

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

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G.A. No. 2080/92

DATE OF DECISION November 18,
1992

Sh. Ramesh Kumar

Applicant

V/s

Delhi Administration & Ors Respondents

CORAM

Hon'ble Member Sh. P.C.Jain, Member(A)

Hon'ble Member Sh. S.R.Sagar, Member(J)

For the Applicant

Sh.V.P.Sharma, Counsel

For the Respondents

Sh.B.K.Parashar, counsel

JUDGEMENT

(Delivered by Hon'ble Mr.S.R.Sagar, Member(J))

This application under section 19 of the Administrative Tribunal's Act, 1985 has been moved for direction to the respondents not to proceed with the enquiry on the basis of impugned charge sheet dated 19-7-92 (Annexure A-1)

In short, the applicant who is a Constable in the Delhi Police was involved in a criminal case FIR No.110/92 u/s 354/34 I.P.C. Najafgarh, South west, New Delhi (Annexure A-2). As a consequence departmental enquiry was ordered against the applicant and a memorandum dated 19-7-1992 alongwith summary of allegation was served on him by the enquiry officer for departmental action under the Delhi Police Act. The applicant has mainly contended that on the date on which particular offence is alleged to have been committed by him, he was on leave. Learned counsel for the applicant has submitted that as applicant was on leave, he was free to do any sort of things and that departmental action for such acts or lapse on his part even if the same amount to misconduct can not be taken

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against him. We are not in a position to uphold such a general proposition, as it would depend on the facts of a particular case whether a particular act of omission or commission done during the period of leave can amount to a misconduct or not in terms of the relevant conduct rules. However, the main contention which has been urged before us by the learned counsel for the applicant and as has been averred in the application is that no departmental proceeding can be taken against the applicant when criminal case is pending against him in the Criminal Court. The application has been opposed by the respondents by filing their counter affidavit.

We have heard the learned counsel for the parties at length and gone through the records.

It is well settled by a number of decisions of the Supreme Court that there is no legal bar as such to taking some simultaneous action for an offence under criminal law and for departmental action under the relevant departmental rules. In the present case, however during the course of his arguments, the learned counsel for the respondents had made a statement at bar that enquiry against the applicant has already been completed and thus there has remained nothing to be done for progress of the enquiry. In such position, in our view, the prayer of the applicant for direction to the respondents not to proceed with the enquiry on the basis of impugned charge sheet dt. 19.7.92(A-A-I) has become /infructuous.

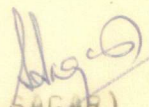
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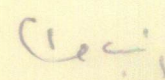
Consequently application is not maintainable/ that prayer.

In case, however the applicant feels aggrieved of the departmental enquiry or finding recorded by the enquiry officer or any order of the disciplinary authority passed by him on the basis of the said enquiry report, he may question the same before the Competent Authority, if so advised.

For the above reasons the, application is dismissed at the admission stage itself. No costs.


(S. R. SAGAR)
MEMBER (J)

10/11/92


(P. C. JAIN)
MEMBER (A)

10/11/92