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Central Administrative Tribunal, Principal Bench, New Delhi

O.A.No.2908/2004

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr.S.A. Singh, Member(A)

New Delhi, this the 6th day of December, 2004

Shri Onkar Singh,
S/o late Shri Brahm Singh,
R/o V&PO : Sinouli,
Dist: Bagpat, U.P.

.....Applicant

(By Advocate: Shri R.N. Singh)

Versus

1. The Commissioner,
Delhi Police,
Police Headquarters
I.P. Estate, New Delhi-2
2. Additional Deputy Commissioner of Police,
Delhi Police,
South District, Hauz Khas,
New Delhi.
3. Shri Sandeep Byala,
Enquiry Officer,
Additional SHO, Ambedkar Nagar,
New Delhi
4. Union of India,
Ministry of Home Affairs,
North Block, New Delhi-1
(Through: The Secretary)

.....Respondents

Order(Oral)

Justice V.S. Aggarwal, Chairman

The applicant is a Constable in Delhi Police. He had been served with the following order:

"It is alleged against Const. Onkar Singh No.1559/SD (PIS No.28860934) (hereinafter called the Const.) that on 15/7/04 while posted at P.S. Okhla Industrial Area he was handed over the custody of accused Mukesh Kumar s/o Shyam Lal r/o Jhuggi No. G-28, Sanjay Colony, Okhla Phase-II whereas accused Babu Lal s/o Chaman Lal r/o Jhuggi No. A-27, Gola Kuan, Tehkhand was in custody of Const. Birender No. 1585/SD who were arrested in case FIR No.499/04, u/s 396/412/120B P.S. Okhla. The accused were on two days police custody remand at P.S. Okhla Industrial Area vide DD No. 24-A dated 16.7.04 at Sankraman Kaksh of the PS. At about 5.30 P.M. accused Mukesh Kumar requested to attend the natural call, hence the Const. took him to the toilet of, unlocked the handcuff & waited for him outside the toilet. When the accused did not come out of the toilet, the Const. opened the door & found that accused had escaped by breaking the ventilator grill of the toilet. Whereas the Const. was required to be highly alert as the accused Mukesh involved in a heinous case.

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Subsequently a case FIR No.509/04 u/s 223/224 IPC was registered at P.S. Okhla and the Const was placed under suspension w.e.f. 16.7.04 vide this office No.7373-90/SD(P-II) dated 27.7.04.

The above act on the part of Constable (Exe.) Onkar Singh No.1559/SD amounts to grave misconduct, negligence, dereliction in the discharge of his official duties and unbecoming of a police officer which renders him liable for departmental action under the provisions Delhi Police (Punishment & Appeal) Rules, 1980.

Now, therefore, I, Anil Shukla, Addl. Deputy Commissioner of Police, South Distt., New Delhi hereby order that a departmental enquiry be conducted against Constable (Exe.) Onkar Singh No.1559/SD. The DE is entrusted to Insp. Sandeep Bayala A.S.H.O. who will conduct it on a day-to-day basis and submit his findings to the undersigned expeditiously.

The E.O. will also submit weekly progress report of the DE on every Friday to the undersigned through HAP/SD.

Sd/-
ADDL.DY.COMMISSIONER OF POLICE,
SOUTH DISTT NEW DELHP

2. Pertaining to the same assertion, a First Information Report dated 16.7.2004 had been registered at the concerned Police Station. The precise grievance of the applicant is that pertaining to the same matter when a criminal case has been registered, departmental proceedings should not be initiated.

In the facts it is
3. ~~It becomes~~ unnecessary for us to delve into the legal position and therefore, we are not expressing on the merits of the matter.

4. This is for the reason that the applicant relies upon the Standing Order No.125 issued by the Commissioner of Police and on the strength of the same, contends that it has been directed that where a criminal case is registered against a police officer, parallel departmental proceedings should be kept in abeyance.

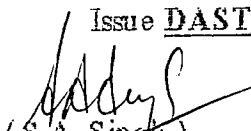
5. We had put it to the learned counsel for the applicant as to whether he had submitted such a representation to the disciplinary authority. In answer to the same, the learned counsel informed us that the departmental proceedings are already fixed for today and, therefore, he did not have enough time to submit such a representation.


6. Taking stock of the totality of facts and circumstances, particularly when the rights of the respondents are not likely to be affected, it is directed that the disciplinary authority would consider the said request of the applicant and pass an appropriate speaking order within two weeks from today. Till then only, the departmental

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proceedings may be adjourned beyond two weeks. O.A. is disposed of.

Issue DAST order.


(S.A. Singh)
Member(A)


(V.S. Aggarwal)
Chairman

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