

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

(5)

Regn.No.OA 2725/90

Date of decision: 10.01.1992.

Shri Bishamber Singh

...Applicant

Vs.

Lt. Governor of Delhi & Others

...Respondents

For the Applicant

...Shri S.S. Tiwari,
Counsel

For the Respondents

...Shri Dinesh Kumar,
Counsel

CORAM:

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

JUDGMENT

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

The applicant who has worked as Sub Inspector in the Delhi Police is aggrieved by the impugned order dated 3.12.1990 whereby the penalty of dismissal from service was imposed on him. He has prayed for ^{or} reinstating him and ^a directing the respondents to give him all consequential benefits including pay etc.

2. The impugned order dated 3.12.1990 refers to FIR No.379 dated 2.11.1989 under Section 376-B 506/34 IPC, P.S. R.K. Furam, in which the applicant along with two others were the accused. The allegation against the accused was

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that they committed rape with one Smt. Nirmla Gupta on 1.11.1989 in the Police Station Building. The disciplinary authority stated that the circumstances of the case were such that holding an enquiry against them was not reasonably practicable because "it is not uncommon in such cases to find the complainants and witnesses turning hostile due to fear of reprisals, terrorising, threatening or intimidating the witnesses who will come forward to give evidence against them in the D.E. are common tactics adopted by the policemen".

3. We have gone through the records of the case and have heard the learned counsel for both parties. In our opinion, the reasons given for dispensing with the enquiry and invoking the provisions of Article 311(2)(b) of the Constitution are totally insufficient in law. Our view gains support from the recent decisions of the Supreme Court in Jaswant Singh Vs. State of Punjab & Others, 1990(2) SCALE 1152 and Chief Security Officer & Others Vs. Singasan Rabi Das, 1991(1) SCALE 47.

4. Apart from the above, it is pertinent to observe that the court of the Additional Sessions Judge in Sessions Case No.33/90 by judgment dated 30.4.1991 held that the prosecution has totally failed to prove the case against the accused persons and all the accused persons were acquitted of the charges framed against them. Rule 12 of the Delhi Police (Punishment & Appeal) Rules, 1980 provides, inter alia, that when a police officer has been tried and acquitted by a criminal court, he shall

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not be punished departmentally on the same charge. In the instant case, acquittal ^{of a} ~~the applicant~~ ^{was a} ~~on the merits~~ and not by giving him benefit of doubt or on technical grounds.

5. In the light of the above discussion, we allow the application. The impugned order dated 3.12.1990 is set aside and quashed, so far as it applies to the applicant. The respondents are directed to reinstate the applicant as Sub Inspector within a period of one month from the date of communication of this order. They shall pay him full back wages from the date of dismissal to the date of reinstatement within the same period. He would be entitled to full pay and allowances for the period of his suspension which shall also be treated as duty for all purposes. The applicant would also be entitled to all other consequential benefits. The interim order passed on 26.12.1990 restraining the respondents from evicting the applicant from Govt. accommodation at Quarter No.F-3/3, Andrews Ganj, Police Colony, New Delhi, is hereby made absolute.

There will be no order as to costs.

B.N. Dhoundiyal
(B.N. DHOUNDIYAL)
MEMBER (A)

P.K. Karth
10/1/92
(P.K. KARTH)
VICE CHAIRMAN (J)

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