

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA No.294/89.

Tenth day of February, 1994.

SHRI J.P.SHARMA, MEMBER(J).
SHRI B.K.SINGH, MEMBER(A).

Nasib Singh,
son of Shri Daulat Singh,
Quarter No.A-105, Police Colony,
Shakurpur, Delhi-110034.

...Applicant

By advocate : None.

Versus

1. Lt. Governor, Delhi, through Cheif 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 (Range),
Delhi Police Headquarters, M.S.O.Building,
I.P.Estate, New Delhi.
- 4|| Deputy Commissioner of Police, North District,
Near Police Station Civil Lines, Delhi.
5. The Station House Officer, Delhi
University Police Station, Delhi.
(Enquiry Officer) ...Respondents

By advocate : Shri M.K. Giri.

ORDER (ORAL)

Shri J.P.Sharma :

The applicant is Constable in Delhi Police since 1983 and on the basis of a track^p led against him, a case was registered for accepting illegal gratification under section 161 IPC read with section 5(2) of the Prevention of Corruption Act, 1947. An FIR was lodged on 14-1-88 which resulted in investigation and ultimately a chargesheet in the criminal case was issued. The respondents also initiated departmental enquiry proceedings under section 21 of the Delhi Police Act, 1978 by the order

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dated 9-9-1988 passed by Deputy Commissioner of Police and served summary of allegations delivered to the applicant on 13-10-88. In this application, the grievance of the applicant is that by participating in the departmental enquiry, he will be prejudiced in the criminal case in his defence. He made a representation on 25-10-88 for keeping the departmental enquiry in abeyance till the decision of the corruption case. However, the respondents proceeded with the enquiry and present application has been filed on 10-2-89 praying for the relief that the D.C.P. (North) be restrained from initiating the departmental enquiry during pendency of the criminal case and the summary of allegations dated 13-10-88 be quashed and alternatively the departmental enquiry be stayed.

2. By the order dated 11-4-1989, the Bench ordered that further proceedings in the departmental enquiry against the applicant shall remain stay and that order continues till today. The respondents contested the application on the ground that the applicant has been involved in a serious charge of accepting illegal gratification from a blind poor man and a track was laid whereby recovery was effected from the person of the applicant and flimptin test was also applied. However, it is admitted that a criminal case is also pending trial before the competent court. It is stated that the application is devoid of merit as there is no bar in holding simultaneous departmental and criminal proceedings against the applicant.

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3. None is present on behalf of the applicant. The case was taken up in the pre-lunch session when the counsel Shri Shankar Raju informed that Shri A.S.Grewal has not come and some other lawyer informed him while coming to the Tribunal that a mention be made before the Bench to give the case a pass-over. We therefore adjourned the case till after-lunch. It is 10 minutes past 4 PM, but Shri Grewal has not come and Shri M.K.Giri counsel is present on behalf of the respondents. Since this is an old case, we have gone through the pleadings of the case and propose to dispose of the same on merits.

4. The only short question in the case is whether the departmental proceedings can be held during the pendency of the criminal trial for the same accusation or not? The matter stand decided by the decision of Hon'ble Supreme Court in the case of Kusheshwar Dubey vs. Union of India reported in AIR 1988 SC 2118 where the Hon'ble Supreme Court held that there is no bar in holding a simultaneous proceedings and no straight jacket formula can be laid down in which cases the respondents, i.e., the administration may refrain from holding simultaneous departmental disciplinary proceedings against such an incumbent. The facts of the case are that the applicant has been accused for accepting illegal gratification and is already ~~z~~ trial in criminal court. Naturally, he would have to take his defence. In view of this, the point blank order of staying departmental proceedings would not be justifiable as lapse of time also fades the memory of the witnesses. However, in the interest of both the


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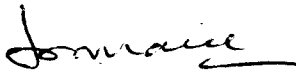
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parties, the administration can go with the examination of the witnesses for the prosecution referred to in the summary of allegations and conclude their statements after giving due opportunity of cross-examining them by the applicant. However, after framing the charge, the applicant should not be allowed to enter on a defence till the conclusion of the criminal trial. This will meet the ends of justice. We, therefore, order accordingly. The application is disposed of accordingly, with no order as to costs.


(B.K.SINGH)
MEMBER(A)


(J.P.SHARMA)
MEMBER(J)

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