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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.433/99

New Delhi this the **27th** day of May, 1999.

HON'BLE MR. S.R. ADIGE, VICE-CHAIRMAN (A)
HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER (J)

Shri Bakhtawar Singh,
A.S.I. No.38-DAP (2625-D),
Prov. & Lines,
Old Police Lines,
Delhi. ...Applicant

(By Advocate Ms. Jasvinder Kaur)

-Versus-

Union of India through:

1. The Commissioner of Police,
Police Headquarters,
New Delhi.
2. Dy. Commr. Police,
Prov. & Lines, Delhi.
3. Joint Commr. Police
R.P. Bhavan,
New Delhi. ...Respondents

(By Advocate Shri Arun Bhardwaj, through proxy counsel
Shri Bhaskar Bhardwaj)

O R D E R

HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER (J):

The applicant, who is working as Assistant Sub-Inspector (ASI) with Delhi Police, is aggrieved by the two orders passed by the respondents dated 27.8.98 and 28.1.99 ordering a de novo joint departmental enquiry against him and one Inspector Ram Kishan Malik, and rejection of their representations against the enquiry respectively.

2. Previously, a departmental enquiry had been ordered on 6.9.93 against the applicant and the enquiry officer had submitted his findings on it on 23.12.94. A copy of the enquiry officer's report had been submitted to the applicant who had also submitted his representation on it. Respondents had imposed a punishment of reduction to the lower

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rank on the applicant from ASI to Head Constable for a period of three years w.e.f. 1995 and the other official, viz., Inspector Ram Kishan Malik was awarded the punishment of censure. Against the above order of punishment, the applicant had filed an earlier application (OA-2135/95) which was disposed of by the Tribunal's order dated 11.4.97. The Tribunal had directed that the applicant shall file a revision petition to the appropriate authority who shall consider the same, who was also directed to take into consideration whether necessary orders under Rule 15 (2) of the Delhi Police (Punishment & Appeal) Rules, 1980 had been passed. It was also ordered that "they (respondents) shall also take into consideration, whether in the absence of the order under the said rule, the entire proceedings should be set aside and de novo inquiry shall be instituted."

3. The respondents have submitted that in pursuance of the aforesaid judgement of the Tribunal the applicant had filed a revision petition dated 7.5.97 to the Lieutenant Governor, Delhi, who after considering the case had ordered that the earlier punishment order dated 19.4.95 should be set aside and de novo enquiry may be conducted. They have stated that accordingly the punishment awarded to the applicant was set aside by order dated 22.7.98 without prejudice to the supplementary (de novo) departmental enquiry to be initiated against the applicant and the other co-accused Inspector Ram Kishan Malik.

4. Ms. Jasvinder Kaur, learned counsel for the applicant has impugned the orders dated 27.8.98 and 28.1.99 on the ground that respondents cannot initiate a de novo enquiry as it is unjustified because of the delay. The thrust

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of the argument of the learned counsel was that the respondents cannot initiate a de novo enquiry after this long delay of above six years which will not afford a reasonable opportunity to the applicant to defend his case. The applicant has accordingly sought quashing of the impugned orders with the direction to the respondents to exonerate him in the alleged proposed departmental enquiry on the ground of undue delay and laches.

5. The respondents, on the other hand, have controverted the above submissions. They have stated that the pleas taken by the applicant are not tenable. The learned proxy counsel, Shri Bhaskar Bhardwaj, has submitted that in the circumstances of the case the impugned orders are valid and the applicant can put forward his defence to the charges in the departmental proceedings initiated against him.

6. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

7. The Tribunal in the order dated 11.4.97 in OA-2135/95 held as follows:-

"In view of the findings above, viz., that the petitioner has not availed the remedy of filing a revision petition to the appropriate authority and in view of the fact that the respondents have not passed any order under rule 15 (2), we are of the view that the petitioner shall file a revision petition to the appropriate authority, who shall consider the case, in view of our findings that no orders under Rule 15 (2) has been passed. They shall also take into consideration, whether in the absence of the order under the said rule, the entire proceedings should be set aside and de novo inquiry shall be initiated. We are of the view that the orders like the one under Rule 15 (2) goes to the root of the case and it is for the revisional authorities who have to look into such serious error in the first instance and pass appropriate

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orders. Respondents shall consider the propriety of holding a 'de novo' inquiry at this stage, since the petitioner is likely to be superannuated soon."

8. From the above, it is seen that the Tribunal had directed the respondents to dispose of the revision petition in accordance with the rules, leaving it also open to them to pass appropriate orders regarding holding of a de novo enquiry, taking into account the facts and circumstances of the case that the earlier penalty imposed on the applicant after holding the departmental enquiry had been challenged in OA-2135/95 and thereafter the respondents have taken the follow up action, after the order dated 11.4.97 was passed, we are unable to agree with the contentions of the learned counsel for the applicant that there has been ~~an~~ undue delay in passing the impugned order dated 27.8.98, ordering a de novo enquiry. In view of the directions and observations of the Tribunal in the order dated 11.4.97, we do not also find the action of the respondents to hold a de novo enquiry illegal per se, as contended by the learned counsel for the applicant.

9. For the reasons given above, we find no justification in allowing this application or directing the respondents to exonerate the applicant by quashing the impugned order dated 27.8.98 at this stage. In the facts and circumstances of the case we find no justification to interfere in the matter or to interdict the departmental proceedings initiated against the applicant. The O.A. accordingly fails and is dismissed. No costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

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(S.R. Adige)
Vice-Chairman (A)

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