

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.2124/89.

New Delhi, this the tenth day of May, 1994.

SHRI J.P. SHARMA, MEMBER(J).

SHRI B.K. SINGH, MEMBER(A).

Lal Singh, Inspector,
S/o Shri Gopal Dass,
r/o S-578, School Block,
Shakarpur, Delhi-92.

...Applicant

By advocate : Shri A.S. Grewal.

VERSUS

1. Lt. Governor Delhi, through Chief Secretary,
Delhi Administration, Delhi.

2. Commissioner of Police Delhi,
Delhi Police Headquarters, M.S.O. Building,
I.P. Estate, New Delhi.

3. Additional Commissioner of Police (Operations),
Delhi Police Headquarters, M.S.O. Building,
I.P. Estate, New Delhi.

4. Deputy Commissioner of Police, D.E. Cell,
Police Station Defence Colony,
New Delhi.

...Respondents

By advocate : Ms. Rashmi Chhabra for Mrs. Avnish
Ahlawat.

O R D E R (ORAL)

SHRI J.P.SHARMA:

At the relevant time, the applicant was Inspector of Police Station Anand Prabat, Delhi. It is alleged that one Smt. Kamlesh Kumari was brought to the police station and a case was registered against her under 448/IPC. It is also said that Smt. Kamlesh Kumari being a woman and entitled to preferential bail was not granted bail by the applicant who was S.H.O. at the relevant time. A departmental inquiry was initiated against the applicant by the memo dated 8-8-1988. He was also served with a summary of

allegations. However, there were certain developments in the meantime and on the allegations registered in FIR by Kamlesh Kumari, a case was registered under section 308/304/34/IPC at P.S. Anand Prabat in which the applicant is also an accuse. The applicant represented before the disciplinary authority that since a criminal case has already been instituted against him and the summary of allegations are same which have been served upon him in the departmental inquiry, so the departmental inquiry be stayed. He made a representation to the disciplinary authority. Without awaiting, the applicant filed the O.A. on 19-10-89 and he prayed for the grant of the relief that the memo dated 8-8-1988 and the summary of allegations served upon the applicant and the charge dated 17-4-89 handed over to the applicant be quashed. By the order dated 14-10-89, the further proceedings in the inquiry were stayed and that order was made absolute by the order dated 6-11-89.

2. The respondents in the reply contested the application and stated that the charge in the departmental inquiry and the ^{accusations} acquisitions against the applicant in the criminal case are not same and thereby the applicant has no case for getting the departmental inquiry stayed.

3. We have heard the learned counsel for the applicant Mr. Grewal and also gone through the rejoinder filed by the applicant and proxy counsel for Mrs. Avnish Ahlawat appeared for the respondents. The short point involved in this case is whether the ^{accusations} acquisitions in the criminal case are almost the same

as the summary of allegations as well as the charge against the applicant in the departmental inquiry. The summary of allegations are that the applicant while functioning as SHO, Anand Prabat was instrumental in dispossessing Smt. Kamlesh Kumari from her rented house in collusion with the landlord Shri Shambhu Dayal against money consideration. It is also alleged that the lady was implicated in the false case and she was assaulted along with her children. The lady was also arrested illegally without observing legal formalities and was refused bail. It is also stated that the applicant along with S.I. Shyam Lal and A.S.I. Kishan Lal were presurising the lady for vacating the rented house and was called to the police station and subjected to ill treatment, misbehaviour and humiliation by these officials. These summary of allegations have nothing to do with the criminal case. The criminal case has been initiated on the report alleged by Smt. Kamlesh Kumari regarding assault on her and her son who succumbed to the injuries subsequently. We have also gone through the interim order passed by the Bench on 14-10-89. The Bench at that time granted the interim relief ex-parte. At that time, no reasons for grant of interim direction has been referred to in the order. When the order was made absolute on 6-11-89, none appeared for the respondents and the Bench, therefore, made the order absolute and there are no reasons in that order also. Thus, the order of staying the further proceedings has to be considered on the merit of the case. By virtue of the interim direction, the proceedings have been stayed and it appears that the stage of defence has reached which goes to show that the applicant was given due opportunity

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under Delhi Police (Punishment and Appeal) Rules, 1980 of examining the witnesses cited by the prosecution in the departmental inquiry.


4. The contention of the learned counsel that the applicant shall be prejudiced for a criminal case now has no basis. He has also exposed himself in the cross examination of the departmental witnesses.

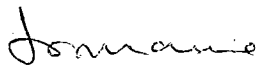
5. Hon'ble Supreme Court has considered this point after referring to the earlier decisions in the case of KISHESHWAR DUBEY v. UNION OF INDIA 1980 AIR 32, P. 2118

In this reported case, the Hon'ble Supreme Court has also considered 3 other cases decided by Supreme Court. It has been held that no straight jacket formula can be laid down in the cases the departmental inquiry can go or should be stayed because of the pendency of criminal case against the delinquent in the departmental inquiry. It depends on the circumstances of the each case. In the present case, the applicant is alleged to have committed misconduct while functioning as Inspector/ S.H.O., P.S., Anand Prabat. He was the supervisory officer. The general diary maintained at police station is signed every day by the Inspector incharge and is aware of the working of the police officials for the whole of the day even having notice of arrival and departure of police staff from the police station and when they return to the police station on that day.

6. In view of the circumstances, it cannot be said to be a case where the charges in the criminal case are similar to the summary of allegations in the departmental inquiry.

7. Having given a careful consideration, we don't find any merit in this application and this application is dismissed as devoid of merit and the stay order granted on 14-10-89/6-11-89 is vacated. However, it is observed that any statement or defence taken by the applicant in the departmental inquiry shall not be made a part of any evidence in the criminal case. Costs on parties.


(B.K.SINGH)
MEMBER (A)


(J.P.SHARMA)
MEMBER (J)

'KALRA'