sankaram (P.W.3) had i) obtained statements from only selected members of his party; and ii) dictated/tutored the statements of the witnesses (P.4, para-3 and P.9, para-1, lines 5-7 of BOD).

5.2.1 A perusal of all the documents clearly shows that ~~the~~ (P.W.3) asked and collected statements from all the members of his party who were present in the camp on that fateful day the 8th April, 1989. This is evident from the examination of the witness by the P.O. (DPW.3)
"Q.13 P.O. Did you collect any written statements from the officials present in the camp on 8-4-89?

W.3. Yes, I asked the members S/Shri R.K.Gedam and Puran Bahadur to give the statements to the extent they know.

All that the Defence did is to ask a single question to PW.4 suggesting the possibility.

5.3.2 What is the evidence on which the Defence has based this counter charge? The C.O. in his deposition as DW.1 on examination by the D.A. stated (DDW.1, P.1 answers to Q.6)

"DW.1: After watchman left I heard from my tent that Mrs. Chandramouli calling me in her tent. I had neither replied to her nor went to her tent. Instead I went out of the camp for walking". The C.O. in the cross examination by the P.O. stated that it was the first time that ^{An.4.70} she called him (DDW.1, P.3., Q.14).

5.3.3 There is no corroborative evidence to confirm that Mrs. Chandramouli indeed called the C.O. The defence made the counter charge based upon a simple incident alleged by the C.O.

5.3.4 Assuming, for arguments sake, that P.W.8 called the C.O. and that too the very first time, can it be construed or even impagined as implying immoral suggestion much less taking "the aggressive role" as the Defence put it? It is most uncharitable on the part of any one to impute immoral intentions to a lady just because he heard her calling him. If this inference of the C.O. is admitted then every other woman in the country, nay, world may have to be charged with the same immoral intentions. This is preposterous and slanderous of the entire womanhood.

5.3.5 The hollowness of the counter charge of the Defence is also evident from the written explanation dt. 30.4.89 (PE.9) given by the C.O. to a letter dt. 26.4.89 of Shri Sankaram (PW.3). As pointed by the P.O., nowhere in the PE.9 did the C.O. make any mention of his being called by PW.8. Why did not the C.O. make any mention of the

5.2.4 From the examples given above it is clear that Shri Sankaram, has not dictated/tutored the statement of any witness. He has, as a dutiful officer, conducting a kind of preliminary enquiry, asked each one of them to give a statement of what they have seen or happened in their presence on 8-4-89 - a correct approach and procedure.

5.2.5 None of the witnesses have indicated, even indirectly in their deposits ^{join} that they had been compelled to give the statements by Shri Sankaram. Shri R.K.Gedam (P.W.1) took two days to give his statement after he was asked on 19.4.89 by Shri Sankaram. During cross examination he stated "I told that I will think and then give the statement at an my convenience" (DPW.1. P.2.24). This confirms that Shri Sankaram had not compelled anybody to give a statement nor dictated how the statement should be worded.

5.3 The third point advanced by the Defence is that it might be Smt. Ramadevi (P.W.8) W/o Shri K.Chandramouli, who had taken 'the aggressive' role. Interestingly the Defence had only adumbrated this though a single question put to only one witness (PW.4) Shri Chandramouli in the cross examination (DPW.4, P.9, Q.35)

" D.A.: Since you have brought a most insinuating charge against a Govt. official, before doing so have you had any means to verify whether or not your wife, instead of the Charged Official, took the aggressive role? "

5.3.1 Significantly no other witness was questioned on this possibility. Most surprisingly the Defence has not raised this possibility during their cross examination of Smt. Rama devi (PW.8) herself. If there is any truth in this possibility the Defence would have grilled P.W.4 and PW.8, and questioned the other PWs also on the same.

5.4.2. ii Shri Sankaram (P.W.3) in his examination by the P.O. stated that he asked the C.O. to give a written statement after the arrival of the C.O. at the Camp after his leave, on 25.4.1989, and later, on the 26th April he issued him (the C.O.) a letter to give an explanation as verbal instructions were not followed. (DPW.3, P.4., Q.17 to 20 and answers). The C.O. had given his written explanation on the 30-4-1989 (PE.9).

5.4.2.iii So the statement of the C.O. in his deposition (DDW.1) that he learnt of the complaint only after the arrival of Shri T.Mohana Rao at the camp, is not true. The C.O. had come to know of it much earlier, as brought/in the above paragraphs.

5.5 The C.O. stated in his deposition (DDW.1) that he went out of the camp for a 'walk' at 3.30 PM. It is very strange that he chose to take a "walk" in the mid-afternoon of a hot summer day in that drought prone area. It defies logic and commonsense, and is very difficult to believe.

5.6 The C.O. in his written explanation of the 30th April, 1989 (PE.9) accused Shri Chandramouli (PW.4) of trying to harrass him due to 'personal grudges' and because he (C.O.) was the only 'Keralian' in the camp (PE.9., P.1., para-2, lines 17-21). But neither in PE.8 dated 27.11.1990 nor in his deposition (DDW.1) he did make any mention of these.

5.6.1. Just two days earlier to the 8th April, 1989 ie., on the 6th April, Telugu New Years Day (Ugadi), Mr. Sundaresan along with other inmates of the camp present on that day, was a guest at the lunch hosted by Chandramoulis. This was testified by PW.2 (DPW.2, P.1, Ans. to Q.7). The defence did not deny this. This amply

alleged incident in PE.97. The obvious and natural inference is that no such incident took place, and what the C.O. stated in his deposition on 27-11-1990 (DW.1) is only an afterthought and not true.

5.4 A close examination of the C.O.'s written explanation of the 30th April (PE.9) and his deposition (DDW.1) bring out more such conspicuous contradictions, inconsistencies and imponderables.

5.4.1 One such contradiction was already dealt with under Charge-2 in the earlier pages; ie., the purpose for which the C.O. left the camp at 3.30 PM on the 8th April, 1989.

5.4.2 During the course of the cross examination by the P.O., the C.O. stated that he came to know about the allegation only after Shri T.Mohan Rao, Director (Geo-physics) came to the camp (DDW.1., P.5, Ans to Q.26). Shri Mohana Rao visited the camp between the 29th April and 1st May, 1989.

5.4.2.1 The C.O. himself admitted that S/Shri Chandramouli and R.K.Gedam met him after 8.30 PM on the 8th April, 1989 itself to talk to him about some complaint (DDW.1., P.3 and 4, Ans. to Q-20 - 23 by P.O.). Witness PW.2 Shri Puran Bahadur also stated that S/Shri Gedam, Chandramouli and himself met the C.O. in his (C.O.'s) tent and discussed the allegation on the night of the 8th April, 1989 (DPW.2, P.3, Ans. to Q.20 by the P.O.). Shri Mahaboob, PW.5, corroborated that S/Shri Chandramouli, and Gadem went to the C.O.'s tent and talked, and there was an argument (English translation of PE.5, P.1 last para and P.2 first para). Shri R.Madhusudanan, P.W.5, in his statement (PE.4) clearly mentioned that he discussed the allegation with the C.O. on the morning of 9-4-89 (P.E.4, para-3). This was not questioned by the Defence.

5.8.1 Smt. Ramadevi stated that when the C.O. tried to molest her in her camp tent, she pushed him aside, ran out of the tent for help and called the watchman; shocked at not finding the watchman she ran to the nearest Geologist's camp. She also stated that the C.O. chased her for a short distance (PE-7, P.1., lines 15 to 29). It is very significant that the Defence has not at all cross examined the witness on this, contested and rebutted it as pointed out by the P.O.

