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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

J.A. 2474/94

New Delhi, this the 15th December, 1994

Hon'ble Shri J.P. Sharma, Member(J)
Hon'ble Shri S.R. Adige, Member(A)

Shri S.K. Bhatnagar,
Inspector, Delhi Police (D-1/165)
F.R.R.O., Hans Bhavan,
New Delhi.

R/o Flat No. 252-C, MIG Flats,
Rajouri Garden,
New Delhi.

... Applicant

By Advocate: Shri J.P.S. Sirohi

Vs.

1. The Commissioner of Police,
M.S.O. Building,
I.P. Estate, New Delhi.
2. The Additional Commissioner of Police,
(Operations),
M.S.O. Building,
I.P. Estate, New Delhi.

... Respondent

O R D E R (ORAL)

Hon'ble Shri J.P. Sharma, Member(J)

The applicant has assailed the order of punishment dated 1.3.94 by which a minor penalty of censure was imposed upon the applicant. Against this order the applicant has filed the appeal on 16.3.94 addressed to the Commissioner of Police taking number of grounds and enclosed with the application as Annexure A-11.

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2. The applicant in this O.A. has prayed for quashing of the order of punishment on a number of grounds.

3. We heard the applicant's counsel and the learned counsel has rightly pointed out that it is fault of the respondents not to have disposed of the appeal which was filed on 16.3.94 and almost more than 9 months have passed. In fact the order under challenge in this case is pending with the administration to be scrutinised on the basis of grounds taken in the memo of appeal. The same order the applicant wants to be judicially reviewed meaning thereby that the administration has not yet taken its final decision on the impugned order of punishment. It is unnecessary to state that the order passed by higher administrative authority on statutory appeal merges with the order passed by the subordinate disciplinary authority. In any event if the applicant is aggrieved by the appellate order he is also to challenge the same and in case the appeal is allowed, the O.A. itself shall become infructuous.

4. Though we do not hold the application is premature in view of section 20 of the A.T. Act, 1985. But since the departmental remedy availed of by the applicant is still pending with the appellate authority so in the interest of justice we are of the view that the applicant can be given liberty to assail his grievance after the disposal of the appeal against the impugned order by the competent authority.

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5. The learned counsel for the applicant has also pressed that the application be kept pending till the disposal of the appeal. He visualizes that an interim direction be issued to the respondents to dispose of the appeal but such a direction cannot be issued at the admission stage, as we are entertaining this application by not passing any order in the appeal during the statutory period of six months provided under section 20 of the A.T. Act, 1985. If we admit this application then the remedy sought for by the applicant by way of appeal cannot be availed of by him in view of provisions of sub clause (9) of the A.T. Act, 1985. We are aware that the applicant has to incur some more expenses while coming on second time but that should not be a ground that an appropriate direction may be issued to the respondents for disposing of the appeal ~~after admitting this application.~~

6. We have also considered that the punishment imposed is of censure and is not of such a grave nature which may cause irreparable loss to the applicant either in his emoluments or otherwise.

7. In view of this, we dispose of this application at the admission stage holding that the respondents to dispose of the appeal expeditiously as possible and in any case within a period of 3 months from the date of receipt of copy of this order. In case the applicant is still aggrieved he shall be at liberty to assail the final order, if so advised according to law.

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Any observations made in this order will not detract from agitating the points raised in this application. Necessary documents filed by the applicant may be returned to him by the Registry.

M. Adige
(S.R. ADIGE)

MEMBER (A)

D.P. Sharma
(D.P. SHARMA)

MEMBER (D)

PrK