



केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal

प्रधान न्यायपीठ

PRINCIPAL BENCH

(a)

श्री

Hon. Shri... S.P. Bhawan M(A)..... Chairman

प्रधान

हस्ता./मूल प्रतिवेदन सं० १६६

कल्पवूर्व-देय-आदेश विचारार्थ इसके साथ प्रेषित किया जाता है।

Pre-delivery ORDER in

T.A. / O. A. No. 797/97..... of 199.....

is sent herewith for Consideration. *Regards*

Lakshmi

(Smt. Leleshwari Swaminathan)
Member (S)

23-10-97

I do agree with the
conclusions reached.

Harish Member J

Ramam
Member (A)

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Central Administrative Tribunal
Principal Bench

O.A. 797/97

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New Delhi this the 24 th day of October, 1997

Hon'ble Smt. Lakshmi Swaminathan, Member(J).
Hon'ble Shri S.P. Biswas, Member(A).

1. Govt. of NCT of Delhi through
Commissioner of Police,
Delhi Police, I.P. Estate,
New Delhi.
2. D.C.P., North District,
Delhi Police, Delhi. Applicants.

By Advocate Shri Vijay Pandita.

Versus

Kamal Parshad, D/1900,
Sub Inspector, Delhi Police,
North District, Delhi. Respondent.

By Advocate Shri E.M.S. Natchappan.

O R D E R

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

This application has been filed by the Govt. of NCT, Delhi and the Deputy Commissioner of Police, North District, Delhi Police, Delhi, seeking permission of the Tribunal so that they can initiate disciplinary proceedings against the respondent, SI Kamal Parshad.

2. The applicants have referred to the order dated 17.8.1993 stating it to be the impugned order. This order has been passed in pursuance of the judgement of the Tribunal in Kamal Prasad Vs. Delhi Admn. & Ors. (O.A. No. 1891/90), decided on 5.3.1993. In the last paragraph of the order dated 17.8.1993, the applicants have stated that in the absence of the statement of Shri Harpal Singh, the main complainant, the departmental enquiry ordered by them by order dated 21.4.1993 is dropped on technical grounds. They have stated that

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subsequently the complainant has appeared and given a statement and so they wish to initiate departmental proceedings against SI Kamal Prasad. Hence, they have filed this application seeking permission of the Tribunal to do so in view of the earlier order of the Tribunal dated 5.3.1993.

3. The respondent has filed a reply in which ^{he} has taken preliminary objections;

(i) that this O.A. is not maintainable as there is no order under Section 19 of the Administrative Tribunals Act, 1985;

(ii) on limitation that the applicants have filed this case after nearly 4 years of the order dated 17.8.1993; and

(iii) that the order of the Tribunal dated 5.3.1993 in O.A. 1891/90 has become final and binding in which it had been stipulated that the disciplinary proceedings pending against the applicant should be finalised within two months from the date of receipt of a copy of that judgement.

Reference has also been made to another case by both the parties, namely, O.A.1516/95 decided on 23.9.1996. It is not disputed that SI Kamal Prasad and Shri Zile Ram, Ex-Constable were involved in the same incident for which departmental action had been taken against them and they were dismissed.

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(2)

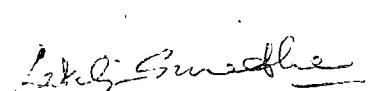
4. We have seen the pleadings and considered the submissions made by the learned counsel for both the parties. This is a curious application where the Government has sought our permission to initiate departmental proceedings against one of their employees. We are of the view that this application is not maintainable for the following reasons:

The so-called impugned order which the applicants are impugning in this O.A. has been passed by themselves on 17.8.1993 in pursuance of the order of the Tribunal dated 5.3.1993 in O.A. 1891/90. This judgement has become final and binding and we as a co-ordinate Bench cannot sit as a court of appeal against that order. The prayer is for granting sanction to the applicants to initiate disciplinary proceedings against the respondent. Having regard to the provisions of Sections 14 and 19 of the Administrative Tribunals Act, 1985, this O.A. cannot be considered as a "service matter" within the jurisdiction of this Tribunal. O.A. is accordingly dismissed at the admission stage. No order as to costs.


(S.P. Biswas)

Member(A)

SRD'


(Smt. Lakshmi Swaminathan)

Member(J)