5.8.2 Shri Mahaboob (PW.6) in his statement (English Translation of PE.5, P.1; para 2, lines 7 to 10) confirmed that there was nobody in the camp when he returned after delivering the mangoes to the friend of the C.O. in the MEC Camp. Shri Gedam (PW.1) also confirmed in his statement (PE.1, para-1, lines 7 to 9) that Mrs. Chandramouli and Shri Sundaresan were not in the camp when they i.e., himself, S/Shri Chandramouli and Puran Bahadur returned to camp at about 17.00 hrs. after field work. Shri Puran Bahadur (PW.2) also confirmed the same in his deposition (DPW-2, P.2, Ans. to Q.15) (PE-2).

5.8.3 Shri R. Madhusudanan (PW.5) in his statement (PE.4 para 2 and 3) mentioned that at about 3.45 PM on 8-4-89, Smt. Ramadevi came to their camp in her house dress in a state of shock, and told him and his wife about the attempt of the C.O. to molest her, the absence of the watchman in the camp, and how she came running to their camp. He further stated that he along with his wife took Smt. Rama Devi to the latter's camp after she recovered from the shock. Shri Mahaboob (PW.6) confirmed in his statement (PE.5, P.1, para-3, Lines 7 and 8) that Mr. Madhusudanan and his wife came to the Geophysical party camp

proves that the relations between Shri Chandramouli and the C.O., were very cordial almost till the 8th April.

Then what are the 'personal grudges' the C.O. talked about in P.E.9? Is this charge believable?

5.6.2 The answer of the C.O. to Q.35 by P.O. (DDW.1, P.9) is very significant in this respect.

"P.O. Can you recount any incident before the alleged incident wherein there had been unpleasant situation between you and any other camp member?"

D.O. I do not remember."

5.6.3 Would not the C.O. be remembering if any unpleasant incident had happened creating personal grudge between him and Shri Chandramouli? Obviously nothing had happened for him to remember. So the charge of the C.O. that Shri Chandramouli had personal grudge against him and he was trying to harrass him (C.O.) because he (C.O.) was the only Keralite in the camp is false.

5.7 As seen from the above there are a number of serious and glaring contradictions, inconsistencies and irreconcilables in the written explanation (P.E.9) and the deposition (DDW.1) made by the C.O., confirming that he cannot be relied upon.

5.8 The Defence stressed, both directly and indirectly, that there is no direct evidence i.e., eye witness/es to the charge that the C.O. had tried to molest P.W.8. It is common knowledge that a person planning to commit an offence, especially one of the present nature, carefully chooses the place and time where and when there will not be any eye witness. So in all such cases circumstantial evidence is relied upon to draw conclusions.

the school teachers, who in turn enquired the inmates of our camp regarding the incident".

5. This was not challenged, contradicted or rebutted by the Defence.

5.10 Another significant aspect related to the chain of events on 8-4-1989 was revealed by Shri Moula Saab (PW.7) in his statement (English Translation of PE-6).

"On 8-4-89 night as per the instructions of my Sir, I was going to perform duty at Geophysical camp. While going, on the way there is a Nala. Near that nala Sundaresan, Surveyor saab was standing. He asked me that where I was going. For his question my reply was that I am going to perform Watchman duty.

For that he said not to reveal that Sundaresan, Surveyor saab is here in the nala".

5.10.1 Interestingly the Defence in the cross examination asked him "Why you revealed it in the statement?" (DPW.7; P.2; Q.8) - Reveal means exposing the truth, bringing to light something that is being hidden. Why did the Defence got perturbed to ask the witness why he revealed what he was asked not to disclose?

5.10.2 According to the C.O. he left the camp at 3.30 PM for a 'walk' (DDW-1) and for 'meal' as in his written explanation (PE.9). Why was it that five hours later he was standing in a nala at about 8.30 PM, and why did he specifically ask PW.7 not to reveal it? Obviously he was trying to hide something from the camp mates ie., his colleagues, and he was not prepared to face them at that time - a clear case of guilty conscious.

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along with Smt. Ramadevi. Shri Puran Bahadur (PW.2) also confirmed that Mrs. Chandramouli returned to the camp around 5.30 PM along with the Geologist and his wife (DPW-2, P.2, Ans. to Q.17).

5.8.4 It is obvious from the evidences and statements of the witnesses referred above that Smt. Ramadevi ran from her camp in house dress to that of the Geologist in the hot summer afternoon in the dry Raichur district. Why did an young girl, newly married, ran like that? What could be the reason? Whatever be the reason it must be a very strong and compelling one to force an young girl to run in the hot sun to take refuse in another camp located about 2 furlongs away. It can be only mortal fear for the security of her person and/or honour from some one.

5.8.5 As already analysed ~~th~~ and concluded in the earlier pages, the counter charge of the Defence that Smt. Ramadevi possibly took the 'aggressive role' is unsustainable and false. So the only conclusion that can be arrived at is that the version of Smt. Ramadevi as given in PE.7 is true.

5.9 Shri Chandramouli (PW-4) made a very significant statement in his deposition during the cross examination by the Defence on 20-6-1990 (DPW.4, P.8, Ans. to Q.34) -

"The senior Surveyor Shri Seshagiri Rao, after his return to camp, he himself came to me and told sorry for the incident (my wife's utmost panicky condition running out of the camp chased by the Charged official). He told that this incident was witnessed by the people, who are working in the nearby fields, and also by

5.11 The foregoing analysis and assessment of the evidence in paras 5.1 to 5.10 clearly show that

- 1) the evidence of the C.O. is totally unreliable,
- 2) the defence's counter charge against Smt. Rama devi is false,
- 3) the Defence's arguments that i) the case has not been reported to the Police; ii) the statements of Prosecution witnesses (PE.1 to PE.7) are not reliable and iii) that the PW.3 acted in a partisan manner, have no validity.

and

- 4) the circumstantial evidence strongly supports the version of Smt. Rama Devi (PW.8) of the incident on 8-4-1989.

It is therefore concluded that the Charge-1 has also been established.

P. S. RAO
Deputy Director General
Geological Survey of India
Operations: TN, K & P.,
Madras-600 018

(32) Both the field operations are
broken. Therefore, as the
disciplinary authority
having regard to the nature
and circumstances of the
charges proved, I feel and
am convinced that the
standards of justice in this
case will be met only
by dismissing the said
employee.

However, keeping in view
the comparative youth of the
delinquent official, the fact
that he has a family to
support and that he belongs
to the weaker section of
the society, I award the
punishment of "compulsory
retirement from service"
with immediate effect
under Rule 11 (Vii) of C.C.S.O
CCA rules 1965 on the said
employee viz Sri C. Sunder
Ishwar, Surveyor, G.T., G.R.O,
Hyderabad.

I further order that the
period from 8-5-89 to 11-2-1991
during which the delinquent
official was under suspension
will not account for any
purpose in claiming pensionary
benefits." L.L.Durshik

R.P.O.H.

— 10th Feb 1992

After studying this case in ⁶⁵ 31 considerable detail and going through the enquiry report hitherto, I agree with the findings of the Enquiry Officer in respect of both the charges issued under the Charge sheet and consequently conclude both the charges are established. I have also carefully considered the submission of the delinquent official Mr. S. C. Sundaresan, Surveyor, on the report of the Enquiry Officer, submitted to him and find no reason thereof against acceptance of the enquiry report and the findings therein.

The Geological Survey of India is mainly a field oriented organisation where officers and staff have to serve in remote and far flung areas in field camps under trying conditions for long duration with their families. In this context, the charges proved against the said official assume serious proportions and tear at the very fabric of the organisation on which the morale of the field staff and the efficiency

In the C.A.T
Hyd Bench

Out 1404/96

Reply Statement



Filed by:-

N. R. Devraj
22

22/9/98
M.A.S.

OA 1404/96

12.2.98

Pre-delivery judgment / order forwarded
by the Member (J) is placed below
for kind perusal & approval

Member (J) Jai
12/2/98

Member (A/I) 

Ch. Secy
Court Master

To be posted on 18.2.98

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
 AT HYDERABAD

O.A.No. 1404/96

Date of Order :

18-2-1999

BETWEEN :

C.Sunderesan

And

.. Applicant.

