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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA-458/91

Date of decision: 21.2.1992

Shri Vijay Kumar Applicant

Versus

Commissioner of Police Respondents
and Others

For the Applicant Shri A.S. Grewal, Advocate

For the respondents Shri B.R. Prashar, Advocate

CORAM:

The Hon'ble Mr. P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr. D.K.Chakravorty, 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 is working as a Constable in the Delhi Police, has challenged in this application, the order dated 20.9.1990 passed by the Deputy Commissioner of Police, whereby parallel departmental enquiry during the pendency of a criminal case has been initiated against him. *2*

....2..,

2. The applicant was arrested falsely in criminal case F.I.R. No. 369/88 dated 16.12.1988 under Section 363 I.P.C., P.S. Krishan Nagar, East District, Delhi, and was released on bail. Initially, a parallel departmental enquiry was initiated but on an application by the applicant the same was held in abeyance and ~~xxxx~~ was not contemplated as per Memo. No. 15607/CR-III dated 27.7.1989 issued by the Deputy Commissioner of Police, Headquarters-I, Delhi. It was mentioned in the said Memo. that since a criminal case against the applicant is still pending in the court, no departmental enquiry is contemplated at this stage on the same charge and the court verdict be awaited, whereafter action can be taken as per provisions contained in Rules 11 and 12 of the Delhi Police (Punishment and Appeal) Rules, 1980. However, on 20.9.1990, the Deputy Commissioner of Police ordered initiation of parallel departmental enquiry during the pendency of the criminal case.

3. The respondents have contended that there is no bar to proceed with the departmental enquiry simultaneously when the criminal proceedings are pending trial in the criminal court. They have not, however, denied that the subject matter of the two proceedings is the same founded on the same facts.

....3...

4. We have gone through the records of the case carefully and have considered the rival contentions. The legal position is well settled. The Supreme Court has held that in a case where the criminal action and the disciplinary proceedings are grounded upon the same set of facts, the disciplinary proceedings should be stayed (vide Delhi Cloth and General Mills Ltd. Vs. Kushal Bhan, AIR 1960 S.C. 806; Tata Oil Mills Co. Vs. Its Workmen, AIR 1965 S.C. 155; Kusheshwar Dubey Vs. M/s Bharat Coaking Coal Ltd., AIR 1968 S.C. 2118).

5. In view of the foregoing, we set aside and quash the departmental enquiry initiated against the applicant by order dated 20.9.1990. The respondents are restrained from proceeding with the departmental enquiry so long as the criminal proceedings are pending in the criminal court. After the decision of the criminal court is pronounced, the respondents will be at liberty to initiate disciplinary proceedings against the applicant for any alleged misconduct, in accordance with law. The interim order passed on 19.3.1991 is hereby made absolute.

There will be no order as to costs.

D. K. Chakravorty
(D.K. Chakravorty)
Administrative Member
21/2/92

P. K. Kartha
(P.K. Kartha)
Vice-Chairman(Judl.)
21/2/92