

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

21

O.A.499/90

New Delhi, This the 15th Day of July 1994

Hon'ble Shri C.J.Roy, Member(J)

Hon'ble Shri P.T.Thiruvengadam, Member(A)

1. Shri Jagbir Singh Constable No.2276/DAP
S/o Shri Ram Mehar C/o Sh. Kadam Singh
Village & P.O. Ujwa, Delhi 110073.

2. Shri Ram Phal Constable No.2543/DAP
s/o Shri Musaddi Ram r/o Barrack No.11
New Police Lines, DelhiApplicants

By Shri A S Grewal, Advocate
Versus

1. Lt.Governor of Delhi, Through Chief
Secretary, Delhi Administration
Raj Niwas, Delhi.

2. Commissioner of Police Delhi
Delhi Police Headquarters
M.S.O. Building, I.P. Estate
New Delhi.

3. Additional Commissioner of Police
Armed Police Delhi
Delhi Police Headquarters
M.S.O. Building, I.P. Estate, New Delhi.

4. Deputy Commissioner of Police
3rd Bn. D.A.P. New Police Lines
Kingsway Camp, Delhi. Respondents

By Advocate SMs Suchitra Prakash with
Shrimati Avnish Ahlawat

O R D E R(oral)

Hon'ble Shri C.J. Roy, Member(J)

1. None present for the applicant. Shri AS Grewal counsel for applicant has asked for specific time for to-day for looking into some legal aspects of the case. This is a case where Shri A S Grewal argued the case only on the point that during disciplinary proceedings the applicant filed a petition for staying of the proceedings. Without considering this the proceedings have been gone through and the applicant who was a police constable was put under departmental enquiry

22

20

for having acted negligently in the escape of an undertrial Gurdeep Singh. During the course of the hearing he filed an amended application stating that he was dismissed from service by Deputy Commissioner of Police and an appeal was preferred by him which was also rejected. As stated supra he contends that he has filed a petition for stay of the proceedings. Without disposing that petition the proceedings have been completed and he was finally removed from service and his appeal was also dismissed.

2. The only point before us is that without disposing of his application to stay the proceedings, ^{whether} conducting disciplinary proceedings against him when the same is pending before the criminal court is lawful? The applicant has not come before us with any legal points for which he has specifically asked for time to-day. Mrs. Avnish Ahlawat, counsel for respondents is present to-day and argued the case and drew our attention to an observation of the Hon'ble Supreme Court ^{stating} ~~calling~~ on the same point as reported in Tata Oil Mills Vs Workman in AIR 1965 SC page 155. Para nine of the said judgement is quoted below:-

"There is yet another point which remains to be considered. The Industrial Tribunal appears to have taken the view that since criminal proceedings had been started against Raghavan, the domestic enquiry should have been stayed pending the final disposal of the said criminal proceedings. As this Court has held in

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23

28

the Delhi Cloth and General Mills Ltd Vs
Kaushal Bhan, 1960-3 SCR 227:(AIR 1960 SC 806) :
it is desirable that if the incident giving rise
to a charge framed against a workman in a domestic
enquiry is being tried in a criminal court,
the employer should stay the domestic enquiry
pending the final disposal of the criminal
case. It would be particularly appropriate
to adopt such a course where the charge against
the workman is of a grave character, because
in such a case, it would be unfair to compel
the workman to disclose the defence which he
may take before the criminal court. But to
say that domestic enquiries may be stayed
pending criminal trial is very different from
anything(sic) that if an employer proceeds
with the domestic enquiry in spite of the fact
that the criminal trial is pending, the enquiry
for that reason alone is vitiated and the
conclusion reached in such an enquiry is either
bad in law or mala fide. In fairness, we ought
to add that Mr. Menon did not seek to justify
this extreme position. Therefore, we must hold
that the Industrial Tribunal was in error when
it characterised the result of the domestic
enquiry as mala fide partly because the enquiry
was not stayed pending the criminal proceedings
against Raghavan. We accordingly hold that the
domestic enquiry in this case was properly
held and fairly conducted and the conclusions
of fact reached by the Enquiry Officer are based
on evidence which he accepted as true. That being
so, it was not open to ^{the} Industrial Tribunal to
~~reconsider~~ the same questions of fact and come
to a contrary conclusion."

(2A)

3. In view of the above observations made
by the Hon'ble Supreme Court we feel that the
applicant has not made out any case ^{on the merits of the case} for our
interference and therefore the petition is
dismissed as devoid of merits. No costs.

P. T. Thiruvengadam

(P.T. THIRUVENGADAM)
Member(A)

C. J. Roy
(C.J. ROY)
Member(J)

LCP