1. The Director General,
 Geological Survey of India,
 Calcutta.
2. The Senior Dy. Director General,
 Geological Survey of India,
 Southern Region, G.S.I.Complex,
 Bandlaguda, Hyderabad.

.. Respondents.

— — —

Counsel for the Applicant

.. Mr. V. Venkateswara Rao

Counsel for the Respondents

.. Mr. B.N. Sharma

— — —

CORAM :

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)

[Signature]

— — —

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O R D E R

X As per Hon'ble Shri B.S.Jai Parameshwar, Member (Judl.) X

— — —

Mr. V. Venkateswara Rao, learned counsel for the applicant and Mr. B.N. Sharma, learned standing counsel for the respondents.

2. This is an application filed under Section 19 of the A.T.Act. The application was filed on 11.12.95.

3. The facts of this case are as under :-

The applicant while working as Surveyor under R-2 was placed under suspension w.e.f. 8.5.89 contemplating disciplinary proceedings against him. The Deputy Director General, Geological Survey of India issued memorandum of charges to the applicant vide his proceedings No.770/C.14013/7/89-Vig, dated 5.7.89. The misconduct alleged against the applicant reads as under :-

ARTICL-E-I

That the said Shri C.Sunderesan, Surveyor while functioning in Panankallur Geophysical Camp has misbehaved with Smt. Ramadevi wife of Shri K.Chandramouli, Asst.Geophysicist and tried to molest and outrage her modesty around 3.30 PM on 8th April, 1989 which amounts to MORAL TURPITUDE. Shri C.Sunderesan has thus failed to maintain absolute integrity and behaved in a manner unbecoming of a Government Servant in violation of Rule 3(1)(i)& (iii) of CCS (Conduct) Rules, 1964.

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ARTICLE - II

That the said Shri C.Sunderesan, Surveyor while functioning in the Pamankallur Geophysical Camp had sent the Watchman on duty out of the Camp around 3.15 PM on 8th April, 1989 without having any authority to do so for his private work with the sole intention of trespassing into the tent of Shri K.Chandramouli, Asst.Geophysicist in his absence as well as in the absence of the watchman on duty.

The above act of Shri C.Sunderesan to send the watchman on duty out of the camp not only resulted in exposing the Government Properties in the Camp to the security threat but also goes to prove that Shri Sunderesan had ulterior motive to misbehave with Smt. K.Ramadevi w/o sri K.Chandramouli.

Shri C.Sunderesan, Surveyor has thus failed to maintain absolute integrity and devotion to duty and behaved in a manner unbecoming of a Government Servant in violation of Rule 3(1)(i)(ii) & (iii) of CCS (Conduct) Rules of 1964.

4. Suspension of the applicant was revoked w.e.f. 12.7.91 and was reinstated into service.

5. The applicant submitted his explanation dated 16.1.92. A copy of his explanation is at pages - 15 to 16 of the OA.

6. The Deputy Director-Incharge OP:TNK&B, Madras was appointed as ^{the} enquiry officer to enquire into the charges. The applicant participated in the enquiry. The enquiry officer submitted his report dated 16.11.91. A copy of the report of the enquiry officer is at Annexure-5 to the reply. The enquiry officer recorded his findings as under :-

The foregoing analysis and assessment of the evidence in paras 5.1 to 5.10 clearly show that

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- 1) the evidence of the C.O. is totally unreliable,
- 2) the defence's counter charge against Smt.Rama Devi is false,
- 3) the defence's arguments that i) the case has not been reported to the police; ii) the statements of Prosecution witnesses (PE.1 to PE.7) are not reliable and iii) that the PW.3 acted in a partisan manner, have no validity, and
- 4) the circumstantial evidence strongly supports the version of Smt.Rama Devi (PW.8) of the incident on 8.4.1989.

It is therefore concluded that the Charge-1 has also been established".

7. The disciplinary authority after considering the findings of the enquiry officer agreed with his findings and by his proceedings No.199/C-14013/7/89-Vig dated 10.2.92 imposed the penalty of compulsory retirement of the applicant from service.

8. The applicant had submitted an appeal dated 13.3.92 to R-1. A copy of the appeal memo is at Annexure-5.

9. However the applicant approached this Tribunal in O.A. 123/92 challenging the orders of the disciplinary authority. The said OA was decided on 21.2.95 directing the applicant to submit an appeal.



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10. After disposal of the OA the applicant filed M.A. 425/95 in R.A.42/95 in O.A.123/92 bring it to the notice of the Tribunal that he had earlier filed an appeal against the order of the disciplinary authority and that the same was disposed of on 11.5.94 and that the same is considered in the OA. Then the MA was decided on 5.9.95 directing the applicant to challenge the order of the appellate authority as well by filing a fresh OA. As already stated the appeal dated 13.3.92. A copy of the memorandum of the appeal is at pages- 20 to 26 of the OA. R-1 by his proceedings No.C-13013/2/CS/SR/90-Vig dated 13/17.5.94 (A-8) dismissed the appeal and confirmed the punishment.

11. The applicant has filed this OA for the following reliefs :-

To call for the records pertaining to the office order No. 195/C.14013/7/89-Vig dated 19.2.1992 and No. 199/C.14013/7/89-Vig dated 10.2.1992 issued by the second respondent and the appellate authority order No.C-13013/2/CS/SR/90-Vig dated 13/17.5.1994 and set aside the same by holding them as illegal, arbitrary, malafide, unconstitutional and without jurisdiction and declaring that the applicant is entitled for reinstatement with all consequential benefits such as seniority, backwages, promotion, etc.

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12. The applicant has challenged the impugned orders on the following grounds :

(a) The enquiry initiated against him was only without jurisdiction that the provisions of the CCS (CCA) Rules 1965 did not attract to the alleged acts of misconduct that the imputations were totally unconnected with the discharge of his official duties and related ^{to} purely a criminal offence against a private citizen. The applicant relies on the observations made by the Madras Bench of this Tribunal in the Case of Kamiyappan Vs Director, Jawaharlal Institute of P.G. in M.E & Research (reported in 1990 (1) SLJ (CAT) 385).

(b) The enquiry officer and disciplinary authority were prejudiced against him right from the initiation of the disciplinary proceedings that the originals of the documents relied upon by the disciplinary authority were not marked in the enquiry that he was not furnished with the copies of the documents requested for by him. The enquiry officer unnecessarily interfered with the cross examination of the witnesses examined and on behalf of the disciplinary authority, that the enquiry officer did not allow the defence assistant to cross examine the witnesses on vital points. Thus he was denied a reasonable opportunity to defend himself in the case.

(c) There was no evidence on which the enquiry officer could have relied on to arrive at his conclusions and hold him guilty of the charges levelled against him. The findings are perverse and baseless and are only based on his surmises and presumptions.

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(d) The extraneous considerations weighed with the minds of the enquiry officer and the disciplinary authority ^{to} hold him guilty of the charges and to impose him the major penalty of compulsory retirement. Hence the entire proceedings were vitiated.

(e) The authorities were predetermined to punish him. The enquiry was conducted in violation of the principles of natural justice and the rules; and

(f) The alleged misconduct could not have attracted to misconduct under the CCS (CCA) Rules. There was no cogent and convincing evidence to hold him ^{guilty of the} misconduct. The appellate authority has not applied his mind to the various issues raised by him in his memorandum of appeal and that the appellate authority has not considered his appeal in accordance with the rules. He submits that the order of the appellate authority has been passed in a mechanical way.

