

Central Administrative Tribunal
Principal Bench New Delhi.

Date of decision: 12.5.89.

Rg. No. O.A. 704/89.

Shri Kulwant Singh Vs. Commissioner of Police & Ors.

CORAM: Hon'ble Mr. P.Srinivasan, Member (A)
Hon'ble Mr. T.S. Oberoi, Member (J)

For the applicant: Shri Shankar Raju, Advocate.

For the respondents: Shri M.M. Sudan, Counsel.

JUDGMENT. (ORAL)

This application has come up before us today for hearing on admission and the prayer for interim relief.

2. Counsel for the parties have been heard.

3. In this application, the applicant, who is working as a Sub-Inspector in the Delhi Police has prayed that the order dated 17.3.1988 passed by the Deputy Commissioner of Police, VI Bn., Delhi Armed Police (Annex. A-4) be quashed.

That order reads as under:-

"S.I. Kulwant Singh No. D/1630 is placed under suspension with immediate effect.

During the first three months of suspension he will draw subsistence allowance at the rate of an amount equal to the leave salary which he would have drawn, had he been on leave or half average pay and in addition, dearness allowance which he was drawing on the date of suspension. In case suspension exceeds three months, the orders will be revised under F.R. 53.

He should deposit his uniform articles with clothing stores. During suspension, his Headquarter will be Model Town Police Lines Complex, Delhi.

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4. DCP/D.E. Cell Delhi. A Departmental Enquiry against SI Kulwant Singh No. D/1630 may please be conducted. The summary of allegation, memo. of evidence and document is being prepared by ACP-II of Vic. Br. and the same may please be obtained from there...."

4. After the application was filed in this Tribunal on 3.4.1989, the Deputy Commissioner of Police has revoked the suspension of the applicant. A copy of the order issued by the respondents has been furnished to us by the learned counsel for the applicant which we extract below:-

"Sub-Inspector Kulwant Singh No. D/1630 who was placed under suspension vide this office No. 309-79/HAP-6th Bn. DAP dated 17.3.1988 is hereby reinstated with immediate effect without prejudice to departmental enquiry against him.

His period of suspension will be decided later on".

5. The next prayer of the applicant is that the period of suspension be treated as period spent on duty with all consequential benefits.

6. Another prayer made by the applicant is that he be given all promotions notionally during the period of suspension.

7. Shri Shankar Raju, learned counsel for the applicant drew our attention to endorsement No. 4 in the impugned order dated 17.3.1988, extracted above, in which the DCP, D.E. Cell, Delhi was directed to conduct a departmental enquiry against the applicant and it was further stated that the summary of allegations, memo. of evidence and documents were being prepared by A.C.P. (II) of Vigilance Branch. This indicated that the respondents were going to initiate a departmental enquiry against the applicant. Actually, a show cause notice dated 16.2.1988 (Annex. A-1) for imposition of minor penalty had earlier been served on the applicant. The applicant made a representation against the same on 24.2.1988 (Annex. A-2) and the said show cause notice was withdrawn by the DCP Delhi by an order dated 17.3.1988 "without prejudice to any further departmental action against him". Relying on this statement, Shri Shankar Raju submitted that in respect of the same charge, the respondents were contemplating an enquiry for imposing a major penalty and that was why the applicant wanted the impugned order dated 17.3.1988, particularly endorsement No. 4 thereto, to be quashed on the ground that in respect of the same charge, a fresh show cause notice or charge-sheet cannot be issued.

8. Shri M.M. Sudan, counsel for the respondents submitted that he was not aware of the latest position but as seen from the application itself, no fresh memo. of charges had been served on the applicant indicating that a fresh departmental enquiry had been initiated. Therefore, the applicant could have no cause of action and the application was premature.

9. We are inclined to agree with Shri Sudan that



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this application is indeed premature. Endorsement No. 4 in the impugned order dated 17.3.1988 is really an internal communication from the DCP VI Bn. DAP, Delhi to the DCP, D.E. Cell, Delhi. It is admitted that no departmental enquiry has, in fact, been initiated. Even if one is under contemplation, it is not known what charges will be levelled against the applicant and whether they would be the same as the one in respect of which a show cause notice for imposing a minor penalty was served on the applicant and withdrawn later. Thus, since no summary of allegations has been issued to him stating that a departmental enquiry is proposed to be initiated against him, he can have no cause of action at this stage.

10. So far as the applicant's suspension is concerned, which is also a subject matter of this application, the suspension having now been revoked by order dated 3.5.1989 produced before us today, this grievance really does not survive. As regards the treatment of the period of suspension, the applicant will approach the authorities with a representation and the authorities will dispose of the matter in accordance with the rules governing the subject.

11. In view of the above, the application is disposed of on the above terms at the admission stage itself, leaving the parties to bear their own costs.

Abler
(T.S. Oberoi)
Member (J)

P.S. Srinivasan
(P.Srinivasan)
Member (A)