

Central Administrative Tribunal Principal Bench

OA No. 1636/95

New Delhi, this the 20th day of March, 1996

Hon'ble Shri A.V.Haridasan, Vice-Chairman(J)
Hon'ble Shri R.K.Ahooja, Member (A)

1. Laxmi Chand,
Head constable,
Delhi Police (Now under suspension)
R/o 482/31, Ashok Vihar,
Sonepat.
2. Sheel Bahadur,
S/o Sh. Giani Ram,
Constable, Delhi Police,
(Now under suspension),
R/o Madina,
Distt. Rohtak.Applicants
(By Shri B.K.Aggarwal, Advocate).

Versus

Union of India through

1. Lt. Governor of Delhi,
National Capital Territory of Delhi,
Raj Niwas, Delhi-54.
2. Commissioner of Police,
Delhi Police,
M.S.O. Building,
I.T.O. Delhi.
3. Dy. Commissioner of Police,
District North, Civil Lines,
Delhi.Respondents
(By Shri Rajinder Pandita, Advocate)

ORAL (Oral)

By Shri Hon'ble Shri A.V.Haridasan, Vice-Chairman(J)

The applicants 1 and 2 who are Head-constable and constable respectively have been served with a summary of allegations that they exhibited conduct unbecoming of police officials and lack of integrity and devotion to duty by keeping the jewellery and valuables and letting Lal Bahadur who had committed theft from his master's house at Jaipur go while as police officials who had apprehended Lal Bahadur they should have produced the accused and stolen properties before senior officers. It is also stated that the

(8)

applicants have extorted valuables and criminally misappropriated them and that they are guilty of breach of trust. A departmental enquiry against the applicants in the said summary of allegations is in progress. On the identical accusation both applicants are facing criminal investigation and trial in case No. 83/95 of P.S. Subhash Park, Jaipur for offences under Section 381/411 IPC. The witnesses in the criminal case and in the departmental proceedings are the same. The applicants have filed this application praying that the departmental proceedings may be directed to be kept in abeyance till the trial before the Sessions Court, Jaipur is over.

2. It is alleged in the application that if the departmental proceedings are proceeded with that is likely to prejudice their defence before the criminal court.

3. The respondents contend that though on the basis of similar allegations the nature of the criminal case and the departmental proceedings being different there is no justification for staying the departmental proceedings. Learned counsel for the respondents argued that the Hon'ble Supreme Court has in Kusheshwar Dhubey Vs. Bharat Cooking Coal Co. 1988 (4) SCC page 319 held that there is no prohibition in holding departmental proceedings simultaneously with the criminal case. Even in the case under citation as also in a catena of rulings the Hon'ble Supreme Court has held that there cannot be any hard and fast rule as to departmental proceedings can be held or cannot be held simultaneously with prosecution. It has been held appropriate decision has to be taken considering the facts and circumstances of each case. In this case as the material allegations both in the criminal case and in the departmental

(9)

charge being the same, and the witnesses being common, we are of the considered view that the departmental proceedings have to be held in only such a way that no prejudice is caused to the defence of the applicants in the criminal case.

4. In the result the application is disposed of finally at the admission stage itself with the following directions:-

- a) The respondents may proceed with the departmental enquiry against the applicants pursuant to the summary of allegations (Annexure A1) only to the extent of recording the statement of the witnesses in support of the charge in chief deferring the cross examination till they are fully examined before the criminal court in the case arising out of FIR No. 83/95 PS Subhash Chowk, Jaipur if they are witnesses in the criminal court also.
- b) The applicants shall not be compelled to enter upon their defence in the departmental proceedings till the evidence before the Criminal Court is over.

There is no order as to costs.

R.K. Ahuja
(R.K. Ahuja)
Member (A)

A.V. Haridasan
(A.V. Haridasan)
Vice-Chairman (J)