13. The respondents have filed the counter stating that the enquiry was conducted strictly in accordance with the rules and adhering to the rules of the principles of natural justice. The applicant was provided with sufficient opportunity to peruse the documents of the enquiry and in fact the enquiry officer had ordered on 12.9.89 and 24.1.90 allowing the applicant to inspect the documents listed in the charge sheet. Further by letter bearing No. 1164/C.14013/17/89. Vig dated 11.10.89 (A-1 to the reply) was addressed to the applicant assuring him

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full opportunity to inspect the listed documents during the course of inquiry. Further the enquiry officer enquired with the applicant and the defence assistant during the proceedings of the enquiry as to why they were not complying with the orders dated 12.9.89 and 24.1.90. Thus the enquiry officer had permitted the applicant as well as his defence assistant to inspect the documents listed in the charge memo. They further submit the promotion of the ~~enquiring~~ ^{officer} to the post of Deputy General Manager at Operations : TNP&K at Madras, the Senior Deputy Director General who was the appointing authority/ disciplinary authority was superior officer to the enquiry officer even after his earning the promotion. Hence there was no impediment to continue the enquiry/even after his promotion. Thus they rely on the guidelines issued in O.M.No.F-6/26/60-ESTS (A) dated 16.2.61 and O.M.No.7/12/70-ESTS (A), dated 6.1.71 . They submit that the decision of the Madras Bench of this Tribunal reported in 1990 (1) SLJ (CAT) 385 (C.Kaniappan Vs. Director ~~to~~ the Jawahar Lal Institute of Post Graduate in Medical Education and Research) is not applicable to the facts of this case. Smt.K.Rama Devi cannot be considered to be a purely private citizen. That she ^{is the} ~~was~~ wife of Sri K.Chandra Mouli who was serving in GSI as Assistant Geophysicist and she was staying with her husband on duty at Pomankallore, GSI Camp, Raichur District. They further submit that in GSI the Scientific Officers proceed on long tours in connection with Earth Science activities and hence they are permitted to take

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their families along with them in public interest. The families of government servants staying in the Government camps are also covered under the welfare programmes of the government in matters of health, safety and security. The applicant had tried to molest and outrage the modesty of Smt. K. Rama Devi after sending away the watchman who was on duty. The applicant had committed offences and hence the alleged misconduct is in a way connected with the performance of the duty. The applicant is covered under Rule 3(1)(i) & (iii) of ^{the} CCS (Conduct) Rules 1965 which was clearly mentioned in the charge sheet. They further submit that no prejudice or bias can be attributed to the enquiry authority or the disciplinary authority. The applicant had not objected to ^{the} conduct of the enquiry and had not at all preferred any bias application against the enquiry officer during the stage of the enquiry and hence it is not permissible for him to raise the plea of bias against him by the enquiry officer. They submit that the documents relied upon were duly authenticated by the witnesses during the enquiry. The applicant though given sufficient opportunity failed to inspect the documents. The applicant having participated in the enquiry till its final stage is not permitted to raise the said contentions now. The enquiry officer never conducted himself to the disadvantage of the applicant. In fact the enquiry officer sustained each and every objections raised by the defence assistant during the cross examination of ^{witnesses in} the enquiry. The enquiry was conducted

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giving full and adequate opportunities to the applicant. That the material collected by the enquiry officer indicated the probability of the misconduct committed by the applicant. The enquiry officer is not bound by the limitations regarding admissibility of the evidence in terms of O.M.No.30/40/52-ESTS, dated 4.10.52 issued by Ministry of Home Affairs. The strict rules of evidence are not applicable to the disciplinary proceedings. The enquiry officer had rightly assessed ^{and analysed} the evidence adduced during the enquiry and reached proper conclusions. They submit that they have not taken any extraneous matter into consideration while passing the impugned orders. Further they submit that the disciplinary authority took into consideration the age of the delinquent official and the family ^{background} while imposing the punishment. They deny the fact that the authorities were predetermined to punish the applicant. Thus they submit that there are no grounds to interfere with the impugned orders.

14. During the course of hearing the learned counsel for the applicant relied upon the following citations :-

- (1) AIR 1986 SC 2118
- (2) SIR 1984 (2) 446
- (3) 1990 (1) SJ 385

15. Likewise the learned counsel for the respondents relied upon the following citations :-

- (1) 1998 (3) SCC 227
- (2) 1997 (36) ATC 54
- (3) 1996 (34) ATC 137
- (4) 1993 AIR (SC) 1478

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16. The applicant has not filed any rejoinder to the reply filed by the respondents.

17. On 17.4.89 Smt. K.Rama Devi wife of Sri Chandra Mouli Assistant Geophysicist at Pomankallore, GSI Camp, Raichur District (Karnataka) filed a compliant before the respondent authorities alleging that on 8.4.89 at or about 3 or 3.30 p.m. the applicant herein entered into her tent and tried to misbehave with her that in order to save her honour she ran out of her tent and took shelter in the tent of Sri. R. Madhusudanan, Geologist working at that place.

18. It was also revealed to the respondents that on that day at that particular time the applicant had himself sent the watchman on duty outside the camp.

19. It is on these facts charges have been framed against the applicant.

20. The contention of the applicant is that the misconduct alleged against him does not attract the provisions of ^{the} CCS (CCA) that Rules and the disciplinary authority could not have taken cognizance of the compliant dated 17.4.89 of Smt. K.Rama Devi that there was a delay of nearly 10 days from the date of the incident to the date of complaint that the disciplinary authority could have directed Smt. Rama Devi to set the criminal law in motion, that is, either to file a complaint

With the local police or before the competent court

Under Section 200 of the Code of Criminal Procedure. Thus

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contending the applicant submits that the charge levelled against him is not maintainable.

21. The applicant took similar contention before the respondent authorities. The enquiry officer considered this point in para-5.1 of the report and observed as under :-

"The first point is that Shri Chandramouli (PW-4) husband of Smt. Rama Devi (PW.8) had not reported the case to the Law and Order Machinery, i.e. Police. When a person has more than one legal channel of redress it is for him (the aggrieved) to make his choice. It is the inherent right of every citizen of India, and it cannot be questioned".

22. The disciplinary authority agreed with the findings of the enquiry officer.

23. The Appellate authority in para-(ii) of his order observed as under :-

"Smt. K. Rama Devi, wife of K. Chandramouli, who is an officer of the GSI had every right to complain to the Administrative Authority for the misconduct committed to her by Sri Sunderesan who was colleague of her husband and it was her prerogative to decide whether to lodge an FIR with Police or not".

24. To substantiate his contention the applicant relied upon the decision of the Madras Bench of this Tribunal in the case of Shri Kanniappan Vs. Director to the Jawahar Lal Institute of Post Graduate in Medical Education and Research (1990 (1) SJL (CAT) 385 (Madras)). The relevant portion of paras- 2 & 7 reproduced below :-

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2. "In private life as well as a civil servant is expected to maintain certain standards, without which there cannot be a smooth and healthy administration. So much so even with respect to conduct or behaviour in private life, unconnected with the discharge of the official duties, if the matter is duly brought to the notice of the Competent Disciplinary Authority, such authority is justified in looking into it and in initiating disciplinary proceedings if a *prima facie* case is established as a result of the preliminary investigation. Even in a case where the alleged conduct or behaviour amounts to a criminal offence the Disciplinary Authority can exercise this power. However, where the imputation is with respect to conduct, totally unconnected with the discharge of the official duties, but it relates purely to a criminal offence against a citizen, just because the matter is brought to the attention of the Disciplinary Authority it is not justified in straight away initiating disciplinary proceedings, without even ascertaining whether the criminal law has been set in motion by the affected citizen. Such a case cannot be equated with one where the conduct of the civil servant is connected with the discharge of his official duties and for which there is scope both for the initiation of the criminal proceedings at the instance of the employer himself and for starting disciplinary proceedings.

