

(6)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

...

OA. No. 1 of 1994
Dated New Delhi, 18th May, 1994

Hon'ble Shri J. P. Sharma, Member (J)
Hon'ble Shri B. K. Singh, Member (A)

Shri Sunderlal
S/o Shri Bansilal
R/o Wtr. No. 1449/77, Durga Puri
Loni Road, Shahdara
DELHI

... Applicant

By Advocate: Shri A. S. Grewal

VERSUS

1. Commissioner of Police, Delhi
Delhi Police Headquarters
M.S.O. Building, I.P. Estate
NEW DELHI

2. Deputy Commissioner of Police
5th Bn., D.A.P., New Police Lines
DELHI

3. Enquiry Officer, Inspector
5th Bn., D.A.P. New Police Lines
DELHI

... Respondents

By Advocate: Shri M. K. Giri

O R D E R
(Oral)

Shri J. P. Sharma, M(J)

The applicant is an employee of Delhi Police and at the relevant time, was serving as Head Constable (Driver). He has been served with a Summary of allegations that on 4.11.91 at about 7.50 P.M., while posted in P.C.R. (on O-45 P.C.R. Van), molested one Miss Sakuntla, aged about 14 years, residing opposite Air Force Marshal C-in-C Western Air Command, Subroto Park Delhi Cant. He consumed liquor in the quarter of one Shri Jagir Chand inside the Air Force Complex, Subroto Park in the afternoon and while coming back to join the duties on P.C.R. Van, he indulged in this criminal misconduct. A case FIR No. 437 u/s 354 I.P.C. was registered against him (the applicant) at P.S. Delhi Cant. Vide memo

Contd...2

dated 19.8.93, Deputy Commissioner of Police ordered initiation of ^{departmental} enquiry u/s 21 of the Delhi Police Act, 1978, and thereafter the Summary of Allegations referred to above was served on the applicant. F.I.R. on this case was also lodged on 4.11.91. Flight Lt. J.S. Randhwa, Security Officer, Subroto Park, who is among the witnesses in the case, got the applicant and Miss Sakuntla Negi medically examined. The security Officer ^{hold of} also caught the applicant while running away.

2. The case of the applicant is that simultaneous proceedings are pending, one in the Criminal Court u/s 354 of the I.P.C. and the Department has also initiated action for an enquiry of alleged misconduct. It is argued by the learned counsel for the applicant that the applicant shall be exposing his defence in the Departmental Enquiry(D.E.) and as such it would be prejudicial in the trial before the Criminal Court. The respondents in their reply have referred to the decision of Hon'ble Supreme Court in the case, U.O.I. Vs. A. N. Saxena 1992(3)SCC 124 where the Hon'ble Supreme Court held that Tribunal should not ordinarily stay the departmental enquiry. Same view has been taken by the Hon'ble Supreme Court in the case, U.O.I. Vs. Upendra Nath reported in 1984(1) SCALE page. 637. In view of the above, the Tribunal has to consider every case on merit taking into account the actual misconduct in the D.E. and the alleged offence against

the delinquent in the criminal trial. The matter has been considered by the Hon'ble Supreme Court in the case of Kukaswar Dubey Vs. Bharat Cooking Coal Ltd. (AIR 1988 SC 2118) where the Hon'ble Supreme Court held that no straight-jacket formula can be laid down where simultaneous proceedings, one in the Criminal Court and the other departmental, can be drawn against the same employee that depend on the circumstances of each case. The Hon'ble Supreme Court in the aforesaid judgement have also considered three other judgements delivered by the Hon'ble Supreme Court from 1960 to 1984. Thus, the law almost is evidently clear that the Bench has to see the circumstances of the case. The question that the applicant shall be prejudiced in his defence in the criminal court and can be taken guard of in passing final order in this case.

3. Coming to the actual facts of this case, Police are a disciplinary force. The purpose of for police is prevention of offence and to secure the safety and life and property of the citizens. If the members of the police force indulged in activities which are in the nature of serious offence particularly against the weaker sex of minor age, such a case shall not be fit whether the department should be directed not to continue with the departmental enquiry. This is a common experience that by the time the case is

comes up for hearing certain circumstances may come in the way of the witness and that true facts may not come for adjudication before the Criminal Court. Times are often gained till the witness is not to depose in favour of the accused.

4. Taking all these facts into account, we do not find this a fit case for staying the departmental proceedings. The application is, therefore, dismissed after hearing the parties at the admission stage itself. But any final decision in the departmental enquiry, any statement before ~~by~~ the ~~by his delinquent or his witness (s)~~ Enquiry Officer shall not be relevant for decision in the criminal case. Parties are left to bear their own costs.


(B. K. Singh)
Member(A)


(J. P. Sharma)
Member(J)

dbc