

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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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 BMS 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

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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 Ambawat, 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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the Delhi Cloth and General Mills Ltd Vs Kaushal Bhan, 1960-3 SCR 227: (AIR 1960 SC 606): 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 Industrial Tribunal to reconsider the same questions of fact and come to a contrary conclusion."

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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 for our interference and therefore the petition is dismissed as devoid of merits. No costs.

P. T. T.

(P.T. THIRUVENGADAM)
Member (A)

(C.J. ROY)
Member (J)

LCP