

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH

R.A.No.241/98 & M.A.No.2454/98
in O.A.No.1636/95

Decided on 18.3.1999

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE SHRI R.K.AHOOJA, MEMBER(A)

Union of India through

1. Lt.Governor of Delhi,
National Capital Territory of Delhi,
Raj Niwan, Delhi-54.
2. Commissioner of Police,
Delhi Police,
M.S.O. Building,
I.T.O.Delhi.
3. Dy.Commissioner of Police,
District North, Civil Lines,
Delhi.

..Applicants

(By Advocate Sri Amresh Mathur)

vs.

1. Laxmi Chand,
Head constable,
Delhi Police(Now under suspension),
R/o 482/31,Ashok Vihar,
Sonepat.
2. Sheel Bahadur,
S/o Sh.Giani Ram,
Constable, Delhi Police,
(Now under suspension),
R/o Madina,
Distt.Rohtak.

O R D E R (By Circulation)

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

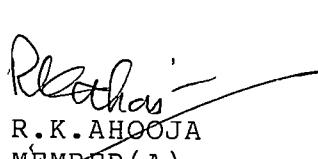
The respondents in the Original Application has filed this review application on 17.11.98 for a review of the order in O.A.1636/95 made on 20th March, 1996. An application for a review is to be made within 30 days from the date of receipt of a copy of the order. It is seen that the certified copy of the judgment was issued on 30.4.96. As there is inordinate delay in filing the Review Application, M.A.No.2454/98 has been filed

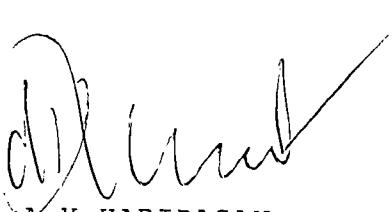
seeking condonation of delay in filing the R.A. The only reason stated in the M.A. for condonation of delay is that respondents came to know of a decision of the Supreme Court in State of Rajasthan vs. B.K.Meena and others, JT 1996 (8)SC 684 and took some time to file the Review Application after consulting their counsel. This is not at all a valid or sufficient ground for condonation of delay. However, a perusal of the Review Application shows that the review applicants are seeking to have a review of the order in the O.A. on grounds which were canvassed at the time of hearing, but were not found favour with by the Bench. The Original Application was filed by the applicants praying that the departmental proceedings pending against them may be directed to be kept pending till the trial before the Sessions Court on identical accusations was over. As the basis of prosecution and the departmental charge was one and the same, after discussing the case law on the point, taking into account the circumstances of the case, the Bench disposed of the Application with the following directions:-

"a) The respondents may proceed with the departmental enquiry against the applicants pursuant to the summary of allegations(Annexure Al) only to the extent of recording the statement of the witnesses in support of the charge in chief deferring the cross examination till they are fully examined before the criminal court in the case arising out of FIR No.83/95 PS Subhash Chowk, Jaipur if they are witnesses in the criminal court also.

b) The applicants shall not be compelled to enter upon their defence in the departmental proceedings till the evidence before the Criminal Court is over."

Apart from stating that the Supreme Court has in its judgment in State of Rajasthan vs. B.K.Meena and others, JT 1996 (8) SC 684 that there can be no hard and fast rules on the question as to whether during the pendency of criminal proceedings the departmental enquiry proceedings should be stayed or not and that there was no provision in the Delhi Police (Punishment & Appeal) Rules, 1980 debarring holding of the departmental proceedings while a criminal case is pending and that therefore there is an error apparent on the face of record, it has not been stated as to how the order sought to be reviewed is erroneous. The ruling of the Apex Court relied on by the review applicants itself justifies the view taken by the Bench in the order sought to be reviewed. As there can be no hard and fast rule as to whether the departmental proceedings should be kept in abeyance while the criminal proceedings are pending, appropriate decision has to be taken having regard to the facts and circumstance of each case. We do not find any error apparent on the face of record or any other valid ground for a review of the order. The review application is therefore dismissed. M.A. also stands disposed of.


R.K. AHOOJA
MEMBER (A)


A.V. HARIDASAN
VICE CHAIRMAN