

Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No. 2188/99

(13)

New Delhi this the 28th day of August, 2000

Hon'ble Mr. Justice V. Rajagopala Reddy, VC(J)
Hon'ble Mr. Govindan S. Tampli, Member (A)

Pran Nath (1596/D)
S/o Shri T.R. Gill
R/o 5, Ashok Police Line,
New Delhi.

(By Advocate: Shri Shyam Babu) ...Applicant

Versus

1. Govt. of NCT of Delhi through its
Chief Secretary,
5, Sham Nath Marg,
Delhi.
2. Commissioner of Police,
Delhi, Police Headquarter,
I.P. Estate, New Delhi.
3. Dy. Commissioner of Police
I.G.I. Airport, New Delhi.

(By Advocate: Mrs Sumedha Sharma) ...Respondents

ORDER (Oral)

By Mr. Justice V. Rajagopala Reddy, VC (J)

The applicant was Sub-Inspector in Delhi Police. By an order dated 20.9.1986, an enquiry has been held against him on certain allegations and after the conclusion of the enquiry he was imposed a penalty of forfeiture of 5 years of approved service. When this order was questioned before the Tribunal in OA No.207/93, the Tribunal in its order dated 5.10.98 allowed the OA and remanded the case back to the respondents to pass a revised order within a period of 24 weeks from the date of receipt of a copy of this order. It was also stated that if the revised order was not passed within the said period of 24 weeks, the

disciplinary proceedings should stand abated. It is the case of the applicant that though the 24 weeks had expired by 28.4.99, no revised order had been passed by the respondents. On the other hand, the impugned show cause notice dated 3.8.99 has been issued in this regard. It is the contention of the learned counsel for the applicant that in view of the abatement of the proceedings, no action can be taken against the applicant and the notice has to be set aside. He should be treated as having continued in service in terms of the judgment of the Tribunal. It is also contended that the impugned show cause notice is not competent as it was not passed by the competent authority.

(A)

2. Learned counsel for the respondents, however, submits that as the applicant was out of service in view of his dismissal from service and he was reinstated only on 28.4.99 it cannot be said that the show cause notice was invalid. The contention as regards the competence of the authority who issued show cause notice is also refuted.

3. Heard the learned counsel for the applicant and the respondents. In order to consider the first contention, it is necessary to notice the operative portion of the directions given by the Tribunal in OA No. 207/93 dated 5.10.98, which reads as under:-

"In the result, the order of penalty and the appellate orders, both original and supplemental,

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are hereby quashed. If the revised order is not passed within the time limit of 24 weeks, from the date of receipt of a copy of this order, the disciplinary proceedings shall stand abated and the applicant shall be considered to be in service from the date he was suspended as though no offence was committed by him and all the consequential benefits shall follow".

(5)

3. From the above directions it is clear that unless the revised order was passed within a period of 24 weeks from the date of receipt of a copy of the order, the disciplinary proceedings would abate and then the applicant would be treated as if he were in service. As the copy of the order was communicated to the respondents on 11.10.99, 24 weeks would expire by 28.4.99 but the impugned show cause notice was issued on 3.8.99. It, therefore, follows that this show cause notice is invalid. Learned counsel for respondents, however, submits that the applicant was not in service when the order of the Tribunal was passed. He was not in service even from 4.5.95 as he has been dismissed from service on certain other allegations. Since he was not in service, no proceedings could be taken against him in pursuance of the directions given by the Tribunal. It is seen that the order of dismissal was set aside only on 21.1.99 by an order of the Tribunal and he has been reinstated on 28.4.99. These facts are not in dispute. From 28.4.99, the show cause notice which has been issued on 3.8.99 is within the period of 24 weeks as stipulated by the Tribunal. It cannot,

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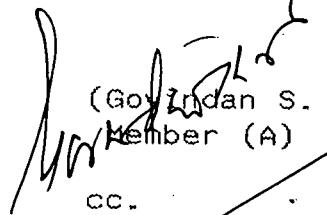
therefore, be said that the impugned show cause notice stood abated as per the order of the Tribunal. Learned counsel for the applicant, however, contends that as the applicant had been directed to be reinstated on 21.1.99, he should be treated as reinstated with effect from the order of the Tribunal. We do not agree. The Commissioner of Police was the party to those proceedings and in compliance to the Tribunal's order, he reinstated the applicant on 28.4.99. The crucial date for determining the question as to the abatement of the proceedings has, therefore, to be reckoned from 28.4.99. In this view of the matter, it cannot be said that the proceedings are abated and the notice is illegal and contrary to the directions given by the Tribunal.

4. The next contention is as regards the competence of the Dy. Commissioner of Police, I.G.I. Airport who has issued the impugned show cause notice. It is the contention that the original proceedings having been initiated by Dy. Commissioner of Police (East), the same authority should have issued the show cause notice. Learned counsel for the respondents, however, submits that after the reinstatement of the applicant on 28.4.99, the applicant came within the disciplinary control of the Dy Commissioner of Police, IGI, Airport, hence the impugned show cause notice has been given by him. It should be noticed that when the earlier order of punishment was imposed on

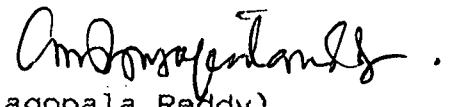
20.9.86, the applicant was under the control of the Dy. Commissioner of Police(Security).

Hence the DCP(West) was the disciplinary authority who had taken the proceedings against him and passed the impugned order of punishment of 20.9.86. Subsequently he was transferred to the IGI Airport and he was under the control of the DCP, IGI Airport. Hence we do not find that the impugned show cause notice is in-competent.

5. Having considered the points raised by the learned counsel for the applicant, we do not find any merit in the OA. The same is accordingly dismissed. No costs.


(Govindan S. Tampli)
Member (A)

cc.


(V. Rajagopala Reddy)
Vice-Chairman (J)