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CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH,
NEW DELHI.

Date of decision: 29.10.92

OA 1283/92

MALKHAN SINGH

... APPLICANT.

Vs.

ADDL. COMMISSIONER OF POLICE
& ANOTHER

... RESPONDENTS.

CORAM:

THE HON'BLE MR. JUSTICE RAM PAL SINGH, VICE CHAIRMAN (J).
THE HON'BLE SHRI I.P. GUPTA, MEMBER (A).

For the Applicant

... SHRI SHANKER RAJU.

For the Respondents

... SHRI PAWAN BEHL

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporters or not ?

JUDGEMENT (ORAL)


After hearing both the counsel at the admission stage, this OA is finally disposed of. In a Departmental Inquiry a penalty was imposed against the applicant. The applicant challenged that order before the Appellate Authority which maintained the order of penalty imposed by the Disciplinary Authority against the applicant. During the Departmental Inquiry, the applicant contends, that when he produced the defence witnesses in his defence, they were extensively cross-examined by the Inquiry Officer. He also contends that he raised this point before the Appellate Authority. The Appellate Authority, in its order, has discussed it in para 2 and has maintained that the role of the Inquiry Officer is of a Judge as well as of a prosecutor and he must try to ascertain the truth.

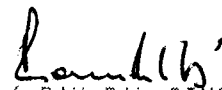
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We have perused the provisions contained in Rule 16 (5) of the Delhi Police (Punishment & Appeal) Rules, 1980, which contains the provision that an Inquiry Officer can, for the purposes of clarification, put questions for eliciting details with regard to the facts stated by him in the Examination-in-Chief. But nowhere this rule provides that Inquiry Officer may subject a defence witness to gruelling cross-examination. There is a difference between a cross-examination and eliciting further details from the witness after his statement has been recorded. The Inquiry Officer should not have acted as a prosecutor as well as a Judge. The cardinal principle of natural justice is that a person who is acting as an Inquiry Officer should be a person with detached mind and should not participate in the cross-examination of a witness.

We are, therefore, of the view that by the cross-examination, by the Inquiry Officer, of the defence witnesses, the Departmental Inquiry stands vitiated. We, therefore, quash the impugned orders passed by the Disciplinary Authority as well as by the Appellate Authority. However, we make it clear that nothing shall preclude the Inquiry Officer from proceeding further in the Departmental Inquiry from the stage of the recording of the defence witnesses. This OA thus stands finally disposed of.

There will be no order as to costs.


(I.P. GUPTA)
MEMBER (A)
29.10.92


(RAM PAL SINGH)
VICE CHAIRMAN (J)
29.10.92