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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 181/1990. DATED: 25-1-1991.

Baljit Singh & Another ..... Applicants.

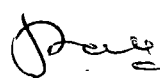
V/s.

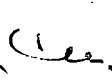
Commissioner of Police and  
Others ..... Respondents.

CORAM: Hon'ble Mr. P.C. Jain, Member (A).  
Hon'ble Mr. J.P. Sharma, Member (J).

Shri A.S. Grewal, counsel for the applicants.  
Shri M.M. Sudan, counsel for the respondents.

1. Whether Reporters of local papers may be allowed to see the judgment? *yes*
2. Whether to be referred to the Reporter or not? *yes*
3. Whether their lordships wish to see the fair copy of the judgment? *No*.
4. Whether to be circulated to all Benches of the Tribunal? *No*.

  
(J.P. SHARMA)  
Member (J)

  
(P.C. JAIN)  
Member (A)

(11)

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Shri M.M. Sudan, counsel for the respondents.

(Judgment of the Bench delivered by  
Hon'ble Mr. P.C. Jain, Member (A).)

JUDGMENT

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicants, who are constables in Delhi Police, have impugned order dated 17.11.1989 (Annexure 'B' to the O.A.) whereby a regular departmental enquiry has been ordered against them and the Summary of Allegations (Annexure 'C' to the O.A.) and have prayed that the impugned order dated 17.11.89 and the Summary of Allegations be set aside.

2.      Relevant facts, in brief, are that the applicants are constables in Delhi Police. On the basis of F.I.R. No.436/89, dated 9.11.1989 under Section 509/114, I.P.C. P.S. Darya Ganj, Delhi, they were arrested on 10.11.89 and released on bail on 10.11.1989 by the court of Shri Naipal Singh, M.M. Tis Hazari Courts, Delhi. Copy of the F.R. is at page 14 of the paper book. One Smt. Kamini Gupta d/o Shri A.S. Shinghal, resident of Kashmere Gate, Delhi, lodged a complaint that on 9.11.89 at 9.05 P.M., when she was travelling a D.T.C. bus on route No.26, she was sitting on a lady seat. Constable Baljit Singh and Constable Bajrang Lal boarded the same bus from Red Fort. Constable Baljit Singh took seat with her. Just after sitting the constable with her, she left that seat and occupied the next lady seat. Both the aforesaid constables

discussed some thing and constable Baljit Singh mischievously left his seat and again sat by the side of Smt. Gupta. She further stated that Constable Baljit Singh had consumed liquor and she had asked him as to why he again came to her seat. On this, he pushed her with a intent to outrage her modesty and bent upon her privacy. On raising alarm the DTC bus was stopped and she took them to P.S. Darya Ganj where on her complaint a case FIR No.436 dated 9.11.89 u/s 509/114 I.P.C. P.S. Darya Ganj, Delhi was registered against them. Both the constables were placed under suspension with effect from 10.11.89 for their grave misconduct, and as per the impugned order dated 17.11.89, and the Summary of Allegations, departmental proceedings have been initiated against them.

3. The case of the applicants is that on the aforesaid alleged incident, a departmental enquiry has been ordered and that parallel proceedings in the departmental enquiry along with the criminal case will cause prejudice to their defence in the criminal case. It is also stated that the main and material witnesses in the criminal case as well as in the departmental enquiry are the same and they are inimically disposed towards them.

4. The respondents have contested the application and have stated in their reply that "In such cases where the misconduct of the defaulter is of a serious nature, a parallel departmental enquiry can be initiated against them." In para 5(d) of their written statement, the respondents have, however, admitted that the witnesses and documents as well as allegations levelled against the applicants are similar in nature in the D.E. proceedings as well as in the criminal case. They have pleaded that their misconduct being of a serious nature requires immediate disciplinary action against them. It is admitted that the applicants submitted an application for withholding

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the Departmental Enquiry against them, but their request was found untenable.

5. We have perused the material on record and have also heard the learned counsel for the parties on merits of the case.

6. Ordinarily, there may be no bar to a departmental enquiry being held against a Government servant even if a criminal case is pending against him in a court of law. However, where the criminal case and the disciplinary proceedings are grounded upon the same set of facts, it may be in the interest of justice that disciplinary proceedings are stayed. Relevant observations of the Supreme Court in the case of Kusheshwar Dubey Vs. M/s. Bharat Cooking Coal Ltd. & Ors. (AIR 1988 SC p. 2118) are reproduced below: -

"The view expressed in the three cases of this court seem to support the position that while there could be no legal bar for simultaneous proceedings being taken, yet, there may be cases where it would be appropriate to defer disciplinary proceedings awaiting disposal of the criminal case. In the latter class of cases it would be open to the delinquent employee to seek such an order of stay or injunction from the Court. Whether in the facts and circumstances of a particular case there should or should not be such simultaneity of the proceedings would then receive judicial consideration and the Court will decide in the given circumstances of a particular case as to whether the disciplinary proceedings should be interdicted, pending criminal trial. As we have already stated that it is neither possible nor advisable to evolve a hard and fast, straight-jacket formula valid for all cases and of general

application without regard to the particularities of the individual situation. For the disposal of the present case, we do not think it necessary to say anything more, particularly when we do not intend to lay any general guideline."

" In the instant case, the criminal action and the disciplinary proceedings are grounded upon the same set of facts. We are of the view that the disciplinary proceedings should have been stayed and the High Court was not right in interfering with the trial court's order of injunction which had been affirmed in appeal."

7. In the case before us, a perusal of the F.I.R. and the narration of events in the impugned order of the Addl. Deputy Commissioner of Police dated 17.11.89 as also the Summary of Allegations shows that the allegations in regard to the incident on which both the proceedings are based are virtually the same. On the other hand, the respondents themselves have admitted in their written statement that the witnesses and documents as well as allegations levelled against the applicants are similar in nature in the D.E. proceedings as well as in the criminal case. They have not produced anything to show that the parallel departmental proceeding would not cause prejudice to the defence of the applicants in the criminal case, when admittedly the proceedings are grounded on the same facts.

8. In view of the foregoing discussion, we are of the view that the disciplinary proceedings initiated against the applicants in pursuance of order dated 17.11.89 should be stayed till the disposal of the criminal case and we direct accordingly. However, there is neither any material on record nor any justification for quashing either the impugned order dated 17.11.89 or the Summary of Allegations and the prayer of the

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applicants in this regard is disallowed. The O.A.  
is thus partly allowed as above. We leave the parties  
to bear their own costs.

*J. P. Sharma*  
(J.P. SHARMA) 28/11/91  
Member (J)

*P. C. Jain* 25/11/91  
(P.C. JAIN)  
Member (A)