

Central Administrative Tribunal  
Principal Bench, New Delhi

O.A.No.132/95

(3)

New Delhi this the 23rd Day of March, 1995.

Hon'ble Shri J.P. Sharma, Member (J)  
Hon'ble Shri B.K. Singh, Member (A)

SI Suraj Bhan No.D/223 (PIS No.28620477)  
PAP Lines, New Delhi. .... .... Applicant  
(By Advocate: Sh. B.S. Oberoi. )  
Versus

1. Dy Commissioner of Police,  
Indira Gandhi International Airport,  
New Delhi.

2. Asstt Commissioner of Police/B(DOM)  
(Shri B.D. Tyagi)  
Enquiry Officer, ACP B(DOM)  
I.G.I. Airport.

(By Advocate: Sh. Amresh Mathur )  
JUDGEMENT (Oral)

(By Hon'ble Shri J.P. Sharma, Member (J) )

The applicant said to have been involved while working as Sub-inspector in a case of theft and a Criminal case at Police Station IGI Airport was registered vide F.I.R. No. 7/94 dated 2.3.94 (Annexure A3) under Section 379 of the IPC. The applicant has also been served with the summary of allegations issued by the Respondent No.2 vide dated 16.12.94 and was also directed to appear in the proceedings of the inquiry before the Enquiry Officer on 28.12.1994.

2. The present application has been filed on 19.01.1995 praying for the grant of the relief that the order initiating the departmental enquiry against the applicant as well as the summary of allegations served upon the applicant be quashed or in the alternative the departmental

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enquiry initiated <sup>(2)</sup> against the applicant be kept in abeyance till the final disposal of the criminal case.

(A)

3. A notice was issued to the respondents and the respondents filed the reply opposing the grant of the relief prayed for. It is stated that while the applicant in the capacity of Sub Inspector was posted in Shift "B" duty at domestic, Indira Gandhi International Airport was on duty at Cargo Gate from 7 PM to 8 AM. On the night of 1.3.1994 one Shri Bachan Singh, Sr. Security Assistant, Indian Airlines noticed that one of Delhi Police Sub Inspectors was stealing some electronic parts from the registered baggage Tag no.459531 lying in the trolley near the cargo gate (Dom.) towards Apron side. On this, Sr. Security Assistant, Mr. Bachan Singh along with S/A Manoj, Insp. Sajjan Singh, made a search in the police post and recovered the following items:--

- (i) Three bundles of leads (wires),
- (ii) One remote control of Goldstar, and
- (iii) Some electronic parts.

4. As a result of this recovery, a case was registered under Police Station Palam Airport. The respondents have also initiated disciplinary departmental enquiry by the order dated 15th

November, 1994 and Shri B.D. Tyagi, D.C.P. (IGI Airport, New Delhi), was appointed Inquiry Officer.

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5. It is said that the conduct of the applicant as police officer is reprehensible inasmuch as he is required to apprehend the criminals and thieves and to protect the lives and property of the citizens but the applicant acted contrary to the duties assigned to him and as was not expected from the police officer as such violated the provisions of CCS (Conduct) Rules, 1964.

6. The applicant has not filed any rejoinder.

7. We heard Shri B.S. Oberoi, counsel for the applicant and Shri Amresh Mathur for the respondents.

8. Since the matter has already been registered in a criminal case which ultimately will be tried by the competent criminal court, in that event, if the disciplinary departmental inquiry is allowed to continue simultaneously the applicant is likely to be affected in his defence which he may be advised to adduce in the criminal trial. The relevant law has been laid down by the Hon'ble Supreme Court in the case of Kusheshwar Dubey vs. M/s. Bharat Cooking Coal Ltd. AIR 1988 SC2 1188. In that

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authority, the employee was proceeded in criminal trial on the registration of FIR against him and simultaneously disciplinary enquiry was also initiated. He sought injunction before the Civil Court which was granted in his favour but was vacated by the Appellate Authority. The High Court also concurred with the same, when went in appeal before the Hon'ble Supreme Court, laid down that no strait jacket formula can be laid down as to in which of the cases simultaneous departmental disciplinary enquiry can go along with the criminal trial. It shall depend on the circumstances of each case. However, in that case the order of the higher courts was set aside and that of the lowest court was maintained i.e. the injunction was granted in favour of the employee against the authorities not to proceed with the departmental enquiry till the conclusion of the criminal case.

9. Coming to the circumstances of the present case allegations against the applicant has been that while on duty at watch & ward Cargo gate No.7 he himself has indulged in an alleged theft of certain articles which are said to have been allegedly recovered from his possession when the Security Guard along with the Inspector searched him and recovered from his possession. This is subject to trial before the Criminal Court. On the same allegations the department is proceeding with the departmental enquiry. The department can use the other remedy available to

keep the applicant out of work, if so advised and that is also when a criminal case is pending against one of the employees on certain allegations of criminal acts which amounted to an offence.

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In view of this we agree with the counsel for the applicant, and the counsel for the respondents also who did not seriously disputed this legal proposition. The application is, therefore, allowed. The respondents are directed not to continue with the departmental enquiry at this stage, and if so advised may re-commence the same after the decision of the criminal case registered by the aforesaid FIR No.7/94 under Section 379 IPC at PS Palam Airport.

11. The respondents are also at liberty to invoke provisions of rule 12 of Delhi Police (Punishment and Appeal) Rules, 1980 if the occasion arises.

12. With the above observations, the application is disposed of with no orders as to costs.

  
(B.K. Singh)  
Member (A)

  
(J.P. Sharma)  
Member (J)

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