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7. The alleged misconduct is totally unconnected with the discharge of the official duties of the applicant: the JIPMER is concerned with the alleged incident only because the applicant happens to be a peon therein. The imputation relates to a criminal offence falling

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within the Indian Penal Code. The complaint before the Administrative Officer is not an ordinary citizen but a custodian of law and order who well knows the criminal implication of the act. Departmental proceedings are to be initiated against a civil servant in respect of his conduct only after arriving at a conclusion that there are good and sufficient reasons for doing so. The absence of criminal proceedings relating to the alleged conduct should have been taken note of by the Disciplinary Authority before the initiation of the proceedings. No doubt in a proper case where the alleged conduct though it amounts to criminal offence, even before the initiation of the criminal proceedings the departmental proceedings can be commenced. This on the face of it, is not a case of that nature. In the circumstances of this case we have the least hesitation to hold that the initiation of the disciplinary proceedings itself was totally unjustified. A perusal of the Report of the Inquiry Officer reveals that the finding arrived at by him is not based upon legal evidence. We cannot do better than extract the conclusion of the Inquiry Officer in his own words :

"Under the circumstances, it is felt that some untoward incident happened on that particular day involving Shri C. Kannappan and affecting Shri Thulasimalai. After analysing the statements given by the various witnesses and documents it is felt that Shri Kannappan had stolen money from Shri Thulasimalai. Since the incident had happened outside of intoxication it cannot be proved beyond doubt and only the circumstantial evidences suggest that he had stolen the money from Shri Thulasimalai".

The facts revealed here are quite different.

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25. The word misconduct has not been defined under the CCS (CCA) Rules.

26. The contention of the applicant is that the misconduct alleged against him was in no way connected ^{with} ~~of~~ the performance of his duties, that therefore the provisions of the CCS (CCA) Rules are not attracted to the misconduct alleged against him. Further he relies upon the fact that Smt Rama Devi had not filed any complaint before the local police or the competent court.

27. The applicant denied the charges by his explanation dated 17.7.89.

28. In the case of Union of India Vs. K.K.Dhawan reported in AIR 1993 SC 1478 Hon'ble Supreme Court has ennumerated certain instances where the disciplinary authority can initiate disciplinary proceedings in para-28 the Hon'ble Supreme Court has observed as under :-

"Thus we conclude that the disciplinary action can be taken in the following cases :-

- i) Where the officer had acted in a manner as would reflect on his reputation for integrity or good faith or devotion to duty.
- ii) if there is prima facie material to show recklessness or misconduct in the discharge of his duty.
- iii) if he has acted in a manner which is unbecoming of a government servant.
- iv) if he had acted negligently or that he omitted the prescribed conditions which are essential for the exercise of the statutory powers;
- v) if he had acted in order to unduly favour a party;

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vi) if he had been actuated by corrupt motive however, small the bribe may be because Lord Coke said long ago "though the bribe may be small, yet the fault is great".

29. In the case of A.K.Singh Vs. Union of India and others reported in ATC (34) 1996 137 Bangalore Bench of this Tribunal considered similar contentions and in paras- 27and 31 observed as follows:

27. But then the question whether the conduct of a government servant is unbecoming of his character and role of a government servant must depend on the facts of each case. We do not think that there can possibly be any categorisation of conduct encased within any particular rule in question. Just like Ceaser's wife was expected to be above board, every government servant should be above suspicion and we think should not be involved in dalliance of an amoral nature or tangled in romantic relation particularly if he is already married. But then we are told by Dr.Nagaraja that our own views are without justification in the light of the judgement of the Constitution Bench of the Supreme Court in the case of A.L.Kalra v. Project and Equipment Corporation of India Ltd. That was a case in which punishment imposed on the appellant Kalra for having committed a misconduct punishable under Rule 4 (i) and (iii) and Rule 5 (5) of the PEC Employees' (Conduct, Discipline and Appeal) Rules and Rule 10 (1) (c) (i) of PEC Housing Building Advance (Grant) and Recovery) Rules was successfully canvassed. Therein, it was argued that where penal consequences ensue apropos misconduct alleged against an employee, it is obligatory on the part of the employer to specify and if necessary to pinpoint the issue with accuracy so that there could be no ex post facto interpretation of some incident camouflaged as misconduct. Accepting the argument their Lordships held:

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"where one of the rules of a public sector company relating to conduct and discipline of its employees provided for maintaining 'absolute integrity' and to 'do nothing what is unbecoming of a public servant'

...the rule was vague and of a general nature which is unbecoming of a public servant may vary with individuals and expose employees to vagaries of subjective evaluation. What in a given context would constitute conduct ~~unbecoming~~ of a public servant to be treated as misconduct would expose a grey area not amenable to objective evaluation. Failure to keep to high standard of moral, ethical or decorous behaviour befitting an officer of the company by itself cannot constitute misconduct unless the specific conduct falls in any of the misconduct specifically enumerated in the conduct and discipline rules".

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31. We notice the earlier decision rendered in Kalras case was not referred to in this case nor any argument advanced to contend there must be a specific species of misconduct and in the absence of such species, it was in vain to rely simply on the genre couched in very wide language. We thus have the two judgements of the Apex Court on the point but this in such a situation we are bound to follow the later judgement in Dhawan's case referred to (supra). We, therefore, we should say that the charge also satisfies the species element since it lays emphasis on the unsavoury conduct of the applicant being involved with the girl Sunita Rani for over a period of one year. The charge is buttressed by the appended imputations indicating that as a result of his involvement with the girl the latter conceived twice from the officer and had to undergo abortions. To insist, having sexual intercourse with the girl as a result of which she had illegally conceived from the applicant, the same should have been listed as a case of specific misconduct in the CCS Conduct Rules, is to give credence to form over substance. It will be humanly impossible to categorise all conduct unbecoming of a government servant as pointed by the court in Dhawan case. The question

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is whether in the facts and circumstances of the case, the conduct of the officer would amount to misconduct blameable under law. We are, however, left with no doubt in our mind that the officer in question taking advantage of the young girl's innocence had involved her in sexual intimacy and that had led to the young girl becoming an unwed mother. We do not know how to brand such infamous conduct of the officer as other than unbecoming of a government servant. This point also fails and is rejected".

30. In the case of Jagdeo Raut Vs. Union of India and others (reported in 1997 (36) ATC 54) Jodhpur Bench of this Tribunal considered whether the misconduct committed outside the office hours and outside the office premises can be the subject matter of disciplinary proceedings. In that case the appellant therein abused the senior government official in his residential colony and also on the next day had abused a Group-D employee and slapped him in the public place. The Honourable Tribunal relying upon the observations of the Hon'ble Supreme Court of India in the case of S. Govinda Menon Vs. Union of India (reported in AIR 1967 SC 1224) observed at paras 8 & 9 as follows :-

8. The next question which has to be evaluated is whether the act of the applicant in abusing his senior officer though in a public place (in this case in the government residential colony) constitutes a 'misconduct' within the parameters of Rule 3(1) of the CCS (Conduct) Rules, 1964. In this regard Rule 3(1) of the CCS (Conduct) Rules reads as under

"3. General-----(1) Every government servant shall at all times
 (i) maintain absolute integrity;
 (ii) maintain devotion to duty, and
 (iii) do nothing which is unbecoming of a government servant".

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From a perusal of this provision, it is clear that the Conduct Rules require that every government servant shall at all times (emphasis supplied) not only maintain absolute integrity and devotion to duty but also do nothing which is unbecoming of a government servant. It is true that though the term 'misconduct' has not been defined in any of the Conduct Rules or other enactments yet in its generic sense, it means "to conduct amiss, to mismanage, wrong or improper conduct; bad behaviour, unlawful behaviour or conduct". Moreover, the phrases viz.; at all times and do nothing which is unbecoming of a government servant" have to be understood in a wider sense and not in a restricted manner. It is also pertinent to note that after an appointment of an individual in government service he as a government servant is clothed with a specific status. He has a protection under Section 197 of the Code of Criminal Procedure for committing any act or commission in the discharge of his official duties, or with an act or omission which is not easily separable from his official action. The government servant is a constituent unit of the State in which he is employed as a servant. By virtue of his status as a government servant, it is a statutory expectation that every government servant would behave at all times in a manner which does not tamish the image of the Government or his master and that too not only within the discharge of his regulated duty hours but even outside it.

