

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI**

O.A. No. 2441/96 199
T.A. No.

DATE OF DECISION 3-9-97

Sh. Sujan Chand & Ors. Petitioner

Shri Shyam Babu Advocate for the Petitioner(s)

Versus

Addl. Commissioner of Police & Ors Respondent

Shri B.S. Gupta, Id. Counsel Advocate for the Respondent(s)
through proxy counsel Sh. S.K. Gupta

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The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The Hon'ble Shri R.K. Ahooja, Member (A)

1. To be referred to the Reporter or not? *yes*
2. Whether it needs to be circulated to other Benches of the Tribunal? *X*

L. Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

(12)

Central Administrative Tribunal
Principal Bench

O.A.2441/96

New Delhi this the 3th day of September, 1997

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Hon'ble Shri R.K. Ahooja, Member(A).

1. Sugan Chand,
S/o Shri Surja Ram,
R/o Vill & PO- Saround,
PS-Kotputli,
Distt. Jaipur (Raj).
2. Shri N.B. Surbase,
S/o Shri Bhima Maruti Surbase,
R/o Vill & PO - Kangara,
PS- Babeli,
Distt. Osmanabad (Maharashtra) ... Applicants.

By Advocate Shri Shyam Babu.

Versus.

1. Addl. Commissioner of Police,
(Southern Range),
Police Headquarter,
I.P. Estate,
New Delhi.
2. Dy. Commissioner of Police
(West District),
P.S. Rajouri Garden,
New Delhi. ... Respondents.

By Advocate Shri S.K. Gupta, proxy for Shri B.S. Gupta

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicants are aggrieved by the impugned order of dismissal passed by the respondents under Article 311(2) (b) of the Constitution of India dated 3.9.1995. The reason given in the order for not holding the departmental inquiry to establish the allegations against the applicants was that since it has become common tactics to terrorise and intimidate the witnesses not to come forward to depose against the delinquents in the departmental inquiries, it would

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✓ require great courage and conviction to depose against such defaulters who are police officials and it would also invite the wrath of the disgruntled lot throughout their life.

2. The fact that no departmental inquiry has been held in the case is not in dispute. The allegations against the applicants were that they had tried to extort money from certain persons. Shri Shyam Babu, learned counsel for the applicants, has submitted that in an identical case of Ompal Singh Vs. Commissioner of Police Delhi & Anr. (O.A.281/92), decided on 17.7.1996, the Tribunal had, following an earlier decision in Naresh Kumar and Anr. Vs. Commissioner of Police and Anr. (1992(7) SLR 177), come to the conclusion that such reasons as have been given by the respondents in the impugned order can hardly be taken to be sufficient or relevant reasons for invoking the power under Article 311(2)(b) of the Constitution of India to dispense with the departmental inquiry. The learned counsel for the respondents was also not able to successfully distinguish the facts in those cases from the present case. We find that these decisions of the Tribunal are squarely applicable to the facts in the instant case.

3. In view of the above, we find substance in the grievance of the applicants against the impugned order dated 3.9.1995 and the same is accordingly quashed and set aside. We direct that the applicants shall be reinstated in service. However, liberty is granted to the respondents to hold a departmental inquiry against the applicants in accordance with law and the relevant rules.

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4. Having regard to the recent decision of the Supreme Court in Govt. of Tamil Nadu and Anr. Vs. K. Rajaram Appasamy (1997(2) SLJ 31), we do not think that it would be necessary to pass any orders regarding payment of backwages to the applicants for the periods they were not in service i.e. from the date of dismissal to the date of reinstatement at this stage. It will be for the competent authority to pass appropriate orders in the matter immediately after completion of the departmental inquiry.

No order as to costs.

R. K. Ahooja
(R.K. Ahooja)
Member (A)

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

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