

Central Administrative Tribunal
Principal Bench

O.A. 1635/98

New Delhi this the 28 th day of June, 1999

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Hon'ble Shri S.R. Adige, Vice Chairman (A).
Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Shri Nagabhushan, No. D-3287,
Sub-Inspector,
Delhi Police,
Police Station Preet Vihar,
Delhi-110 092. Applicant.

By Advocate Shri S.C. Saxena.

Versus

1. Lt. Governor,
through Chief Secretary,
Delhi Administration,
Union Territory of Delhi,
Lala Shashikant Marg, Delhi.
2. The Commissioner of Police,
Police Headquarters,
I.T.O. Building,
New Delhi-110 002.
3. The D.C. Police (East District),
Mansarovar Park,
Near Swaran Cinema,
Delhi. Respondents.

By Advocate Shri S.K. Gupta proxy for Shri B.S. Gupta.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

This application has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 with the prayer to stay the respondents' order dated 9.7.1998 initiating departmental proceedings against him in order to enable him to defend the criminal case pending against him.

2. The applicant who is working as Sub-Inspector with Delhi Police/respondents, had been charge-sheeted in departmental proceedings under Section 21 of the Delhi Police Act, 1978 by order dated 20.3.1998. According to him, an FIR

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No. 523/95 u/s 306 IPC has also been filed against him on identical facts on 29.11.1995 in which the witnesses are also the same in both the proceedings. Shri S.C. Saxena, learned counsel for the applicant, has very vehemently submitted that if the disciplinary proceedings are started and concluded against the applicant, it would be detrimental to the applicant's interest in the case pending against him in the criminal court. He has also submitted that the applicant has been falsely implicated in the criminal case about the suicide of one Ms Veena S. Kumbiakar with whom the applicant is alleged to have certain relationship on which the departmental proceedings have also been based that he had committed gross misconduct unbecoming of a police officer. He has, therefore, submitted that it is absolutely necessary that the departmental inquiry should be stayed till finalisation of the criminal case.

3. The respondents in their reply have controverted the above submissions. Shri S.K. Gupta learned proxy counsel for the respondents, has submitted that the applicant who has been charge-sheeted in the criminal case has been placed under suspension and a regular inquiry had been initiated against him which is not barred under the Rules. Hence, the departmental proceedings which were held in abeyance have now been reopened by the impugned order dated 9.7.1998. He has relied on a decision of the Tribunal in Suresh Kumar Vs. Commissioner of Police and Ors. (O.A. 990/97) decided on 30.3.1998 and Vinod Kumar Vs. Delhi Administration and Ors. (O.A. 3209/92) decided on 18.3.1998 in which in similar circumstances, the O.As were dismissed. He has, therefore, submitted that in the above facts and

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circumstances, this O.A. may also be dismissed and the department may be allowed to proceed with the departmental proceedings pending against the applicant.

4. The applicant has filed a rejoinder in which he has more or less reiterated his averments in the O.A. that since the chargesheet in the criminal case and the memorandum of charges in the disciplinary proceedings are based on similar facts and circumstances, any disclosure on his part prematurely in the departmental proceedings will adversely affect his interest in the criminal case.

5. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties. The Supreme Court in **State of Rajasthan Vs. B.K. Meena and Ors.** (JT 1996 (8) SC 864) and in a recent decision in **Capt. H.P. Anthony Vs. Bharat Gold Mines Ltd. & Anr.** (JT 1999 (2) SC 456) have clearly laid down that there is no legal bar for simultaneous criminal proceedings and departmental proceedings to go on at the same time and there can be no hard and fast rules on the question as to whether during the pendency of the criminal proceedings the departmental proceedings should be stayed or not and each case has to be decided on the facts and circumstances of the case. The Supreme Court has also further observed that it would be in the interests of both the Administration as well as the delinquent official that disciplinary proceedings are concluded as expeditiously as possible, particularly so having regard to the fact that often criminal cases drag on endlessly for considerable length of time. We have also seen the judgements of the Tribunal in **Suresh Kumar and Vinod Kumar's cases (supra)**. In the facts and circumstances of the present

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case, these two judgements are also fully applicable to the facts here and we respectfully follow the same which in effect follows the judgements and observations of the Supreme Court in the aforesaid two cases. In the facts and circumstances of this case and having regard to the nature of the charges in the departmental proceedings, we see no good ground to stay the same as prayed for by the applicant.

6. In the result, the application fails and is accordingly dismissed. No order as to costs.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member (J)

S.R. Adige

(S.R. Adige)
Vice Chairman (J)

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