

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

RA No. 364/2003

in

MA No. 2593/2003

OA No. 629/2002

New Delhi, this the 17th day of December, 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri S. A. Singh, Member (J)

1. The Commissioner of Police,
Police Headquarters,
I.P. Estate,
New Delhi.
2. The Joint Commissioner of Police,
(Southern Range), I.P. Estate,
New Delhi.
3. The Additional Dy. Commissioner of Police,
(South District), Police Headquarters,
I.P. Estate, New Delhi.
4. Shri Jagdev Singh E.O.,
D.E. Cell,
c/o Commissioner of Police,
Police Headquarters,
I.P. Estate, New Delhi. ...Review applicants/
Respondents in OA

(By Advocate: Shri Ashvini Bhardwaj proxy for Sh. Rajan
Sharma)

Versus

Shri Shriniwas,
S/o Shri Mange Ram,
R/o 25/478, Ashok Nagar,
Near Power House,
Bahadurgarh (Haryana).

....Respondent/
Applicant in OA

(By Advocate: None)

ORDER (ORAL)

Justice V.S. Aggarwal, Chairman -

Applicants seek review of the order passed by
this Tribunal on 13.03.2003.

2. The short submission made is that this
Tribunal had pressed into service Rule 12 of the Delhi



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Police (Punishment and Appeal) Rules and keeping in view the same and the fact that original applicant had been acquitted by the court of competent jurisdiction, it was held that departmental proceedings could not be initiated.

3. Learned counsel for the applicants contends that the original applicant had been acquitted by the learned Metropolitan Magistrate on a technical ground because the evidence of the prosecution was closed in pursuance of the application filed by the original applicant and, therefore, the departmental proceedings could continue and Rule 12 of the Rules, referred to above, will not be an embargo in continuing the departmental proceedings.


4. The review would be available only if there is any error apparent on the face of the record. If the matter has to be re-argued with fresh application of mind, it cannot be taken to be the ground for review. Not only the aforesaid, in the facts it is patent that the original applicant was acquitted as per his own showing because the evidence of the prosecution was closed on the application filed by the accused. The record reveals that the offence was committed on 6.1.1994. The learned Metropolitan Magistrate acquitted the accused on 26.4.2000. Sufficient time, therefore, seemingly had expired. Thus, it cannot be taken that it was a technical ground because it was not a procedural flaw that had occurred. Opportunity had been granted

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.....and if the prosecution fails to produce the evidence, it would tantamount to an acquittal rather than acquittal on technical ground.

5. No good ground. Dismissed.


(S.A. Singh)
Member (A)

/na/


(V.S. Aggarwal)
Chairman