

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

(2)

OA No. 834/95

NEW DELHI THIS THE 18TH DAY OF MAY, 1995.

**MR.JUSTICE S.C.MATHUR, CHAIRMAN
MR.P.T.THIRUVENGADAM, MEMBER(A)**

Recruitment Constable Gajinder Pal Singh
S/o Shri Balbir Singh
R/o Village Jalalpur
P.O.K.G.W.Sasni
Distt.Aligarh(U.P.)
Constabulary No.2151/N
Under Training in Recruit Training
Centre, Jharoda Kalan
New Delhi-110 072.

APPLICANT

(BY ADVOCATE SHRI SAMA SINGH)

vs.

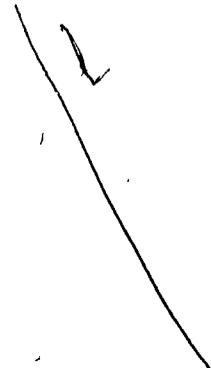
1. Commissioner of Police
Police Headquarters,
I.P.Estate,
New Delhi-110 002.
2. Principal, Police Training School,
Jharoda Kalan,
New Delhi-110 072.
3. Shri H.P.S.Sodhi, Inspector
Police Training School,
Jharoda Kalan, 072. ...

RESPONDENTS

ORDER

JUSTICE S.C.MATHUR:

The applicant who is facing criminal trial on the charge of theft is also facing domestic enquiry on the same charge. He is aggrieved by these two parallel proceedings. He has accordingly filed the instant Original Application for quashing the order dated 1.3.1995 through which departmental proceedings have been initiated against him. He has been served with summary of allegations and he seeks quashing thereof also. A prayer has been made for staying the departmental enquiry.



(3)

2. The learned counsel for the applicant submitted that the consequence of parallel proceedings will be that the applicant will have to disclose his defence before the inquiry officer which he is not bound to in criminal trial till the prosecution evidence has been adduced. In support of the plea that during the pendency of criminal trial domestic enquiry is not permissible, the learned counsel has cited **P.Bhaskara Rao Vs. Additional Collector of Customs and another (A.T.R.1988(1) C.A.T.102)** and **D.N.Patil Vs. Senior Superintendent of Post Offices & Ors. (A.T.R.1990(2) C.A.T. 534)**.

3. So far as P.Bhaskara Rao's case(supra) is concerned, it was one where domestic enquiry was initiated after the writ petition of the Government servant concerned had been allowed wherein the High Court had observed that there was no material whatsoever for establishing the grounds of detention. It is, therefore, not a case of parallel proceedings and is of no assistance to the applicant.

4. In D.N.Patil's case(supra), the Division Bench of the Tribunal restrained the departmental authorities from proceeding with domestic enquiry till the criminal case was heard and disposed of. The Division Bench relied upon the judgement of the Supreme Court in **Tata Oil Mills Vs. Workmen (AIR 1965 SC 155)**.

5. The decision in Tata Oil Mills's case(supra) and other decisions rendered by their Lordships on the question have been reviewed in **Khusheshwar Dubey vs. Bharat Coking Coal Ltd. and others (AIR 1988 SC 2118)**. After reviewing the earlier decisions, the law has been laid down in para 6 of

the judgement as follows:

(A)

" The view expressed in the three cases of this Court seem to support the position that while there could be no legal bar for simultaneous proceedings being taken, yet, there may be cases where it would be appropriate to defer disciplinary proceedings awaiting disposal of the criminal case. In the latter class of cases it would be open to the delinquent-employee to seek such an order of stay or injunction from the Court. Whether in the facts and circumstances of a particular case there should or should not be such simultaneity of the proceedings would then receive judicial consideration and the Court will decide in the given circumstances of a particular case as to whether the disciplinary proceedings should be interdicted, pending criminal trial. As we have already stated that it is neither possible nor advisable to evolve a hard and fast, straight-jacket formula valid for all cases and of general application without regard to the particularities of the individual-situation. For the disposal of the present case, we do not think it necessary to say anything more, particularly when we do not intend to lay down any general guideline."

The proposition of law laid down by their Lordships is that there is no absolute legal bar in holding parallel proceedings and that whether parallel proceedings should be allowed will depend on the facts and circumstances of each case. On a consideration of this proposition, we are of the opinion that the present is not a fit case in which the domestic enquiry should await the final result of the criminal case as from the summary of allegations it appears that the applicant admitted his guilt. Confession or admission can be explained during proceedings. If the applicant successfully explains his admission or confession, he may not be awarded any punishment. However, if the applicant does not explain the confession, we see no reason why he should not suffer the penalty and should continue to remain in the administration.

(5)

6. It was also submitted by the learned counsel that the applicant sought the assistance of a helper which was refused by the inquiry officer. Whether the refusal of a helper has prejudiced the trial or not may be determined by the appellate authority. At this stage, it is not possible to say that the trial will necessarily be vitiated on account of the rejection of the applicant's prayer by the inquiry officer to be assisted by a helper.

7. No other point has been urged by the learned counsel for the applicant.

8. In view of the above, the application lacks merit and is hereby dismissed in limine.

9. Copy of the Original Application and the order passed today shall be sent to the Commissioner of Police, Police Headquarters, I.P.Estate, New Delhi (respondent No.1).

P.T.Thiru
10/5/83 -
(P.T.THIRUVENGADAM)
MEMBER(A)

S.C.Mathur
10/5/83
(S.C.MATHUR) CHAIRMAN

SNS