

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 738/2000

New Delhi this the 15th day of November, 2000.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI S.A.T.RIZVI, MEMBER (A)

Vishnu Kumar (7937/DAP) S/O Veer Bahadur,
R/O Qtr. No.I-2/3, P.S.Model Town,
Delhi-110009.

... Applicant

(By Shri Shyam Babu, Advocate)

-versus-

1. Govt. of N.C.T. of Delhi
through Chief Secretary,
5, Sham Nath Marg,
Delhi-110054.
2. Joint Commissioner of Police, AP,
Police Headquarters,
I.P.Estate, New Delhi.
3. Shri Devendra Manchanda,
Enquiry Officer,
6th Bn. DAP, Kingsway Camp,
Delhi.

... Respondents

(By Ms. Jasmine Ahmed, Advocate)

O R D E R (ORAL)

Shri Justice Ashok Agarwal :

Present OA is covered by decision of the Full Bench in OA No.77/1997 decided on 14.9.2000 to which one of us (Justice Ashok Agarwal, Chairman) was a party. By the aforesaid order provisions of Rule 25-B of Delhi Police (Punishment & Appeal) Amendment Rules, 1983 have been held to be ultra vires.

2. Short facts leading to the filing of the present OA are as follows :

On 10.4.1991 a prosecution was launched against the applicant for offences punishable under Sections 376/342/34 I.P.C. Based on the very same facts

10

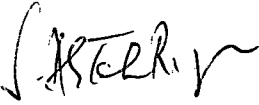
contained in the aforesaid prosecution a disciplinary enquiry was ordered against the applicant on 11.9.1992. Applicant impugned the said disciplinary proceedings by filing OA No.3154/92. Pending hearing of the aforesaid OA, applicant, by an order passed by the criminal court on 13.11.1997, was acquitted. On 10.2.1998 the aforesaid OA was disposed of with a direction to the respondents to conclude the disciplinary proceedings after taking into consideration the order of acquittal passed by the criminal court on 13.11.1997. By an order passed on 10.3.1998 aforesaid disciplinary proceedings were directed to be continued. The enquiry officer on 17.7.1998 framed charges against the applicant. By his report dated 25.8.1998 the enquiry officer exonerated the applicant. The disciplinary authority based on the report of the enquiry officer, by an order passed on 16.11.1998 exonerated the applicant. By an order passed on 8.1.1999 the appellate authority purporting to act under Rule 25-B of the Delhi Police (Punishment & Appeal) Rules, 1980 disagreed with the disciplinary authority and directed holding of further enquiry. In pursuance of the aforesaid order of 8.1.1999 issued by the appellate authority, the enquiry officer by an order of 13.4.2000 has required the applicant to file his list of defence witnesses and to produce them for being examined. Applicant has approached this Tribunal impugning the aforesaid order passed by the appellate authority on 8.1.1999 and the consequent order passed by the enquiry officer on 13.4.2000.

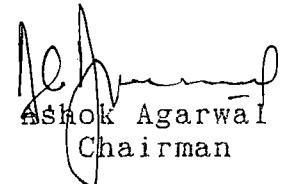
De. A.

3. If one has regard to the aforesaid decision of the Full Bench, we have no hesitation in holding that the appellate authority had no authority to pass its order disagreeing with the finding of the disciplinary authority and directing a further enquiry.

4. In the circumstances, aforesaid order of the appellate authority of 8.1.1999 as also the order of the enquiry officer of 13.4.2000 are quashed and set aside and the order of the disciplinary authority of 16.11.1998 is maintained.

5. Present OA is allowed in the aforesaid terms. There shall be no order as to costs.


(S.A.T. Rizvi)
Member (A)


(Ashok Agarwal)
Chairman

/as/