

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 1482/88  
T.A. No.

199

DATE OF DECISION 17.1.1992

<u>Shri Harish Chander</u>	<u>Petitioner</u> Applicant
<u>Shri N. S. Bhatnagar</u>	Advocate for the <u>Petitioner(s)</u> Applicant
<u>Versus</u> <u>Union of India &amp; Others</u>	Respondent
<u>Mrs. Avnish Ahlawat,</u>	Advocate for the Respondent(s)

## CORAM

The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
2. To be referred to the Reporter or not ? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement ? No
4. Whether it needs to be circulated to other Benches of the Tribunal ? No

(Judgement of the Bench delivered by Hon'ble  
Mr. P.K. Kartha, Vice-Chairman)

The applicant, who is a Head Constable of the Delhi Police, is the accused in a criminal case pending before the Criminal Court and simultaneously a departmental enquiry is also pending against him. The allegation against him in both the proceedings is that he has misappropriated certain articles from Malkhana. On 12.8.1988, the Tribunal passed an interim order directing that status quo as of that date be maintained. On 26.9.1988, the above order was made absolute. Thereafter, on 11.10.1988, the Tribunal

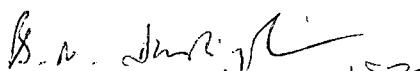
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modified the interim order to the effect that while the authorities may continue the enquiry, they shall not pass final orders without the leave of the Tribunal.

2. The applicant has admitted that the departmental enquiry is complete and that the criminal case against him is likely to conclude soon and is at its final stage. The respondents have urged that in these circumstances, there is no justification for continuance of the stay and prays for its vacation.

3. We have carefully gone through the records of the case and have considered the rival contentions. The apprehension of the applicant is that the respondents in all likelihood might pass an order in the departmental enquiry dismissing him from service. He is hopeful that the verdict of the Criminal Court will be in his favour. In view of this, if the final order in the departmental enquiry is passed before the Criminal Court delivers its judgement, it will cause irreparable injury to him. As against this, the learned counsel for the respondents submitted that the applicant has already disclosed his defence and as the proceedings before the Criminal Court and before the disciplinary authority are at the final stages, there is no justification to continue the stay order.

4. In our opinion, after the final order is passed in the departmental enquiry, the applicant will be at liberty to file a fresh application, in accordance with law, in case the same is adverse to him. The nature of the penalty that may be imposed on him in the departmental enquiry, is hardly relevant. Keeping in view all the facts and circumstances of the case, the application is disposed of with the observation that the respondents may pass the final order in the departmental enquiry on or after 31.3.1992 till which date, the interim order already passed will continue in operation. The applicant would also be at liberty to file a fresh application after exhausting the remedies available to him under the relevant service law, in case he feels aggrieved by the final order passed by the respondents. There will be no order as to costs.

  
(B.N. Dhadialal) 17/1/92  
Administrative Member

  
(P.K. Kartha) 17/1/92  
Vice-Chairman (Judl.)

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