

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

O.A. No. 1771 of 1997

(5)

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,
New Delhi. APPLICANT

(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.

(6)

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, ^{which} 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
undoubtedly are grave, ^{and} 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)
/GK/

Adige
(S.R. ADIGE)
Member (J) Vice Chairman (A)