

CENTRAL ADMINISTRATIVE TRIBUNAL  
Principal Bench

O.A. No. 1771 of 1997

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New Delhi, dated the 14th Jan 1998

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)  
HON'BLE Mrs. LAKSHMI SWAMINATHAN, MEMBER (J)

Const. M. Nisaruddin,  
No. 596/A,  
S/o Shri Mohd. Hanif,  
R/o S-4305, M.S. Apartments,  
Curson Road Hostel, K.G. Marg, .... APPLICANT  
New Delhi.

(By Advocate: Shri Mohd. Aslam proxy  
counse for Shri Shankar Raju)

VERSUS

1. Union of India through  
the Secretary,  
Ministry of Home Affairs,  
North Block,  
New Delhi.

2. Dy. Commissioner of Police,  
I.G.I. Airport,  
New Delhi.

... RESPONDENTS

(By Advocate: Shri Amresh Mathur)

ORDER (Oral)

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant prays for a direction to Respondents to keep the D.E. initiated vide Order dated 17.3.97 pending till the disposal of the criminal case against him.

2. A perusal of the charge sheet in the D.E. and the charge sheet in the criminal case discloses that both are grounded on the same set of allegations namely harbouring a deserter, assisting him in escaping from custody, concealing information from authorities, and arranging fake and false documents, etc.

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3. We have heard Shri Aslam proxy counsel for Shri Shankar Raju for applicant and Shri Mathur for respondents.

4. We note that by interim order dated 5.8.97 Respondents have been allowed to proceed with the enquiry upto the stage of examination of PWS, but not to compel applicant to cross-examine the them or enter into his defence lest it prejudice him in his defence in the criminal case till the disposal of that case.

5. In State of Rajasthan Vs. B.K. Meena 1996 (7) SCALE 363, the Hon'ble Supreme Court have held that the only valid ground for staying disciplinary proceedings is that the defence of the employee in the criminal case may not be prejudiced, but this ground is hedged in by providing further that this may be done in cases of grave nature involving questions of fact and law, <sup>which</sup> means that not only the charges must be grave, but that the case must involve complicated questions of law and fact.

6. In the present case, the charges <sup>and</sup> undoubtedly are grave, it is fair to say that the questions of law and fact that would arise are not simple.

7. After hearing both parties the interim order dated 5.8.97 are made absolute (to which Respondents' counsel has no serious objection) and permission is granted to either side to move the Tribunal for vacation or modification of the same after the conclusion of the criminal case against the applicant.

8. The O.A. stands disposed of accordingly. No costs.

*Lakshmi Swaminathan*

(Mrs. LAKSHMI SWAMINATHAN)  
Member (J)

/GK/

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