

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

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O.A./T.A. No. 1516 of      /19 <sup>95</sup> Decided on: 23.9.96

Zile Ram

(By Shri M.P.Raju

..... APPLICANT(S)

Advocate)

VERSUS

NCT of Delhi & Anr.

..... RESPONDENTS

(By Shri Rajindera Pandita


Advocate)

CO RAM

THE HON'BLE SHRI S.R.ADIGE, MEMBER (A)

THE HON'BLE ~~SHRI/SHR~~ / DR. A. VEDAVALLI, MEMBER (J)

1. To be referred to the Reporter or not? Yes
2. Whether to be circulated to other Benches of the Tribunal ? No

  
(S.R. ADIGE)  
Member (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,  
NEW DELHI.

OA No. 1516/95

New Delhi: this 23<sup>rd</sup> day of September, 1996.

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

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

Shri Zile Ram,  
Ex. Constable No. 1086/N.  
7708/DAP,

S/o Shri Sukh Ram,  
Village & PO Tehtara,  
PS Rajgarh,  
Alwar (Rajasthan)

.....Applicant.

By Advocate: Shri M. P. Raju

Versus

1. NCT of Delhi,  
through its Chief Secretary,  
Old Secretariate,  
Delhi.

2. The Commissioner of Police,  
Police Headquarters,  
Delhi Police,  
IP Estate,

New Delhi - 110 002

.....Respondents.

By Advocate: Shri Rajendra Pandita

JUDGMENT

BY HON'BLE MR. S. R. ADIGE MEMBER (A).

Heard.

2. The applicant and S.I. Kamal Prasad were proceeded against jointly in a departmental proceeding on the charge of extorting money from one Harpal Singh. Both were dismissed from service, the applicant by dismissal order dated 12.4.90 and appellate order dated 30.8.90; and S.I. Kamal Prasad by the same dismissal order dated 12.4.90 and appellate order dated 7.8.90.

3. S.I Kamal Prasad challenged his dismissal

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in OA No.1891/90 and because of certain legal infirmities in the conduct of the departmental proceedings including non-examination of Harpal Singh and absence of any written complaint from him, the OA was disposed of by judgment dated 5.3.93 (Annexure-III) with the following directions:

"In view of the above mentioned legal infirmities appearing in the present case, we hold that the impugned orders dated 12.4.90 and 7.8.90 Annexure-6 and Annexure-8 dismissing the applicant from service and his appeal were bad in law and fit to be set aside. We further direct that the disciplinary Authority to act according to law as indicated above and dispose of the proceedings according to law. The case is sent back on remand to the Disciplinary Authority with the above direction. We further direct that the matter should be finalised within 2 months from the date of receipt of a copy of this judgment. We further direct that the applicant be reinstated into service and while in service the disciplinary proceedings be disposed of according to law. The applicant will not, however, be entitled to any back wages."

4. As on remand, the enquiry could not be completed within the prescribed time limit, respondents filed MA No.1550/93 seeking 2 months' extension of time but when the MA was taken up on 12.7.93, it was noticed that 2 months had elapsed since its filing and it was held to have become infructuous (Annexure -IV). Meanwhile it appears that S.I. Kamal Prasad was reinstated in service on 5.3.93 and a supplementary D.E. was ordered to be conducted by respondents vide their order dated 24.4.93, but according to the Disciplinary Authority as despite efforts the whereabouts of Harpal Singh could not be located

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to enable his statement to be recorded, the DE against S.I. Kamal Prasad was dropped vide order dated 17.9.93 (Annexure-V).

5. Meanwhile the present applicant also filed QA No.2747/91 impugning his dismissal. That QA was disposed of by judgment dated 14.7.94 with the following directions:

- "3(a) The order of punishment imposed on the applicant by the impugned order dated 12.4.90 and the appellate order dated 30.8.90 are quashed and set aside. As a consequence the applicant shall be reinstated in service but without any backwages, within a period of one month from the date of this order or receipt of a copy of the same by the respondents.
- (b) The respondents shall recommence the disciplinary proceedings against the applicant either jointly with Kamal Prasad or separately in consonance with the observations made in the judgment in QA 1891/90 of Kamal Prasad.
- (c) The respondents after completing the disciplinary proceedings against the applicant as said above in para (b) will pass a final order and if the applicant is still aggrieved he shall be at liberty to assail the same according to law.
- (d) The respondents shall pass an order regarding the wages for the period the applicant had been dismissed from service till the period the applicant is reinstated by virtue of this order after the enquiry proceedings are finally disposed of by an order."

