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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

O.A. No. 2435/98

M.A. No. 2574/98

New Delhi, this the 8th day of March, 1999

HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE CHAIRMAN(J)
HON'BLE SHRI N. SAHU, MEMBER(A)

1. Gulbir Singh,
S/o Sh. Hoshiar Singh,
R/o F-78, Ganga Vihar,
Delhi-110094.

2. Ravinder Kumar,
S/o Sh. Ved Pal Singh,
R/o C-4, 207, Yamuna Vihar,
Delhi-110053.

.... Applicants

(By Advocate: Mrs. Sumedha Sharma, through proxy counsel Shri
Shankar Raju)

VERSUS

1. SPL. Commissioner of Police,
(Security) PHQ, ITO,
MSO Building, I.P.Estate,
New Delhi.

2. Dy. Commissioner of Police,
Police Control Room, Delhi,
P.H.Q., ITO, MSO Building,
New Delhi.

3. Sh. H. S. Bisht,
Enquiry Officer,
Inspector/Deployment PCR,
IIIrd Floor, PHQ, ITO,
I.P.Estate, MSO Building,
New Delhi.

.... Respondents

(By Advocate: Shri Rajinder Pandita)

O R D E R (ORAL)

By Reddy, J.:-

The applicants filed this O.A. aggrieved by the order of the disciplinary authority in rejecting their applications for changing the Enquiry Officer (in short 'E.O.').

2. The only grievance of the applicants is that the E.O. was biased against them in as much as he used minatory language against them and also made the PWS run

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away without giving their statements. The said applications have been considered and rejected by the disciplinary authority. The disciplinary authority has given the following three grounds for rejecting the applications:-

"(i) There is inherent contradiction therein in that if P.W. is made to run away, it benefits defaulter and not the E.O.

(ii) No bias gets established therein and

(iii) Considering the serious allegations against them, it becomes clear that they are following delay tactics."

3. Not satisfied by the order of the disciplinary authority, it appears that the applicants have filed appeals to the Special Commissioner of Police, New Delhi and it is alleged that the said appeals have not yet been disposed of.

4. In the counter affidavit, it is stated that during the course of the departmental enquiry, the summary of allegations was served on the applicants but they did not co-operate with the E.O. They did not even attend the disciplinary enquiry on the dates given by the E.O. Only in order to delay the enquiry, the applicants have filed appeals before the Special Commissioner of Police. There were serious allegations against the applicants and hence they have been adopting the delaying tactics.

5. It is alleged by the learned counsel for the applicants that whenever an allegation is made regarding bias by the delinquent employee with the E.O., it enjoins upon the E.O. to stay the enquiry. However, learned counsel for the applicants does not bring to our notice any rule to this effect. Rule 14 of the Central Civil Services

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(Classification, Control and Appeal) Rules, 1965 is the relevant rule regarding the departmental enquiries. There is nothing in the said rule which enjoins upon the E.O. to stay the enquiry on a mere allegation of bias.

6. We are satisfied that the disciplinary authority has considered the objections raised by the applicants and disposed of the applications by giving cogent reasons. The learned counsel for the applicants has referred to two decisions reported in 1994 SCC (L&S) 756 and 1994 SCC (L&S) 981. We are afraid that these two decisions are of no help to the applicants since on the merits of those cases the Court directed change of the enquiry officer. We are satisfied that the allegations of bias are baseless. The applicants have adopted this devis to delay and drag on the enquiry. No bias was found to be established.

7. It is next contended by the learned counsel for the applicants that the appeals filed by the applicants have not been disposed of by the Special Commissioner of Police. But no provision is shown to us under which the appeals were filed. Where there is no right of appeal or review to a superior officer it cannot be contended that such an appeal should be given a disposal and failure of the same is illegal.

8. As we are of the considered opinion that the disciplinary authority has considered all the objections raised by the applicants and disposed of the same, and in the absence of any illegality in the order, we cannot

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interfere with such a reasoned order and cannot stop the progress of the enquiry. The O.A. is, therefore, dismissed. No costs.

Shrawan Kumar

(M. SAHU)
MEMBER(A)

Indrajit Ray

(V. RAJAGOPALA REDDY)
VICE CHAIRMAN(J)

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