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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

...

O.A. No.1450 of 1994

Dated New Delhi, this 9th day of February, 1995

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

Shri Sohan Lal
S/o Shri Yad Ram
Head Constable under 3rd Battalion
DAP Lines Kingsway Camp
DELHI

... Applicant

By Advocate: Shri P. L. Mimroth

Versus

1. Commissioner of Police
I. P. Estate
NEW DELHI

2. Deputy Commissioner of Police
III Battalion, DAP
DELHI

... Respondents

By Advocate: Shri R. Pandita

ORDER
(Oral)

Shri J. P. Sharma, M(J)

The applicant is a Head constable (Driver) and a summary of allegations has been served upon him after initiation of departmental proceedings by the Deputy Commissioner of Police vide order dated 30.5.94. The summary of allegations are that on 26.5.94 at about 5.30 p.m. while Shri Sohan Lal was driving Jail Van and returning from Hissar, Haryana on official duty carrying under-trials for proceedings in Delhi Court, he met with an accident at village Mundka (Rohtak Road) and a child aged about four years was injured in this accident by front portion of the Jail Van. A case FIR No. 241/94 U/S 279/304 of IPC P.S.

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Nangloi was lodged against him.

2. The applicant has already been served with the departmental enquiry as stated above and in July, 1994 he has been asked whether he received all the documents and admit the summary of allegations or not. The applicant replied to the same.

3. In this application filed on 14.7.94, the applicant has prayed that simultaneous departmental proceedings and the criminal case would prejudice his defence in the criminal trial.

4. We heard Shri P. L. Mimroth, the learned counsel for the applicant on the last occasion and desired that he should clarify the document annexed as Annexure-A 3/6 at page 18 of the paper book which shows that departmental enquiry is complete. We got the departmental file summoned from the respondents and we find that the said document at page 18 is not relevant or has no nexus with the present application which has been annexed in July, 1994 on the basis of the summary of allegations referred to above. This departmental file shows that witnesses have not been examined on behalf of the administration.

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5. This is a case of road accident and the act of the applicant as Driver of the said vehicle which caused injuries to a child as a result of the accident is subject of decision by a criminal court and which has to be tried by a competent criminal court. It may be another matter that the department may subsequently find him after the conclusion of criminal trial, careless and negligent of discharge of his duties as a Driver. In the meanwhile, if the departmental proceedings goes on, the same set of criminal witnesses to be examined, if desired by the department, who are to be examined by the criminal court, the applicant may have to disclose his defence in that regard. The relevant case law on the point decided by the Hon'ble Supreme Court is Kusheswar Dubey Vs Bharat Coking Coal Ltd. & Ors reported in AIR 1988 SC 2118. Though the Hon'ble Supreme Court has observed that no strait-jacket formula can be laid down as to which case to be simultaneously proceeded - one departmentally and the other in the criminal court can continue or one of them may be stayed, but it depends on the circumstances of each case. The learned counsel for the respondents, however, referred to certain authorities of C.A.T. in OA.No.1485/92 Tara Chand Vs Commissioner of Police and OA.No.1427/94 M. Deyal Vs N.C.T. of Delhi decided in November, 1994.

6. There is no controversy about the fact that simultaneous proceedings, one for misconduct in the department itself and the other for the said criminal act can go in the criminal court. However, it depends on the circumstances of each case. This is a case of accident in a highway and whether or not the applicant as Driver was negligent in discharge of his duties, the appropriate finding in this regard is always given by the criminal court after examining the witnesses. In case a witness turns hostile and the applicant gets acquittal, he can be tried departmentally under Rule 12 of the Delhi Police (Punishment and Appeal) Rules, 1980.

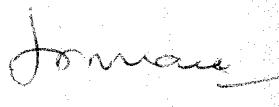
7. The other misconduct referred to in the summary of allegations is that as a police official the applicant did not take the child for treatment to the nearest hospital. It is also on record that the applicant was apprehended on the spot after the chase of the complainant. The respondents shall be free to pursue this matter, if so advised, after the decision of the criminal case.

8. In the facts and circumstances of the case, we find that it shall be equitable and just to stay the departmental proceedings till the finalisation of the criminal case with the liberty to the respondents, if so advised, to initiate departmental enquiry from the stage where it was stayed after the decision of the criminal case.

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9. With these observations, we dispose of this OA finally but without any order as to costs. The departmental file is returned to the learned counsel for the respondents.


(B. K. Singh)
Member(A)


(J. P. Sharma)
Member(J)

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