

Central Administrative Tribunal
Principal Bench: New Delhi

OA No. 2689/92

New Delhi, this the 23rd day of December, 1997

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)
Hon'ble Shri S. P. Biswas, Member (A)

Ex-Constable Surender Nath,
No. 1207/E, Shri R.P. Nigam,
66-C, Karkurdooa,
Delhi Admn. Flats, New Delhi.

..Applicant

(By Advocate: Shri Ashish Kalia)

Versus

Union of India through

1. The Commissioner of Police,
PHQ, MSO Building,
Indraprastha Estate,
New Delhi.

....Respondents

(By Advocate: Shri S.K. Gupta proxy of Sh. B.S. Gupta)

O R D E R (ORAL)

Dr. Jose P. Verghese, Vice-Chairman (J)-

The petitioner in this case is challenging the order of removal passed on 16.4.1991 and the appellate order passed on 13.9.91 passed after the conclusion of the disciplinary proceedings initiated against the petitioner as well as against one Vijay Kumar by a joint enquiry. By an order dated 8.2.1996 in OA No. 2641/91 this court has set aside the same orders in the case of Shri Vijay Kumar the co-delinquent granting liberty to the respondents to proceed with the enquiry afresh after re-instating the said petitioner. It was also stated in the said order with respect to the consequential benefits such as arrears of salary and allowance will depend upon the outcome of the enquiry held, if any, in the circumstances and in accordance with law.

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We have perused the judgement passed by this court on 8.2.1996 and we have no reason to differ from the said decision with respect to the present petitioner as well. Being a joint enquiry, we pass the same order as has already been passed by this court on 8.2.1996 in OA No. 2641/91 in the matter of Vijay Kumar vs. Union of India and ors. (9)

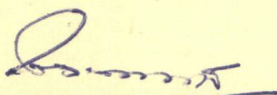
The counsel for the respondents submitted that there is some difference in the present case vis-a-vis the case of Shri Vijay Kumar, as in the present case the petitioner has given a confessional statement in his own writing.

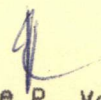
We have perused the original and we found that there was some correction in the said statement and some re-written portion incorporating the corrected version which does not give an impression of being a voluntary confession. In any event, the charge itself refers to the fact that both the petitioners have admitted the guilt and the case of the co-accused has been decided on 8.2.1996 vide OA No. 2641/91. We find no reason not to apply the said decision to the present case as well.

In the circumstances, this OA is allowed and the impugned order as well as the appellate order are set aside and the respondents are given liberty to proceed with the enquiry against the petitioner afresh in accordance with law and the respondents shall also grant all the consequential benefits including arrears

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of pay etc. in case no adverse order is passed against
the petitioner after enquiry. There shall be no order
as to costs.


(S.P. Biswas)
Member (A)


(Dr. Jose P. Verghese)
Vice-Chairman (J)

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