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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

D.A. No. 2356/95

dated 14-12-1995

Hon'ble Shri N.V. Krishnan, Acting Chairman  
Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Constable Padam Singh  
R/o Village Jalal Pur, P.S. Shamli,  
P.C. Bareli, Distt. Mujaffar Nagar,  
Uttar Pradesh.

c/o B.S. Oberoi, D-23, East of Kailash,  
New Delhi.

...Applicant

(By Advocate Shri B.S. Oberoi)

vs.

1. Govt. of N.C.T. of Delhi  
through Commissioner of Police,  
Police Headquarters,  
I.P.Estate, New Delhi.

2. Deputy Commissioner of Police,  
New Delhi Police, P.S. Parliament Street,  
New Delhi.

3. Shri Sukhdev Singh, Inspector of Police,  
S.H.O./P.S. Tilak Marg, New Delhi.

...Respondents

ORDER (ORAL)

(Hon'ble Shri N.V. Krishnan, Acting Chairman )

We have heard him. Applicant is a constable (Driver) in Delhi Police against whom departmental enquiry on the basis of summary of allegations (Ann. A-1) have been initiated. It is alleged that on 1.6.95 while he was engaged on duty as Motor Cycle rider, he met with an accident and on medical examination it was found that he consumed al-cohol.

2. It is stated that simultaneously action has been initiated to prosecute him under Section 279/337 of I.P.C. and FIR has been filed in this regard (Ann. A-1 is FIR in this regard.) An, Annexure A-1 charge sheet

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has been filed and the trial is pending.

3. Learned counsel for the applicant submits that proceedings in the D.E. will prejudice his defence in the criminal case being instituted against him. He submits that the charge in both cases are the same. If the allegations against the applicant in the D.E. that he was driving under the influence of alcohol is established he apprehends conviction on that ground alone.

4. We have heard the learned counsel. 279-IPC is regarding the offence of rash driving or riding on any public way in a manner so rash or negligent as to endanger human life. Like wise, 317 IPC is regarding an offence of causing hurt by act endangering life or personal safety of others while doing any act so rashly or negligently. <sup>Accrd.</sup> None of these offences require proof of having consumed liquor as an ingredient.

5. We are of the view that parallel departmental and criminal proceedings are those where the facts to be proved to establish misconduct in the D.E. or offence in the criminal case are the same. In that event alone, stay of D.E. can be prayed for.

6. That is not the situation here. Rash driving may or may not be due to drinking liquor. The

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learned counsel however says that, this is the allegation made in the Annexure A.3 document received by the applicant. That may be so. But that does not make it a parallel enquiry.

7. For one thing, the finding in a D.E. is not binding on a trial Court. The allegation of drinking while on duty has to be independently proved before that Court. But that is not the main issue before the ~~Trial~~ Court. The issue is rash and negligent driving causing an accident. The allegation of drinking may be a relevant factor. But that is not conclusive. For example, the applicant could prove that the break of the other vehicle failed, resulting in the accident or that driver did not heed to signals etc. - We are of the view, that in the circumstances proceeding with the D.E. cannot prejudicially affect the applicant in the criminal case.

7. Hence the O.A. is dismissed.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)

N.V.Krishnan

14.12.75

Member (J)

Acting Chairman

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