

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 1607/1990
T.A. No.

199

DATE OF DECISION 24.7.1991.

<u>Shri Bal Kishan</u>	Petitioner
<u>Shri A.S. Grewal</u>	Advocate for the Petitioner(s)
Versus	
<u>Commissioner of Police & Others</u>	Respondent
<u>Ms. Ashoka Jain</u>	Advocate for the Respondent(s)

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The Hon'ble Mr. P.K. KARTHA, VICE CHAIRMAN(J)

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*

JUDGMENT

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

The applicant has worked as Sub-Inspector in the Delhi Police and has since retired on 31.7.1990 on attaining the age of superannuation. The applicant along with two others (Rohtash Kumar and Ramesh Singh Rana) were posted at Police Station, Delhi Cantonment during the riots which occurred ~~xxxx~~ ² ~~xxxxx~~ from 31.10.1984 to 1.11.1984 following the assassination of the former Prime Minister, Smt. Indira Gandhi. Shri Ramesh Singh Rana had filed OA 1551 of 1989 in the Tribunal praying that the impugned order dated 2.6.1989 whereby it was proposed to initiate Departmental Enquiry Proceedings against him, be quashed.

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OA 1551/1989 was disposed of by judgment of this Tribunal dated 2.3.1990 to which one of us (Shri P.K. Kartha) was a party. The Government had appointed a Commission of Enquiry headed by Justice Ranganath Misra, the then Judge of the Supreme Court and presently the Chief Justice of India to enquire into the riots which broke out in Delhi. In the Report of the said Commission of Enquiry, there was a mention that large scale killings had taken place in various places in Delhi. Pursuant to the recommendations of the said Commission, the Delhi Administration had appointed a Committee consisting of Justice Dalip K. Kapoor, former Chief Justice of Delhi High Court and Kumari Kusum Lata Mittal, retired Secretary to the Government of India to enquire into the delinquencies of individual Police Officials and to recommend such action as may be called for.

2. Shri Shoorvir Singh, Inspector of Police in Delhi Police as also the present applicant and two of his colleagues mentioned above were alleged to have committed dereliction of duty during the said riots. Shri Shoorvir Singh filed OA 477/87 in this Tribunal challenging his suspension and the order dated 7.11.1986

for initiating a Departmental Enquiry against him. In its judgment dated 3.12.1987 in Shoorvir Singh Vs. Lt. Governor Delhi & Others, 1988(7) ATC 535, the Tribunal quashed the order whereby the applicant was placed under suspension as also the order whereby a Departmental Enquiry was initiated against him. The Tribunal observed that a Committee having been set up pursuant to the recommendations of the Misra Commission to enquire into the delinquencies of individual Police Officials and to recommend such action as may be called for. It is premature to hold the Departmental Enquiry against the applicant. The conduct of the applicant along with others similarly placed is bound to be gone into by the Committee appointed by the Delhi Administration and it will prejudice the cause of the applicant if the Departmental Enquiry is held at this stage even before the outcome of the proceedings of the Committee is known. It was, therefore, observed that to hold the Departmental Enquiry against the applicant ignoring the case of several others similarly circumstanced, as the applicant, will result in hostile discrimination. Therefore, any action against the applicant can be taken only in the light of the

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recommendations of the Committee, as and when made; not earlier.

3. OA 1551/89 filed by Shri Rana was allowed and the impugned order dated 2.6.1989 whereby it was proposed to initiated Departmental Enquiry Proceedings against him, was set aside and quashed by the Tribunal.

4. The applicant in the present case is relying upon the decision of this Tribunal in Shoorvir Singh's case and Ramesh Singh Rana's case, mentioned above. The applicant had been placed under suspension with effect from 15.11.1984 and he continued to be under suspension till he retired on 31.7.1990. On 2.6.1989 a regular Departmental Enquiry was also initiated against the applicant. In the present application he has prayed that following the decision of the Tribunal in Shoorvir Singh's case and Ramesh Singh Rana's case, that the order of suspension as well as the order proposing to initiate Departmental Proceedings against him should be set aside and quashed. He has further prayed that the respondents be directed to pay pension, gratuity and other retirement benefits.

5. We have gone through the records of the case and have considered the rival contentions. Following the ratio in Shoorvir Singh's case and in the case of Ramesh Singh Rana,

9

we hold that the applicant is entitled to succeed in the present application as he is also similarly situated. Accordingly, the application is disposed of with the following orders and directions:-

- (i) The impugned order dated 15.11.1984 whereby the applicant was placed under suspension and the impugned order dated 2.6.1989^{or} whereby it was proposed to initiate Departmental Enquiry Proceedings against the applicant are set aside and quashed. The applicant would be entitled to full pay and allowances during the period of suspension from 15.11.1984 to 31.7.1990.
- (ii) The applicant would be entitled to full pension, gratuity and other retirement benefits admissible to him under the relevant rules.
- (iii) The respondents are directed to comply with the above directions within a period of three months from the date of receipt of this order.

There will be no order as to costs.

B. N. Dhoundiyal
(B.N. DHOUNDIYAL) 24/7/91
MEMBER (A)

P. K. Kartha
24/7/91
(P.K. KARTHA)
VICE CHAIRMAN (J)