

(7)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

OA 1264/97

New Delhi this the 28th day of January, 1998.

**Hon'ble Shri S.R. Adige, Vice Chairman(A)**  
**Hon'ble Smt. Lakshmi Swaminathan, Member(J)**

Ex. Constable Yashpal No. 8543/D.A.P.,  
S/O Shri Niranjana Singh  
R/O Vill & P.O. Bazid Pur,  
P.S. Baraut, Distt-Meerut(UP)

.Applicant

(By Advocate Shri Shankar Raju)

**Vs**

1. Union of India  
Through its Secretary,  
Ministry of Home Affairs,  
North Block, New Delhi.

2. Commissioner of Police,  
Police Head Quarters,  
I.P. Estate, New Delhi.

3. Additional Commissioner of Police,  
Northern Range, Police Head Quarters,  
I.P. Estate, New Delhi.

4. Additional Deputy Commissioner of Police,  
North West District, P.S. Ashok Vihar,  
New Delhi.

.Respondents

(By Advocate None. )

**O R D E R (ORAL)**

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

The applicant is aggrieved by the order passed by the disciplinary authority dated 3.10.94, which has been passed after holding a departmental enquiry under Section 21 of the Delhi Police Act, 1978, and the rejection of his appeal by the Appellate Authority's order dated 3.6.96.

2. One of the grounds urged by Shri Shankar Raju, learned counsel for the applicant is that admittedly the respondents have held <sup>a</sup> preliminary enquiry before holding the departmental

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enquiry against the applicant. He has submitted that in the facts of the case, the respondents have failed to comply with the provisions of Rule 15(2) of the Delhi Police(Punishment and Appeal) Rules, 1980. This sub-rule provides, inter-alia, that in cases in which a preliminary enquiry discloses the commission of a cognizable offence by a police officer of subordinate rank in his official relations with the public, departmental enquiry shall be ordered after obtaining prior approval of the Additional Commissioner of Police concerned as to whether a criminal case should be registered and investigated or a departmental enquiry should be held.

3. In this case we note from the reply filed by the respondents that they have stated that the approval of the competent authority for initiating the departmental enquiry against the applicant had been obtained by PHQ's Memo. dated 22.2.94. In the order of the Additional Deputy Commissioner of Police dated 7.9.93(Annexure A.5) it is also seen that the departmental enquiry had been initiated under the provisions of Delhi Police (Punishment and Appeal) Rules, 1980 with effect from that date. In other words, from these facts it is seen that the decision to initiate the departmental enquiry against the applicant has been done before obtaining the approval of the Additional Commissioner of Police as required under Rule 15(2) of the Delhi Police (Punishment and Appeal) Rules, 1980. From the materials on record, there is also no doubt that the respondents

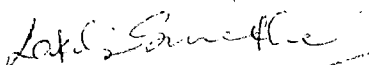
have held the departmental enquiry against the applicant.

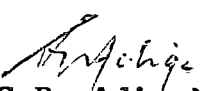
4. { Shri Shankar Raju, learned counsel for the applicant has also urged a number of other grounds but he has not pressed the same in view of the fact that the OA is entitled to succeed on the ground mentioned above.

5. For the reasons given above, this application is entitled to succeed on the ground that the provisions of Rule 15(2) of Delhi Police(Punishment and Appeal) Rules, 1980 have not been complied with as the decision to initiate the departmental enquiry has been taken before obtaining the approval of the Additional Commissioner of Police. Having regard to the Supreme Court Judgment in **State of Punjab and Others V.Dr.Harbhajan Singh Greasy** (JT 1996(5) SC 403), the applicant shall be deemed to be continued on suspension. The case is remitted to the respondents with a direction to initiate and continue the departmental enquiry in accordance with the rules/instructions.

6. The above directions shall be complied with by the respondents within a period of six months from the date of receipt of a copy of this order.

OA is disposed of as above. No order as to costs.

  
(Smt. Lakshmi Swaminathan)  
Member(J)

  
(S.R. Adige)  
Vice Chairman(A)