6. According to the respondents, as the DE against SI Kamal Prasad had by then been dropped, no joint inquiry was ordered and instead a supplementary DE was ordered against the applicant alone after his reinstatement in service vide order dated 25.8.94 (Annexure-RIV) and by order dated 2.12.94 (Annexure-VI) the E.O. was asked to submit

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his findings within 3 weeks. Respondents also state that upon further efforts made by them Harpal Singh was finally <sup>located</sup> and had given his statement in the present DE corroborating the incident of extortion. It is further contended that he had not come forward earlier out of fear, and the earlier messengers who had been deputed to trace him out had not <sup>acted</sup> ~~extended themselves~~ sincerely, and disciplinary action had separately been initiated against them.

7. The case of the applicant however is that because in the Tribunal's judgment dated 14.7.94 there was a direction to the respondents to "recommence the disciplinary proceedings against the applicant either jointly with SI Kamal Prasad or separately in consonance with the observations made in the judgment in OA No. 1591/90 of Kamal Prasad" (emphasis supplied), and because in Kamal Prasad's judgment the respondents had been directed to finalise that matter within 2 months from the date of receipt of a copy of that judgment, those directions were applicable in the present case also, and as the applicant's case had not been finalised within the time limit of two months, and in fact were still continuing the respondents did not have any jurisdiction or authority to proceed with the DE against the applicant pursuant to the order dated 14.7.94 which deserved to be quashed. Reliance in this connection has been placed by applicant's counsel Shri M.P.Raju on CAT

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Calcutta Bench Judgment reported in 1992(20) ATC 595.

8. We have given the matter our careful consideration. It is true that the respondents in their reply have conceded that the time limit for finalisation of the supplementary DE against the applicant had elapsed, for which they were planning to move the Tribunal separately for extension of time (by which time the applicant had moved the present OA) and it is also true that the respondents have prayed for condonation of the limitation period, but the question which arises for adjudication is whether in the background of the Tribunal's direction to the respondents in SI Kamal Prasad's judgment dated 5.3.93 to finalise the matter (on remand to the Disciplinary Authority) within 2 months from the date of receipt of a copy of that judgment and the failure of the respondents to finalise the DE against the present applicant within 2 months of the judgment dated 14.7.94 the respondents are now precluded from going ahead with the DE, merely because in judgment dated 14.7.94 the respondents were asked to recommence the disciplinary proceedings against the applicant either jointly with SI Kamal Prasad or separately in consonance with the observations made in the judgment in Kamal Prasad's case.

9. We note that while in the judgment dated

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5.3.93 there was a specific direction to finalise the matter within 2 months of receipt of a copy of that judgment, there was no such specific direction in the judgment dated 14.7.94. Secondly the direction in SI Kamal Prasad's judgment was to finalise the matter within 2 months of receipt of a copy of that judgment. In other words there was a prescribed time limit by which the DE had to be finalised, but no such prescribed date was prescribed in the judgment dated 14.7.94. Thirdly, the judgment dated 5.3.93 directed finalisation of the matter within 2 months, while the judgment dated 14.7.94 spoke of commencement of the DE against the applicant. Fourthly, while the judgment dated 5.3.93 gave a direction to finalise the matter, the judgment dated 14.7.94 asked the respondents to recommence the DE in consonance with the observations in SI Kamal Prasad's case which could arguably refer to the avoidance of the various infirmities noticed by the Tribunal in the conduct of the DE against SI Kamal Prasad in its judgment dated 5.3.93.

10. Under the circumstance we hold that we would not be justified in interdicting the departmental proceeding on this ground alone at this stage, more particularly as the Hon'ble Supreme Court in a catena of judgments <sup>has</sup> deprecated the practice of Courts/Tribunals interdicting departmental proceedings at the threshold

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stage in the absence of extra ordinary reasons to warrant such judicial intervention. No such extra ordinary circumstances have been made out by the applicant's counsel during hearing in the present case, and no other ground to justify judicial intervention at this stage was pressed.

11. In the result, we decline to interfere in this matter at this stage. The OA is accordingly dismissed. It will be open to the respondents to proceed ahead with the departmental proceeding in accordance with law and concluding it as expeditiously as possible. If after exhausting the statutory remedies available to him, the applicant still feels aggrieved with the final decision in the DE, it will be open to him to agitate his grievances through appropriate original proceedings in accordance with law, if so advised. No costs.

*A. Vedavalli*  
(DR. A. VEDAVALLI)  
MEMBER (J)

*S. R. Adige*  
(S. R. ADIGE)  
MEMBER (A)

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