

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

(13)

O.A.No 2167/2001

Date of Decision 12.11.2002

Mohinder Pal Singh ... Applicant

Sh. Madhav Panikar ... Advocate for the Applicant

VERSUS

UOI & Ors ... Respondents

Ms. Rashmi Chopra ... Advocates for the Respondents

Coram:-

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)

Hon'ble Shri A.P. Nagrath, Member (A)

1. To be referred to the Reporter or not ? Yes
2. Whether it needs to be circulated to other Benches of the Tribunal? No

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(Smt. Lakshmi Swaminathan)

Vice Chairman (J)

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.2167/2001

New Delhi this the 12th day of November, 2002

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J).
Hon'ble Shri A.P. Nagrath, Member (A).

Mahender Pal Singh,
S/o Shri Kanti Singh,
R/o Q.No.874, Double Storey,
Timarpur, Delhi. Applicant.

(By Advocate Shri Madhav Panikar)

Versus

1. Commissioner of Police,
M.S.O.Building, Police
Head Quarter, I.P.Estate,
New Delhi.
2. Union of India,
through Secretary,
Ministry of Home Affairs,
New Delhi. Respondents

(By Advocate Ms. Rashmi Chopra)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J).

The applicant has impugned the action of the respondents in passing the impugned order dated 29.6.2000 imposing on him the punishment of reduction of one service increment temporarily for a period of one year entailing proportionate reduction in his pay and rejection of his appeal by the order dated 19.10.2000.

2. The brief facts of the case are that the applicant is aggrieved that the respondents have dealt with him departmentally by proceeding under the provisions of the Delhi Police (Punishment and Appeal) Rules, 1980 (hereinafter referred to as "the Rules"). He had been

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placed under suspension vide respondents' order dated 30.8.1995 and later on reinstated in service by order dated 2.11.1999. The learned counsel for the applicant has submitted that although the Departmental inquiry was ordered vide respondents' order dated 19.9.1995, that was not completed till the criminal case filed against the applicant was decided by the learned MM, Delhi in his judgement dated 15.10.1999 who had acquitted him. The respondents have stated in their reply that in pursuance of the judgement dated 11.3.1996 announced by Civil Judge, K.S. Mohi in Suit No. 646 of 1996, the Departmental inquiry earlier initiated against the applicant was kept in abeyance vide order dated 8.4.1997. However, it appears that nothing has been done by the respondents regarding this judgement, having regard to the provisions of Section 28 of the Administrative Tribunals Act, 1985 which came into effect on 1.7.1985. Admittedly, the respondents continued with the aforesaid Departmental proceedings initiated against the applicant earlier, after he had been acquitted by the competent criminal court in October, 1999. He has been given the penalty of reduction of one service increment temporarily for a period of one year entailing proportionate reduction in his pay and the suspension period has also been decided as not spent on duty for all intents and purposes vide order dated 29.6.2000.

3. Shri Madhav Panikar, learned counsel has submitted that having regard to the order of the criminal court dated 15.10.1999 which has acquitted the applicant on merits and the provisions of Rule 12 of the Rules, the respondents could not have initiated, continued or

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completed the Departmental proceedings which had been kept in abeyance in view of the aforesaid order of the Civil Judge. The relevant portion of Rule 12 of the Rules reads as follows:-

"12. Action following judicial acquittal.- When a police officer has been tried and acquitted by a criminal court, he shall not be punished departmentally on the same charge or on a different charge upon the evidence cited in the criminal case, whether actually led or not unless:-

- (a) the criminal charge has failed on technical grounds, or
- (b) to (e) x x x x x x x "

4. We have carefully considered this plea with reference to the judgement of the Hon'ble criminal court. Ms. Rashmi Chopra, learned counsel has submitted that the acquittal of the applicant has been on technical grounds, that is giving the benefit of doubt. We are unable to agree with this contention of the learned counsel for the respondents. A perusal of the reasoning of the learned judge, particularly paragraphs 9 to 12 of the judgement dated 15.10.1999 shows that the learned judge has come to the conclusions on the basis of the discussion that if all the contradictory statements are taken together, the same makes the story of the prosecution highly improbable and the same does not inspire confidence. He has further stated that as the story of the prosecution was hard to be digested, he gave the benefit to the accused persons and

has acquitted the applicant along with the other accused. Although the learned judge has used the expression "giving the benefit of doubt", however, the aforesaid paragraphs show that the acquittal has been based on the merits of the case after discussions of the evidence led by the prosecution as well as by the defence. Learned counsel for the applicant has also relied on the judgement of the Punjab and Haryana High Court in **Jagwant Singh Vs. State of Punjab and Ors.** (1996 (1) SLR P-450) and learned counsel for the respondents has relied on the judgement of the Tribunal in **Constable Yaseen Khan Vs. NCT of Delhi & Ors.** (OA 1969/2000), decided on 16.5.2001, in which one of us (Smt. Lakshmi Swaminathan) ^{VC (J)} was also a Member, copy placed on record. We have also carefully considered these judgements. The judgement in **Yaseen Khan's** case (supra) is based on the facts of that case which are distinguishable from the facts in the present case with regard to the acquittal of the applicant.

5. As mentioned above, in the present case by the order dated 15.10.1999, the applicant has been acquitted on merits and not on technical grounds, as provided in Rule 12 (a) of the Rules. It is not disputed by the parties that the charges against the applicant in the criminal case as well as the Departmental proceedings were the same or similar.

6. Therefore, in the facts and circumstance of the case, we find merit in this application. Accordingly, the impugned orders dated 29.6.2000 and 19.10.2000 passed by the disciplinary authority and appellate authority are quashed and set aside. In the circumstances, the

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respondents are directed to pass consequential orders, in accordance with law, rules and instructions within two months from the date of receipt of a copy of this order.

No order as to costs.

Unjts
(A.P. Nagrath)
Member (A)

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

"SRD"