

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA No.2383/99

New Delhi: this the 16th day of APRIL, 2001. (10)

HON'BLE MR.S.R.ADIGE, VICE CHAIRMAN (A).

HON'BLE DR.A.VEDAVALLI, MEMBER (J)

Constable (Driver) Gurmej Singh

No. 4630/PCR,

S/o Shri Ajayab Singh,

presently posted in Police Control Room,,

R/o B-534, Sarojini Nagar,

New Delhi

....Applicant.

(By Advocate: Shri Sachin Chauhan).

Versus

Union of India,
through its Secretary,

Ministry of Home Affairs,
North Block,
New Delhi.

2. Addl. Dy. Commissioner of Police,
Police Control Room,
Sarai Rohilla,
Delhi.

....Respondents.

(By Advocate: Mrs. Meera Chhibber).

ORDER

S.R.Adige, VC(A):

Applicant impugns respondents' order dated 8.10.99 (Annexure-A1) initiating a disciplinary proceeding against him, and the summary of allegations dated 27.10.99 (Annexure-A2) on the ground that a criminal case on the same charge has ended on his acquittal by court judgment dated 18.3.97 (Annexure-A3).

2. Applicant is being proceeded against departmentally vide order dated 8.10.99 on the allegation that on 28.2.93 at about 1.15 p.m. he as a Driver while taking a crime team in Govt. vehicle No. DBP No. 8172 hit one Shri D.B.Pandey on the round about at Shankar Road-Ring Road crossing. On this an FIR was registered and applicant was arrested, but was later bailed out. In the criminal case, applicant was acquitted

by the court. The summary of allegations goes on to state that from a perusal of the copy of the judgment in the aforesaid criminal case, it is revealed that the criminal case failed due to technical lapse on the part of the IO, who deliberately did not collect evidence about the duty of applicant as Constable (driver) on the above vehicle on that day, and because of that, applicant was acquitted in the criminal case.

3. We have heard both parties.

4. Rule 12 Delhi Police (P & A) Rules deals with action following judicial acquittal. This rule provides that 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)
- b)
- c)
- d)
- e) additional evidence for departmental proceedings is available.

5. Mrs. Chhibber has pointed out that in the present departmental proceeding, additional evidence is available in as much as SI Sardool Singh, I/C Shift Crime Team who is amongst the list of witnesses supplied to applicant, will prove that the vehicle and the officers were on duty and were going to attend the scene of the crime call on 28.2.93. He will also prove the accident and the circumstances which resulted in it as also the fact that applicant took bail.

6. In this view of the matter, the impugned order dated 8.10.99 is clearly saved by Rule 12(e) supra, because SI

(2)

Sardool Singh was not one of the PWs who was examined in the criminal case.

7. In the light of the express provisions of Rule 12(e) supra the ruling in OA No. 516/96 H.C. Ram Nath & another Vs. UOI & Ors relied upon by Shri Sachin Chauhan does not assist the applicant. The OA is dismissed. No costs.

A. Kedarkarli
(DR. A. VEDAVALLI)
MEMBER (J)

S. R. Adige
(S. R. ADIGE)
VICE CHAIRMAN (A).

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