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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 1274/2004

&

OA NO. 784/2004

New Delhi, this the 7th day of March, 2005

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

OA No. 1274/2004

SI Om Prakash Jakhar,
PIS No. 16900050
R/o C-2, Police Station,
Sarai Rohilla, Delhi.

...Applicant

OA NO. 784/2004

SI Kamini Gupta,
PIS No. 27870001
R/o 426, PTS,
Malviya Nagar,
New Delhi.

...Applicant

(By Advocate: Shri Arun Bhardwaj)

-Versus-

1. Commissioner of Police,
PHQ, I.P. Estate,
New Delhi.
2. Joint Commissioner of Police,
Operations, PHQ,
I.P. Estate,
New Delhi.
3. Deputy Commissioner of Police,
FRRO, R.K. Puram,
New Delhi.

...Respondents

(By Advocate: Mrs. Rashmi Chopra in OA No. 1274/2004 and
Shri Rishi Prakash in OA No. 784/2004

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O R D E R (ORAL)

Justice V.S. Aggarwal, Chairman:

By this common order, we propose to dispose of the Original Application Nos. 1274/2004 and 784/2004, which basically involve a common question.

2. The admitted facts can conveniently be delineated because at this stage, we are solely concerned with the arguments as to if there is a violation of sub rule (2) to Rule 15 of the Delhi Police (Punishment & Appeal) Rules, 1980 (for short 'Rules') or not.

3. Sub rule (2) to Rule 15 of the Rules, referred to above, reads as under:-

“(2) In cases in which a preliminary enquiry discloses the commission of a cognizable offence by a police officer of subordinate rank in his official relations with the public, departmental enquiry shall be ordered after obtaining prior approval of the Additional Commissioner of Police concerned as to whether a criminal case should be registered and investigated or a departmental enquiry should be held.”

4. The necessary ingredients, as is apparent from perusal of the said rule, can conveniently be delineated - a) there should a preliminary enquiry held; (b) it should pertain to commission of cognizable offence by a police officer of subordinate rank in his official relations with public; (c) in that event, prior approval of Additional Commissioner of Police concerned should be taken as to whether criminal case has to be registered and investigated or departmental enquiry should be held.

5. In the present case before us, the dispute only pertains to the controversy as to whether there is a cognizable offence purported to have

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been committed by the applicants in their official relations with public. Therefore, we need not dwell into the other ingredients, to which there is a little controversy.

6. The charge framed against the applicant reads :

"I, O.P. Yadav, AFFRO/Enquiry Officer charge you (i) WSI Kamini Gupta and (ii) S.I. Om Parkash Jhakar, No. D/3085 that while posted in immigration, Shirt 'D' at I.G.I. Airport, New Delhi, on the intervening night of 9/10.10.2000 you both were seen moving around suspiciously in the Departure lounge of I.G.I. Airport near Air France Boarding counters. Both of you were off duty but you went to the Airport with the sole object of helping pax Surjit Singh holder of Passport No. P-48118 dated 16.4.1993 issued from Jullandhar by getting boarding card issued to him by Air France as he wanted to travel for Abidjan by Air France flight No. AF-147. Surjit Singh was not allowed to travel by Air France a few days back as he was not considered a genuine passenger and as such you both came to the Airport along with Surjit Singh to persue with Air France staff to accept him on their flight. While you were moving suspiciously you were noticed and caught by Shri Deepak Purohit, AFFRO Shirt 'B'. Who was on duty.

Lateron, it was found that three persons including Surjit Singh had paid Rs. 3.5 lakh to a travel agent namely Vishnu Karwal @ Verma operating from Connaught Place, New Delhi for arranging their departure. The said travel agent was known to both of you as the name and residence telephone number of you WSI Kamini Gupta was found written in the personal diary of this travel Agent. On the introduction of travel Agent Vishnu Karwal you both accompanied pax Surjit Singh to the Airport for vested interest with the ulterior motive of getting him cleared from Air France as well as Immigration. to get monetary benefit.

The above act on the part of you (i) WSI Kamini Gupta and (ii) SI Om Parkash Jhakar amounts to gross misconduct and unbecoming of Police officers by indulging in malpractices/corrupt activities in collusion with a travel agent which renders both of you liable for punishment as envisaged in Delhi Police (Punishment & Appeal) Rules, 1980 read with Section 21 of the Delhi Police Act, 1978."

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7. It is not in dispute that against Vishnu Karwal @ Verma, a First Information Report, pertaining to a cognizable offence, had been recorded. Perusal of the charge further shows that so far as the applicants are concerned, it is the case of the respondents that they were colluding with the travel agent by indulging in malpractices and corrupt activities. They were seen suspiciously moving in this regard near Air France Boarding Counter with the sole object to help Surjit Singh by getting him a Boarding Card. This shows that, as per the respondents' own case, the applicants were allegedly in complicity with the travel agent Vishnu Karwal.

8. Once it is so, the rigours of sub rule (2) to Rule 15 of the Rules would be attracted and, therefore, it was necessary that approval of the Additional Commissioner of Police, before starting departmental proceedings in the peculiar facts, should have been taken.

9. In view of the above said findings, we will not dwell into any other controversy or questions raised.

10. Resultantly, we allow the present Original Applications and quash the impugned order. It is directed that, if deemed appropriate, necessary permission of the Additional Commissioner of Police may be taken. Applicants would be entitled to the consequential benefits.

(S.A.Singh)
Member (A)

(V.S.Aggarwal)
Chairman

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