

(16)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

4/  
O.A./~~XXXX~~ No. 2829 of 1997  
M.A. 962 of 1998

Decided on: 22/8/98

Abhey Singh .....Applicant(s)

(By Shri Surat Singh Advocate)

Versus

Commissioner of Police & Respondent(s)  
Another

(By Shri Vijay Pandita Advocate)

CORAM:

THE HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

THE HON'BLE SHRI K. MUTHUKUMAR, MEMBER (A)

1. Whether to be referred to the Reporter or not? yrs
2. Whether to be circulated to the other Benches of the Tribunal?

h  
(K. MUTHUKUMAR)  
MEMBER (A)

(12)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 2829 of 1997

M.A.No.962/1998

New Delhi this the 12<sup>th</sup> day of September, 1998

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)  
HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

Constable No.818/Sec. Abhey Singh  
S/o Shri Tara Chand,  
R/o Village Mumaria Thethar,  
P.S. Khol District Rewari (Haryana) ....Applicant

By Advocate Shri Surat Singh.

Versus

1. Commissioner of Police,  
Police Headquarters,  
I.P. Estate,  
New Delhi.
2. The Additional Commissioner of  
Police (Security),  
New Delhi. ...Respondents.

By Advocate Shri Vijay Pandita.

ORDER

Hon'ble Mr. K. Muthukumar, Member (A)

By the impugned order dated 10.4.1997 (Annexure A-1), departmental proceedings were initiated against the applicant, and the enquiry was entrusted to one Inspector L.K. Meena. It is stated therein that a criminal case in FIR No.276/96 was also registered under Section 384/IPC against the applicant in Police Station, Town Hall.

2. Applicant contends that charges in the departmental proceedings and in the criminal case are identical and holding simultaneous proceedings on the same set of facts including common witnesses will be illegal and in violation of principles of natural justice. He further contends that by such parallel proceedings, he will be compelled to disclose his defence, to be taken in the criminal trial, in the departmental proceedings by way

18

of cross examination of prosecution witnesses, and this will be prejudicial to the applicant in the criminal trial. He has, therefore, prayed in the application for a direction to keep the departmental enquiry in abeyance till the final disposal of the criminal case against him.

3. Respondents in their reply assert that the allegations in the departmental enquiry are different from the criminal case and the outcome if any, will not affect the other. It is stated that the departmental enquiry initiated is under the rules and the criminal case has nothing to do with the charges in the departmental enquiry. The respondents, therefore, strongly oppose the prayer of the applicant for a stay of the departmental proceedings. They also aver that due to non-cooperation of the constable, the Enquiry Officer could not proceed further in the departmental enquiry. After he joined the departmental enquiry, he was served with summary of allegations, but thereafter, he had not joined the proceedings and had filed in the meanwhile, the present O.A. before the Tribunal, and on certain directions given by the Tribunal, the enquiry had been stayed till 2.1.98. The interim stay continued till the application was heard on merits. Respondents have averred that under Rule 15(2) of the Delhi Police (Punishment & Appeal) Rules, 1980, disciplinary authority has the option to get a criminal case registered against the applicant to initiate a departmental enquiry, if a preliminary enquiry discloses the commission of a cognizable offence by a police officer of a subordinate rank in his official relation with

(14)

public. They aver that in the instant case, the criminal case had already been registered by the local police for committing the crime. It is stated that the departmental enquiry was initiated against the applicant for visiting the police station and unauthorisedly checking head-wise crime register with ulterior motive.

4. We have heard the learned counsel for the parties and have perused the record.

5. Applicant was arrested in a criminal case under Section 384 IPC. He was placed under suspension. During the investigation of the case, it is alleged that on hearing the report from DCP, North District, Delhi it was revealed that the applicant had visited the concerned police station and unauthorisedly checked head-wise crime register with mala fide and ulterior motive by misusing his official position and misused the information so obtained. We have seen the FIR 276/96 registered in this case. It is stated therein that the police apprehended the constable and recovered 5 currency notes of Rs.100/- each from him, on the basis of the complaint of a Tailor. It is stated that the applicant visited the residence of the Tailor, whose brother was arrested in a case in May, 1996, and the applicant, having come to know of the investigation, promised the Tailor to send a favourable report in consideration of which he took the above sum from him and seeing some policemen in front of the house, retreated and tore the report he had prepared in the presence of Tailor and his family, which gave rise



to suspicion and consequent complaint. The charge in the departmental enquiry is that he visited the record room of the Police Station unauthorisedly and checked head-wise crime register with mala fide and thereafter, committed the aforesaid crime as in the FIR.

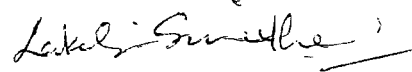
6. The counsel for the applicant argued that the latest decision of the Apex Court in **State of Rajasthan Vs. B.K. Meena**, JT 1996 (8) SC 684 will not be applicable in the facts and circumstances of this case. We have given careful consideration to the submissions in the light of the aforesaid case. The charge in the departmental proceeding is that he unauthorisedly entered the record room and checked the head-wise crime register and used that information to commit the crime. The charges in the criminal case and the departmental proceedings are not exactly the same. As stated by the Apex Court in B.K. Meena's case (Supra), in disciplinary proceedings the question is whether the respondent is guilty of such conduct as would merit any punishment under the relevant provisions of Conduct Rules and Discipline and Punishment Rules applicable to the case in question, whereas in the criminal proceedings the question is whether the offence registered against the delinquent under the relevant provisions of law are established and if established, what sentence should be imposed on him. As stated by the Apex Court in number of cases, the standard of proof, mode of enquiry and rules governing the enquiry and trial in both the cases are entirely distinct and different. As the Apex Court observed "The stay of disciplinary proceedings,

*[Handwritten signature]*

pending criminal proceedings, to repeat; should not be a matter of course, but a considered decision". In the light of the observation and also in view of the fact that the charges in both disciplinary proceedings and the criminal case are exactly the same, we are not inclined to direct that the departmental enquiry be kept in abeyance till the final disposal of the criminal case, as prayed for in this application.

7. In the conspectus of the above discussion, we do not find any justification to interfere in the matter and we dismiss the application on merits. There shall be no order as to costs.

  
(K. MUTHUKUMAR)  
MEMBER (A)

  
(MRS. LAKSHMI SWAMINATHAN)  
MEMBER (J)