

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No:2737/92

New Delhi this the 4th day of December, 1997.

Hon'ble Shri S.R. Adige, Vice Chairman(A)

Hon'ble Smt. Lakshmi Swaminathan, Member(J)

Shri Mahabir Singh Tyagi,
Ex-Assistant Sub Inspector,
No. 2543/N, 504B/PCR.,
Delhi Police,
resident of Village Bhooni,
Police Station, Sareenpur Khurd,
District Meerut, (U.P.)

..Applicant

(By Advocate Shri Shankar Raju)

Vs.

1. The Deputy Commissioner of Police,
Indra Gandhi International Air Port,
New Delhi.

2. The Commissioner of Police,
Police Headquarters I.P.
Estate, New Delhi.

..Respondents

(By Advocate Shri Amresh Mathur)

ORAL ORAL

(Hon'ble Shri S.R. Adige, Vice Chairman(A))

The applicant impugns the order dated 8.9.92
passed by the disciplinary authority dismissing him from
service in accordance with Article 311(2)(a) of the
Constitution of India.

2. We have heard Shri Shankar Raju and Shri
Amresh Mathur, counsel for the respondents.

3. It is not denied that the impugned dismissal
order has been passed, consequent to applicant having
been convicted under Section 5(2) of the Prevention of
Corruption Act read with Section 161 IPC by the judgment
dated 29.9.81 to undergo rigorous imprisonment for
2 years and fined Rs.1000/- and to undergo 3 years
rigorous imprisonment and fined ~~Rs.~~ Rs.1000/-.

A

(10)

4. Shri Shankar Raju has stated at the Bar that the applicant had filed an appeal against the order of conviction before the Delhi High Court on 29.9.1981 which is still pending. This ~~assertion~~ is not denied by Mathur. In this connection Shri Raju has also invited our attention to the proviso to rule 11(1) Delhi Police(Punishment and Appeal) Rules which states that no order of dismissal/removal from service shall be passed till the result of the first appeal that may have filed by the delinquent officer is known.

5. In this connection, our attention has also been invited to the respondents circular dated 6.1.1994 wherein the above principle has been reiterated.

6. Even if the view is taken that the said circular was issued after the impugned order dated 8.9.92 was passed, there can be no **doubt** that the impugned order dated 8.9.92 violates the Proviso to Rule 11(1) Delhi Police(Punishment and Appeal) Rules.

7. Under the circumstances, the OA succeeds and is allowed to the extent that impugned order dated 8.9.92 is quashed and set aside. We are informed that the applicant attained the age of superannuation on 30.11.94. Respondents are directed to take further necessary action in accordance with law within a period of three months from the date of receipt of a copy of this Order. No costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

Arif Ali
(S.R. Arif Ali)
Vice Chairman (A)

16K