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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH:

O.A. NO. 2402/89

New Delhi this the 9th day of June, 1994.

Shri Justice V.S. Malimath, Chairman.

Shri P.T. Thiruvengadam, Member(A).

Parma Nand,
S/o Shri Hoshier Singh,
R/o Village-Dhansa,
PO-Dhansa,
Delhi.

... Petitioner.

By Advocate - None.

Versus

1. Lt. Governor of Delhi,
through Chief Secretary,
Delhi Administration,
Delhi.
 2. Commissioner of Police, Delhi,
Delhi Police Headquarters,
MSO Building, I.P. Estate,
New Delhi.
 3. Additional Commissioner of Police,
New Delhi Range, Delhi Police HQrs,
MSO Building, I.P. Estate,
New Delhi.
 4. Deputy Commissioner of Police(West District),
Near Vishal Cinema,
Police Station Rajouri Garden,
New Delhi.
- ... Respondents.

By Advocate Shri Oberoi, proxy for Shri D.K. Sharma.

O R D E R (ORAL)

Shri Justice V.S. Malimath.

None appeared for the petitioner. Shri Oberoi, Counsel appeared for the respondents. As this is a very old case, we consider it just and proper to peruse the records, hear the learned counsel for the respondents and dispose of this case on merits.

2. The petitioner was a Constable in the Delhi Police establishment. A disciplinary inquiry was held against him on the charge that he under the influence of liquor created nuisance at public place i.e. Chowk Tilak Nagar as well as in the reporting room of P.S. Tilak Nagar, misbehaved and used
✓ filthy language with the public and senior officers and caused

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annoyance. After a regular inquiry was held, the petitioner was held guilty of the charge levelled against him and dismissed by the disciplinary authority by order dated 9.11.1987. The said order has been affirmed by the appellate authority as also the revisional authority. The petitioner was also prosecuted for criminal offences u/s 92 and 93 of the Delhi Police Act. He has been acquitted in the criminal case by a subsequent order made on 31.5.1989.

3. The petitioner's principal grievance is that simultaneous holding of disciplinary inquiry and criminal case was not proper and that the same has the effect of denying the reasonable opportunity of defending himself in the criminal court. It is also the case of the petitioner that on the identical charges in the disciplinary inquiry and criminal case, he cannot be held guilty in the disciplinary proceedings. There is no legal bar for holding both the criminal case as well as the disciplinary inquiry simultaneously. If there is likelihood of any prejudice being caused to the petitioner by such simultaneous conduct of both the proceedings, it would be just and fair for the disciplinary authority to stay the departmental inquiry till the criminal court disposes of the case. It would be the right attitude to be taken when the charges levelled in the disciplinary inquiry and criminal case are the same. We have already summarised the charge levelled against the petitioner in the disciplinary proceedings. That pertains to his being found drunk in the police station, misbehaved and used abusive and filthy language to the superior and others. In the criminal court, the allegations are slightly different and the charge levelled is that he committed offences punishable under Sections 92 and 93 of the Delhi

Police Act. Section 92 pertains to obstructing of annoying passengers in a street or public place whereas Section 93 deals with misbehaviour with intent to provoke a breach of the peace. A bare perusal of the order of the Criminal Court makes it clear that one of the grounds for acquitting the petitioner is that the misconduct of the petitioner did not take place in a street or public place. It is held that the duty room of the police station where the misconduct of the petitioner was seen to have been committed is not a public place. It is, therefore, clear that the substance of the charge levelled in the criminal case was different from the substance of the charge which is levelled against the petitioner in the disciplinary inquiry. It is not possible to take the view that any prejudice was caused to the petitioner by simultaneous conduct of the criminal case and the disciplinary inquiry. There is another reason submitted supporting the same inference, namely, that the petitioner had been acquitted. It is obvious that holding of the disciplinary inquiry did not have any adverse effect on the petitioner in the matter of defending himself in the criminal court. Looked at from any angle, it is not possible to take the view that the petitioner has made out any case for interference. The findings of fact recorded by the disciplinary authority and affirmed by the appellate authority are not liable for interference. This application fails and is dismissed. No costs.

P. J. 20
(P.T. THIRUVENGADAM)
MEMBER(A)


(V.S. MALIMATH)
CHAIRMAN

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