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CENTRAL ADMINISTRATIVE TRIBUNAL:PRINCIPAL BENCH.

O.A. NO. 24/90

New Delhi this the 4th day of July, 1994.

Shri N.V. Krishnan, Vice Chairman(A).

Smt. Lakshmi Swaminathan, Member(J).

Hari Singh,
S/o Shri Pirthi Singh,
R/o Qr. No.51, P.S. Civil Lines,
Delhi. ...Applicant.

By Advocate Shri Shanker Raju, proxy for Shri A.S. Grewal, Counsel.

Versus

1. Lt. Governor of Delhi through
Chief Secretary,
Delhi Administration,
Delhi.

2. Commissioner of Police Delhi,
Delhi Police Headquarters,
MSO Building,
I.P. Estate,
New Delhi.

3. Deputy Commissioner of Police,
Central District,
P.S. Darya Ganj,
Delhi. ...Respondents.

By Advocate Ms S. Prakash, proxy for Mrs Avnish Ahlawat, Counsel for the respondents.

ORDER(ORAL)

Shri N.V. Krishnan.

The applicant, who was working as a Sub-Inspector in Police Station Original Road, was placed under suspension by the Supdt. of Police, Central District, on 5.10.1977 (Annexure-A) on the allegation of his having committed irregularities in the investigation of a case, FIR No. 527 dated 2.9.1977 under Sections 420, 511 and 120-B IPC. It is stated that, in connection with this matter, a criminal case was registered against the applicant under FIR No. 556/77 under Sec.409 IPC. The applicant was tried for the said offence and he was acquitted by the judgement dated 16.12.1988 (Annexure-B) of the Additional Chief Metropolitan Magistrate, Delhi.

2. However, in the meanwhile, while he was under suspension and the criminal case was also pending, the respondents passed an order on 22.8.1988 under FR 56(j), compulsorily retiring the applicant from service. Against that order of compulsory retirement, the applicant filed O.A. No. 1031/89 in which judgement was rendered on 22.1.1993. The impugned order of compulsory retirement was quashed. The applicant was directed to be reinstated and paid 50% of the pay and allowances from 22.8.1988, (i.e. the date of compulsory retirement) upto the date of reinstatement. In the said order, note was taken on the fact that the applicant was placed under suspension in 1977 as mentioned above. Accordingly, a further direction was issued to the respondents that appropriate orders regarding pay and allowances of the applicant during period of suspension from 5.10.1977 to 22.8.1988 should also be passed in accordance with the relevant rules and in the light of the judgement in the criminal case.

4. In pursuance of this decision, the matter was pursued by the applicant. Thereupon, the third respondent, the Deputy Commissioner of Police, Central District, has passed an order on 9.12.1993 indicating that a decision in regard to the suspension for the period from 5.10.1977 to 21.8.1988 could be taken only after the present O.A., which was filed earlier, is finally decided.

5. The learned counsel for the applicant has produced for our perusal the judgement dated 22.1.1993 in O.A. 1031/89 and the aforesaid order dated 9.12.1993 of the third respondent. Copies of these documents have been kept on record.

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6. When this matter was heard by us, we felt that, apparently the order of suspension (Annexure-A) has nothing to do with the judgement of the criminal case (Annexure-B), wherein the applicant was acquitted. In the order of suspension, there is a reference to irregularities committed by the applicant in investigating FIR No. 527 dated 22.9.1977. As against this, in para 1 of the Annexure-B judgement, it is stated that the allegation against the applicant was that he recovered a sum of Rs.2800/- from Prakash Chand and Rs.8000/- from Suresh Chander, being case property relating to FIR No. 1044/77 under Sec.420 IPC, ^{but} did not deposit this in the malkhana. In other words, the alleged irregularity in investigation is supposed to have been committed in respect of a different FIR. However, the matter is somewhat made clear by para 7 of the judgement where reference is also made to FIR No. 527, in regard to the irregularities in the investigation of which, the applicant was suspended. Annexure 'E' show cause notice dated 22.12.1989 of the third respondent, impugned in this O.A., also mentions the same details as are given in para 1 of the judgement. This is also repeated in the reply.

7. We are, therefore, satisfied that the Annexure-B judgement was delivered in a criminal case which was instituted after the applicant was suspended on account of the irregularities committed by him as stated in the Annexure-A order of suspension.

8. It is unfortunate that neither party appears to have apprised the Bench which heard O.A. 1031/89 that, in regard to the period of suspension, the present O.A. has been filed impugning the show cause notice dated 22.12.1988 (Annexure-E). Had that been done, that Bench itself might have passed appropriate orders in this regard which would have disposed of this O.A. also.

9. Considering the fact that a direction has already been given to the respondents to pass appropriate orders regarding pay and allowances of the applicant during the period of his suspension from 5.10.1977 to 22.8.1988 in the judgement in O.A. 1031/89, we are of the view that the show cause notice dated 22.12.1989 impugned in this O.A. cannot subsist and accordingly it is liable to be quashed. This will now enable the respondents to pass suitable orders, in accordance with law, in respect of the suspension period, as mentioned in the order of the third respondent dated 10.12.1989.

10. In this view of the matter, this O.A. is partly allowed. We quash the Annexure-E show cause notice dated 22.12.1989 with a further direction to the respondents to comply with the directions given to them in the judgement dated 22.1.1993 in O.A. 1031/89 in respect of the suspension period, within a period of three months from the date of receipt of a copy of the order. The O.A. is disposed of accordingly. No costs.

Lakshmi Swaminathan
(LAKSHMI SWAMINATHAN)
MEMBER(J)

N.V. Krishnan
(N.V. KRISHNAN)
VICE CHAIRMAN(A)