

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

R.A. NO. 255/1998
M.A. NO. 2674/1998
in
O.A. NO. 2054/1993

11

New Delhi this the 3rd day of February, 1999.

HON'BLE SHRI JUSTICE K. M. AGARWAL, CHAIRMAN

HON'BLE SHRI K. MUTHUKUMAR, MEMBER (A)

Dy. Commissioner of Police,
5th Bn., D.A.P.,
Delhi.

... Applicant

(By Shri Anil Singhal for Shri Anoop Bagai, Advocate)

-Versus-

Vijay Singh

... Respondent

O R D E R (ORAL)

Shri Justice K. M. Agarwal :-

Heard the learned counsel for applicant. This is an application for review made on 13.11.1998 for reviewing the order passed in O.A. No. 2054/1993 on 25.1.1994. The ground for review is that subsequently a decision of the Supreme Court came in **State of Rajasthan vs. B. K. Meena**, reported in JT 1996 (8) SC 684 = 1996 (5) SLR SC 713 which has given cause for filing the review application :-

2. The aforesaid decision of the Supreme Court had not come into existence when this Tribunal decided O.A. No. 2054/1993 and, therefore, there is no question of reviewing the order made by the Tribunal in the said O.A. on 25.1.1994.

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3. The learned counsel for applicant drew our attention to paragraph 17 of the judgment of Supreme Court in B. K. Meena's case (supra), which runs as follows :-

"17. There is yet another reason. The approach and the objective in the criminal proceedings and the disciplinary proceedings is altogether distinct and different. In the disciplinary proceedings, the question is whether the respondent is guilty of such conduct as would merit his removal from service or a lesser punishment, as the case may be, whereas in the criminal proceedings the question is whether the offences registered against him under the Prevention of Corruption Act (and the Indian Penal Code, if any) are established and, if established, what sentence should be imposed upon him. The standard of proof, the mode of enquiry and the rules governing the enquiry and trial in both the cases are entirely distinct and different. Staying of disciplinary proceedings pending criminal proceedings, to repeat, should not be a matter of course but a considered decision. Even if stayed at one stage, the decision may require reconsideration if the criminal case gets unduly delayed." (Emphasis given).

4. The underlined portion from the aforesaid extract would show that the Supreme Court did not say that stay of disciplinary proceedings pending criminal proceedings can never be made. It has only say that ordinarily as a matter of course disciplinary proceedings should not be stayed. If stayed, decision in that regard must be a very considered decision. The Supreme Court further said if stayed at one stage the decision may require reconsideration if the criminal case gets unduly delayed. The use of words "if stayed at one stage" suggests that if as an interim measure any court or tribunal have stayed

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disciplinary proceedings, that decision may be reconsidered in appropriate cases, where criminal case gets unduly delayed. It does not say that if a matter has already concluded and has attained finality, it may be revived on the basis of a review application and appropriate order vacating the stay may be passed. It does not mean the applicant has no remedy. But we are certain that remedy by way of review is not open to the applicant.

5. Accordingly, on merits as also on the ground of limitation, this review application is rejected.



(K. M. Agarwal)
Chairman



(K. Muthukumar)
Member (A)

/as/