9. Looking at it from a different angle, every individual government servant is a mirror through which the public at large looks to find out the true picture or image of the Government which is reflected through the government servant, in the respective of the parameters of sphere in which he operates. The State and for that matter the Government would never encourage or tolerate any behaviour of a government servant which could be called as unbecoming of a government servant and expect that all times he

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observed a righteous behaviour/conduct. To us, it appears that it is with this background that the legislature framed Rule 3(1) of the CCS(CCA) Rules, 1964 by using two phrases, i.e. 'at all times' and '~~do~~ nothing which is unbecoming of a government servant".

31. The learned counsel for the respondents replied upon the observations of the Hon'ble Supreme Court in the case of Ministry of Finance and another Vs. S.B.Ramesh wherein the Hon'ble Supreme Court disapproved the observations made by this Tribunal to the effect that there was no prohibition for a government servant to have extra marital affairs and observed such conduct clearly amounts to misconduct.

32. Merely because Smt. K.Rama Devi had not approached the local police or local court it cannot be said that her complaint was ill-motivated. A lady ^{will} ~~not~~ come forward against a person to file a false complaint ~~at the stake of her honour~~. The incident alleged to have taken place on the afternoon of 8.4.89 at the camp. Delay in each and every case cannot be considered to come to the conclusion that the complaint is a false one or ^{ill} ~~motivated~~ one. It depends upon various facts and circumstances, and the time factor for a lady to think over to take extreme step of filing a complaint when her honour was in ~~peril~~. Moreover it is brought out in the evidence that in between the period the residents of the camp attempted to pacify Smt. Rama Devi and her husband.

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33. Even from the observation made by the Madras Bench of this Tribunal in the case of Kanniappan on which the applicant relies it gives an indication that disciplinary authority can initiate disciplinary proceedings even before the local police takes up the matter for investigation. That means the disciplinary authority can ascertain the conduct of the employee before the concerned police or court investigation into the truth or otherwise.

34. Under Section 2(n) of the Code of Criminal Procedure offence means any act or omission made punishable by any law for the time being in force.

35. Further the word misconduct has not been defined in the service rules. A ll misconduct may not amount to an offence. But all offences if committed by a public servant certainly amount to misconduct. For instance attending the office irregularly or without punctuality amount to misconduct but it may not amount to criminal offence. An act of misappropriation or defalcation of public funds by a public servant certainly amounts to misconduct as also are offence punishable under the Indian Penal Code. Further civil servants are public servants. Civil servants are still governed by the provisions of the Indian Penal Code and also The Prevention of Corruption Act 1988. All offences enumerated under the provisions of the P.C. Act amount to misconduct as well.

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36. Likewise bigamous conduct of a public servant certainly amounts to an offence and misconduct. There are various instances where a public servant can be proceeded against both under the general law of the land, ^{under} ~~and~~ the preventions of corruption~~s~~ of Act and ^{conduct} under the service/rules by which he is governed.

37. The allegations made against the applicant by Smt. K. Rama Devi in her complaint dated 17.4.89 clearly amounted to offence as well as misconduct. The applicant cannot say that because Smt. Rama Devi had not approached the local police or local court, the disciplinary authority is not competent to take cognizance of the complaint filed by Smt. Rama Devi. We ^{not} ~~may~~ fully agree with the views expressed by the enquiry officer ^{and} the disciplinary authority ^{and} the appellate authority but there are no grounds to say that their views are ^{illogical or} ~~perversion~~. The scope of judicial review in ^{37(a)} the disciplinary proceedings is very much limited. ||Therefore, considering the principles enunciated by the Hon'ble Supreme Court and other Benches of this Tribunal referred to above we reject the contention of the applicant that the disciplinary authority was not obliged to take cognizance of the complaint filed by Smt. Rama Devi on 17.4.89. Hence the contention of the applicant is rejected.

38. The applicant further contends that he was not furnished with the copies of the documents relied upon by the disciplinary authority and thus the principles of natural justice have been violated. In support of his contention he placed *R*

reliance on the principle laid down by the Hon'ble Supreme Court of India in the case of Kashinath Dixit Vs. Union of India (reported in ^{AIR} 1986 SC 2118). Each case has to be decided on the facts and circumstances of the case. In that case the disciplinary authority had relied upon 112 documents and 38 witnesses. The disciplinary authority failed to furnish the copies of the documents to the appellant therein and also failed to establish before the Hon'ble Supreme Court that not providing the copies of the documents relied on by it had not caused any prejudice to the applicant therein. In those circumstances the Hon'ble Supreme Court observed that there was violation of principles of natural justice.

39. Annexure-3 to the charge memo indicates that the disciplinary authority relied upon 7 documents. The disciplinary authority relied upon 7 witnesses. During the enquiry 7 witnesses were examined and the applicant himself examined as a defence witness.

40. In order to rebut this contention of the applicant the learned counsel for the respondents stated that the applicant was given full opportunity to have access to the documents mentioned in Annexure-3 to the charge memo and that the applicant availed the said opportunity and in fact no ever prejudice was caused to the applicant. Thus contending they have produced the letter dated 11.10.89 and 12.9.89 (A-R-1 & R-2 to the reply). In the letter dated 11.10.89 while replying the representation of the applicant dated 28.9.89

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the disciplinary authority informed the applicant that the documents mentioned in the charge memo could not be furnished at that stage and that the applicant would be given full opportunity to inspect the documents listed in Annexure-3.

41. In the letter dated 12.9.89 the enquiry officer permitted the applicant to inspect the documents listed in the charge memo, to submit the list of witnesses to be examined on his behalf and also to state whether he relied upon any additional documents in support of his defence. Same is to the effect in the letter dated 11.10.89.

42. Inspite of these letters the applicant appears to have not inspected the documents listed in the charge memo. From the proceedings of the enquiry officer (Annexure-B-3 to the reply) it is disclosed that the applicant came with an explanation that he could not inspect the documents because his defence assistant was stationed in Calcutta and there was not enough time to inspect the same. Thereafter, the enquiry was fixed hearing dates subsequently. During the next hearing of the enquiry neither the applicant had requested the enquiry officer to furnish the copies of the documents listed in Annexure-3 to the charge memo nor did not complain that he could not inspect the documents listed. He participated in the enquiry. When that is now so, it cannot be said that the

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disciplinary authority violated the principles of natural justice in not furnishing the copies of the documents, Enquiry officer had given sufficient opportunity to the applicant to inspect the documents and he was permitted to take notes of the documents. As already observed there were only 7 documents listed in the charge memo. The applicant could have taken copies of those documents within a short period. When that is so and more over he had not complained anything about the non furnishing of the documents or not inspecting or verifying the documents during progress of the enquiry. It is too late for him to urge that the disciplinary authority violated the principles of natural justice in not providing him the copies of the documents.

43. The learned counsel for the respondents contended that the disciplinary authority has not violated the principles of natural justice that they have sufficient opportunity to the applicant to inspect the documents and to take notes of the same. In on humble opinion, this ground is not itself sufficient to interfere with the impugned orders.

44. We feel it proper to reproduce herein the observations made by the Hon'ble Supreme Court in the case of State Bank of Patiala Vs. S.K.Sharma reported in AIR 1996 SC 1669. The Hon'ble Supreme Court observed that each and every violation of principles of natural justice may not be a ground to set aside the punishment imposed in the disciplinary proceedings. In para-32 the Hon'ble Supreme Court has observed as under :-

"We may summarise the principles emerging from the above discussion (These are by no means intended to be exhaustive and are evolved keeping in view the context of disciplinary enquiries and orders of punishment imposed by an employer upon the employee):

(1) An order passed imposing a punishment on an employee consequent upon a disciplinary/departmental enquiry in violation of the rules/regulations/statutory provisions governing such enquiries should not be set aside automatically. The Court or the Tribunal should enquire whether (a) the provision violated is of a substantive nature or (b) whether it is procedural in character.

