

(7)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. .

Date of decision: 21.2.1992

1.OA 1636/90

Sh.Baljeet Singh ...

versus

Applicant

Commissioner of Police, Delhi. ..

Respondents

2. OA 2077/90

Ajit Singh ..

versus

Applicant

Commissioner of Police, Delhi....

Respondents.

For the applicants in (1)&(2) above

Shri A.S.Grewal,
Counsel.

For the respondents in(1) above ..

Ms.Kum Kum Jain,
Counsel.

For the respondents in(2) above ..

Ms.Ashoka Jain,
Counsel.

CORAM:

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

The Hon'ble Mr. D.K.Chakravorty, Administrative Member

1. Whether Reporters of local papers may be allowed
to see the Judgment? *Yes*

2. To be referred to the Reporters or not? *Yes*

JUDGMENT

(of the Bench delivered by Hon'ble Mr.D.K.Chakravorty,
Member).

As common questions of law have been raised in these applications, it is proposed to deal with them in a common judgement.

2. In both these cases criminal prosecutions are pending against the applicants for specific offences under the Indian Penal Code and simultaneously, departmental proceedings have also been initiated against them on the same facts. The Tribunal has passed interim orders directing the respondents not to proceed with the departmental enquiry against them during the pendency of the criminal case. The

interim orders have been continued thereafter till the cases were heard finally on 6.2.1992 and orders reserved thereon.

3. In OA 1636/90, the applicant, who was appointed to the CRPF, went on deputation to Delhi Police as Constable on 7.4.88. When he was posted in 3rd Bn.D.A.P he was detailed for duty to escort undertrial criminal Sanjay @ Bitto son of Sh.Prem Shanker r/o Meerut to be produced in the court of Miss Asha Manon, M.M.Tis Hazari Delhi on 7.2.90. The undertrial was involved in case F.I.R.No.37/90 u/s 380 I.P.C P.S.Rajouri Garden, Delhi. The said accused managed to escape from the custody of the applicant and as such a criminal case F.I.R No.32/90 u/s 223/224 I.P.C dated 7.2.90 was registered against the applicant and he was arrested in this case and bailed out. The Deputy Commissioner of Police initiated parallel departmental proceedings against him by order dated 4.4.90. The Enquiry Officer has also served on him a summary of allegations on 16.5.90.

4. In OA 2077/90, the applicant, while working as Head Constable in the Delhi Police, was arrested in case FIR No.574 dated 9.12.84 u/s 147/148/149/307 I.P.C and u/s 107/151 Cr.P.C. P.S.Punjabi Bagh West District, New Delhi. The aforesaid criminal case is still pending in the court of Shri S.P.Singh Choudhary, Additional District & Sessions Judge, Delhi and the next date of hearing is 29.1.1991 for prosecution evidence. On 19.9.90, the Deputy Commissioner of Police initiated a parallel departmental enquiry against him on the same evidence. An Enquiry Officer has been nominated to conduct the departmental

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enquiry.

5. The applicants in both cases have prayed for quashing the departmental enquiry initiated against them.

6. The respondents have contended that there is no bar to proceed with the departmental enquiry simultaneously when the criminal proceedings are pending trial in the criminal court. They have not, however, denied that the subject matter of the two proceedings is the same founded on the same facts.

7. We have carefully gone through the records of the case and have considered the rival contentions. The legal position is well settled. In a case where the criminal action and the disciplinary proceedings are grounded upon the same set of facts, the disciplinary proceedings should be stayed (vide Delhi Cloth and General Mills Ltd. Vs. Kushal Bhan, AIR 1960 SC 806; Tata Oil Mills Co. vs. Its Workmen, AIR 1965 SC 155; Kusheshwar Dubey Vs. M/s. Bharat Coking Coal Limited, AIR 1988 SC 2118).

8 In the light of the above legal position, we are of the opinion that the applicants are entitled to succeed in these cases. Accordingly the applications are disposed of with the following orders and directions:-

(1) We set aside and quash the departmental enquiry initiated against the applicant in OA 1636/90 on 4.4.90 and against the applicant in OA 2077/90 on 19.9.90. The respondents are restrained from proceeding with the departmental enquiry so long as the criminal proceedings are pending in the criminal court.

2 (2) After the decision in the criminal case is pronounced, the respondents

will, however, be at liberty to initiate disciplinary proceedings against the applicants for any alleged misconduct, in accordance with law.

(3) The interim orders dated 17.8.90 in OA 1636/90 and dated 12.10.90 in OA 2077/90 are hereby made absolute.

(4) There will be no order as to costs.

Let a copy of this order be placed in both the case files.

D.K. Chakravorty 21/2/92
(D.K. CHAKRAVORTY)
MEMBER(A)

P.K. Kartha 21/2/92
(P.K. KARTHA)
VICE CHAIRMAN(J)