(2) A substantive provision has normally to be complied with as explained herein before and the theory of substantial compliance or the test of prejudice would not be applicable in such a case.

(3) In the case of violation of a procedural provision, the position is this: procedural provisions are generally meant for affording a reasonable and adequate opportunity to the delinquent officer/employee. They are, generally speaking, conceived in his interest. Violation of any and every procedural provision cannot be said to automatically vitiate the enquiry held or order passed. Except cases falling under 'no notice', 'no opportunity' and 'no hearing' categories the complaint of violation of procedural provision should be examined from the point of view of prejudice, viz., whether such violation has prejudiced the delinquent officer/employee in defending himself properly and effectively. If it is found that he has been so prejudiced, appropriate orders have to be made to repair and remedy the prejudice including setting aside the enquiry and/or the order of punishment. If no prejudice is established to have resulted therefrom, it is obvious, no interference is called for. In this connection, it may be remembered that there may be certain procedural provisions which are of a fundamental character, whose violation is by itself proof of prejudice. The Court may not insist on proof of prejudice in such cases. As explained in the body of the judgement, take a case

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where there is a provision expressly providing that after the evidence of the employer/government is over, the employee shall be given an opportunity to lead defence in his evidence, and in a given case, the enquiry officer does not give that opportunity in spite of the delinquent officer/employee asking for it. The prejudice is self-evident. No proof of prejudice as such need be called for in such a case. To repeat, the test is one of prejudice, i.e. whether the person has received a fair hearing considering all things. Now, this very aspect can also be looked at from the point of view of directory and mandatory provisions, if one is so inclined. The principle stated under (4) herein below is only another way of looking at the same aspect as is dealt with herein and not a different or distinct principle.

(4) (a) In the case of procedural provision which is not of a mandatory character, the complaint of violation has to be examined from the standpoint of substantial compliance. Be that as it may, the order passed in violation of such a provision can be set aside only where such violation has occasioned prejudice to the delinquent employee.

(b) In the case of violation of a procedural provision which is of a mandatory character, it has to be ascertained whether the provision is conceived in the interest of the person proceeded against or in public interest. If it is found to be the former, then it must be seen whether the delinquent officer has waived the said requirement, either expressly or by his conduct. If he is found to have waived it, then the order of punishment cannot be set aside on the ground of said violation. If, on the other hand, it is found that the delinquent officer/employee has not waived it or that the provision could not be waived by him, then the Court or Tribunal should make appropriate directions (include the setting aside of the order of punishment), keeping in mind the approach adopted by the Constitution Bench in B.Karunakar, (1994 AIR SCW 1050). The ultimate test is always the same, viz., test of prejudice or the test of fair hearing, as it may be called.

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(5) Where the enquiry is not governed by any rules/regulations/statutory provisions and the only obligation is to observe the principles of natural justice—or, for that matter, wherever such principles are held to be implied by the very nature and impact of the order/action — the Court or the Tribunal should make a distinction between a total violation of natural justice (rule of audi alteram partem) and violation of a facet of the said rule, as explained in the body of the judgement. In other words, a distinction must be made between "no opportunity" and no adequate opportunity i.e., between "no notice"/"no hearing" and "no fair hearing." (a) In the case of former, the order passed would undoubtedly be invalid (one may call it "void" or a nullity if one chooses to). In such cases, normally liberty will be reserved for the Authority to take proceedings afresh according to law, i.e., in accordance with the said rule (audi alteram partem), (b) But in the latter case, the effect of violation (of a facet of the rule of audi alteram partem) has to be examined from the standpoint of prejudice; in other words, what the Court or Tribunal has to see is whether in the totality of the circumstances, the delinquent officer/employee did or did not have a fair hearing and the orders to be made shall depend upon the answer to the said query. (It is made clear that this principle (No.5) does not apply in the case of rule against bias, the test in which behalf are laid down elsewhere).

(6) While applying the rule of audi alteram partem / the Court/Tribunal/Authority must always bear in mind the ultimate and overriding objective underlying the said rule, viz., to ensure a fair hearing and to ensure that there is no failure of justice. It is this objective which should guide them in applying the rule to varying situations that arise before them.

(7) There may be situations where the interests of state or public interest may call for a curtailing of the rule of audi alteram partem. In such situations, the Court may have to balance public/State interest with the requirement of natural justice and arrive at an appropriate decision."

/ (the primary principle of natural justice)

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45. In this view of the matter we feel that the disciplinary authority has not violated the principles of natural justice in conducting the enquiry against the applicant. Therefore the contention of the applicant that he was not furnished the copies of the documents listed in Annexure-3 to the charge memo cannot be accepted.

45 (a) The contentions of the applicant requires to be examined. He contended that the inquiry authority basing his findings on Charge No.1 has held Charge No.2 also proved. In fact it is no so. In para-4 of the report of the Inquiry Officer has discussed the evidence available on charge No.2 and in para-5 he has discussed the evidence available on Charge No.1. He has summed up his conclusions on both the charges in the conclusion (as extracted above).

45 (b) The applicant submits that the appellate authority has passed the impugned order machinacally without applying his mind. We have perused the order dated 13/17.5.94 (A-8) we are prepared to accept his contentions. It is rejected.

46. The applicant contended that the disciplinary authority and the enquiry authority were prejudiced and pre-determined to punish him. The respondents have disputed the said fact and they have further stated had the applicant had any such apprehension in his mind at any time or at any stage during the progress of the enquiry that the enquiry officer was biased or prejudiced view towards him, the proper

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course for him was to have submitted an application to the disciplinary authority for the change of the enquiry officer. No such application had been submitted by the applicant to the disciplinary authority during the course of the enquiry. When this is so, it cannot be said that the enquiry authority had prejudicial mind towards the applicant. As contended by the respondents if he had any such apprehension he should have filed an application before the disciplinary authority for changing the enquiry officer. Hence his contention must also fail.

47. The applicant submitted that even the disciplinary authority was prejudiced against him. In order to repel this contention the respondents have produced the note sheet of the disciplinary authority to contend that the disciplinary authority had taken an impartial view in the matter. Annexure R-6 is the copy of the note sheet. In his note sheet, he has observed as follows :-

"However keeping in view the comparative youth of the delinquent official, the fact that he has a family to support and that he belongs to the weaker section of the society, I award the punishment of "compulsory retirement from service" with immediate effect under Rule 11(vii) of CCS&CCA Rules 1965 on the said employee viz Shri C.Sundereshan, Surveyor, GSI, SRD, Hyderabad".

48. Considering the observations made by the disciplinary authority we are not persuaded to accept the contention of the applicant that the disciplinary authority was prejudiced toward him. Hence his contention is rejected.



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49. Another contention raised by the applicant is that extraneous consideration weighted with the authorities to punish him. He has not stated what were the extraneous considerations. In the absence of material particulars, we cannot accept his contention. The contention is vague.

50. The applicant contends that the evidence collected by the enquiry authority is not sufficient to come to the conclusion that the misconduct revealed against him has been proved. The enquiry authority examined 7 witnesses and also relied upon the 7 documents. Even Smt. Rama Devi was also examined during the enquiry. The applicant has cross examined her. From the material collected by the enquiry authority it is not possible to come to the conclusion that this is a case of "no evidence". The Court or Tribunal cannot attempt to analyse or reappreciate the evidence collected by the enquiry authority. It was observed so in the case of Government of Tamilnadu vs. A. Rajapandyan reported in AIR 1995 SC 561. Hence his contentions falls to the ground.

51. The last contention of the applicant is that the punishment of compulsory retirement is too harsh and severe. In the case of Union of India vs. Paramananda the Hon'ble Supreme Court has held that the Court of Tribunal has no power to interfere with the punishment imposed by the disciplinary authority. It is for the disciplinary authority to take all the factors into consideration and to impose proper punishment. The Court cannot substitute any punishment for

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the punishment imposed by the disciplinary authority. As extracted above the disciplinary authority even though felt to impose the punishment of dismissal on the applicant has taken a lenient view in imposing punishment of compulsory retirement.

52. Having examined all the grounds raised by the applicant, we have not been persuaded to accept any one of them and we are of the opinion, that those grounds, in the least, prompt us to interfere with the impugned orders.

53. To sum up, our conclusions are as follows :-

(a) The misconduct alleged against undoubtedly come within the umbrage of the clause 3 (1) (iii) of the CCS (CCA) Rules 1965.

(b) The contention that the inquiry officer failed to furnish the copies of listed documents has not at all caused any prejudice to the applicant in the facts and circumstances of the case.

(c) There was no element of bias or prejudice in the minds of the Inquiry Officer and Disciplinary Authority.

54. In view of the above discussions, the OA is liable to be dismissed.

55. Accordingly the OA is dismissed. No costs.


B.S. JAI PARAMESHWAR
Member (Judl.)

19/2/99

Dated : 18th February, 1999


(R. RANGARAJAN)
Member (Admn.)

19/2/99

13/2/99 5
Ist and IIInd Court.

Copy to:

1. HONM
2. HHRP M(A)
3. HSSP M(J)
4. D.R. (A)
5. SPARE

Typed By
Compared by

Checked by
Approved by

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD.

THE HON'BLE MR. JUSTICE D.H.NASIR:
VICE - CHAIRMAN

THE HON'BLE R.RAJENDRA PRASAD
MEMBER (A)

THE HON'BLE R.RANGARAJAN
MEMBER (A)

THE HON'BLE MR.B.S.JAI PARAMESHW.R
MEMBER (J)

DATED: 18.2.99

ORDER/JUDGMENT

M.A./R.A/C.P.NO.

IN
C.A.NO : 1404/96

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

7 (Contra.)

केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal प्रेषण / DESPATCH
25 FEB 1999
हैदराबाद न्यायपीठ HYDERABAD BENCH

To condone the
delay of 204 days
IN THE CENTRAL ADMINISTRATIVE
TRIBUNAL: HYDERABAD BENCH:HYD
in filing the OA
M.A.NO. OF 1995

in
O.A.NO. OF 1995

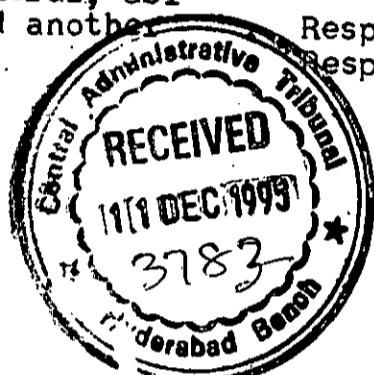
Between:

C.Sundaresan .. Petitioner/
Applicant

And

The Director
General, GSI
and another

Respondents/
Respondents



MISCELLANEOUS APPLICATION
FILED UNDER SECTION 21(3)
OF ADMINISTRATIVE TRIBUNALS
ACT, 1987

FILED ON: 11 -12-1995

*Reed
M.R. Dony
V. Venkateswara Rao*

M/s.V.Venkateswara Rao &
K.Phaniraju, Advocates.

Counsel for the Petitioner/
Applicant

*Reed
M.R. Dony
V. Venkateswara Rao &
K.Phaniraju, Advocates.*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:: HYDERABAD BENCH
AT HYDERABAD

M.A.NO. 1104 OF 1995

in
S/ O.A.NO. 3782 OF 1995

Between:

C. Sundaresan, S/o. K. Challappan ,
aged about 37 years, Occupation:
Ex-Surveyor, Geological Survey of
India, Hyderabad, R/o. Trivandrum. .. Petitioner/
Applicant

And

1. The Director General,
Geological Survey of India,
Calcutta.
2. The Senior Dy. Director General,
Geological Survey of India,
Southern Region, G.S.I. Complex,
Bandlaguda, Hyderabad. .. Respondents/
Respondents

MISCELLANEOUS APPLICATION FILED UNDER SECTION 21(3) OF
THE ADMINISTRATIVE TRIBUNALS ACT, 1987

For the reasons stated in the accompanying
affidavit, it is prayed that this Hon'ble Tribunal may
be pleased to condone the delay of 204 days in filing
the above O.A and pass any other order or orders as is
deemed fit, proper, necessary and expedient in the cir-
cumstances of the case.

Hyderabad,

Dt: 11-12-1995.


Counsel for the Petitioner/
Applicant

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:: HYDERABAD BENCH
AT HYDERABAD

M.A.NO. 1104 OF 1995

in

O.A.NO. 3782 OF 1995

Between:

C.Sundaresan .. Petitioner/
Applicant

And

The Director General,
Geological Survey of India,
Calcutta., and another .. Respondents/
Respondents

A F F I D A V I T

I, C.Sundaresan, S/o. K.Challappan ,
aged about 57 years, Occupation: Ex-Surveyor,
Geological Survey of India, Hyderabad, Resident of
Trivandrum, do hereby solemnly affirm and state on
oath as follows:

1. I am the Petitioner herein, hence I am
fully acquainted with the facts of the case.
2. I filed the above O.A challenging the
validity of the impugned penalty of compulsory
retirement dated 10.2.1992 and the Appellate Au-
thority's order dt.13/17-5-1994 confirming the same.
There is a delay of 175 days in filing the above O.A.
In this connection, I respectfully submit that the
said delay is neither wilful nor deliberate. Since
I left Hyderabad to my native place in Kerala I
could not bring to the notice of my counsel about

Appellate Authority's order dt.13.5.1994 which was received by me before the final disposal of the O.A.No.123/92. In the Review Petition No.42/95 filed by me this Hon'ble Tribunal gave me liberty to file a fresh O.A challenging the Appellate Authorities order dt.13/17-5-1994 seeking condonation of delay if necessary. Accordingly, I am praying for condonation of delay of ~~20~~ days in filing the original application. In view of these circumstances, if the delay is not condoned I would suffer irreparable loss and damage.

Therefore, in the interest of justice it is prayed that this Hon'ble Tribunal may be pleased to condone the delay of ~~20~~ days in filing the above O.A and pass any other order or orders as is deemed fit, proper, necessary and expedient in the circumstances of the case.

Sworn and signed before
me on this the ^{10th} day of
December, 1995.

Advocate
Hyderabad
(B.S.A. SATHANRAYAM)

Rundaram
Deponent

MA 1104/95 in O.A.S.R. 3782/95

19.12.95

List it on 22-12-95 at the request for the applicant.

HRRN HVNRS

MA B.O. VC
D.P.D.P.S
10/12/95

26.12.95

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH. AT HYDERABAD.

M.A. NO. HOT of 1995

AD

IN
O.A.S.R. NO. 3782 of 1995

Notice. List on 13.2.96.

HRRN HVNRS
M(A) VC

Before Registrar

15-2-96

By mistake and oversight notices have not been sent. Send the notices immediately and call on 16/2/96.

Regr.

28.11.95

Heard Mr. Venkateswar Rao for the applicant and Mr. Satyanarayana for Mr. N.R. Devraj for respondents.

This MA is filed for condoning a delay of 204 days in filing the O.A. This MA is not opposed. Hence register the O.A. if otherwise in order.

J
HBSJP
M(J)

HRRN
M(A)

~~PETITION FOR SEEKING PERMISSION TO ADDITIONAL APPLICANTS IN A SINGLE APPLICATION.~~

Condone delay petition

Mr. V. Venkateswar Rao,
COUNSEL FOR THE APPLICANTS

AND

Mr. _____
Sr. Addl. Standing Counsel for
C.G. Rlys.