

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 2995 of 1992 199
T.A. No.

DATE OF DECISION 2/9/93

Bishamber Singh & Another

Petitioner

Advocate for the Petitioner(s)

Shri S.S. Tiwari
Versus

Respondent

Union of India & Others

Shri Amresh Mathur

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. J.P. Sharma, Member (Judl.)

The Hon'ble Mr. B. K. Singh, Member (Admn.)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

JUDGEMENT

(By Hon'ble Mr. J.P. Sharma, Member (J))

The applicants have jointly filed this application aggrieved by the order dated 19-10-92. That order has been passed by Dy. Commissioner of Police, rejecting their representation against the initiation of disciplinary enquiry proceedings against the applicants vide office order dated 4/9/1992. The order dated 4-9-1992 is for initiation of disciplinary enquiry against the applicant Shri Bishamber Singh and one Shri Azad Singh, Constable, on misconduct during the course of their employment while the applicant Shri Bishamber Singh was posted as Sub-Inspector and Shri Azad Singh, was also posted as Constable at

R. K. Puram Police Station.

2. The relief claimed by the applicant is to set aside and quash the impugned order dated 19-10-92 with a direction to the respondents to stop departmental proceedings against the applicants.

3. This application was filed on 16-11-92. It was admitted on 12-1-93. By order dated 17-5-93 the departmental proceedings against the applicants were stayed and interim order continued.

4. The respondents contested this application and stated that the applicants are not entitled to the relief prayed for. It is further stated that earlier O.A. No.2431/92 was filed by Shri Bishamber Singh and another assailing the order dated 4-9-1992 for initiation of departmental proceedings again against the applicant along with another Constable under section 21 of the Delhi Police Act, 1978 read with Rule 5 & 6 of Delhi Police (Punishment and appeal) Rule read with rule 1980. This O.A. was disposed of by judgement dated 23-10-1992 by which the Original Application was rejected at the admission stage.

5. We have heard the learned counsels for the parties at length and perused the records. We find that the present application is barred by the principles of per res-judicata as the order passed in O.A. No.2431/92 dated 23/10/92, the operative portion of which is quoted below :-

" We, therefore, see no ground for interfering with the impugned order dated 4/9/92 and the respondents should be free to proceed with the departmental action in pursuance of the impugned order."

6. The above order clearly goes to show that the right to initiate departmental proceedings against the applicants was upheld by the Tribunal and now there is no occasion to again adjudicate the same issue. It appears that after the aforesaid order the criminal case against the applicants on the basis of F.I.R.No. 379/89, P.S., R.K. Puram, which was tried in the Court of Additional Sessions Judge, New Delhi, registered under No.53/90, ended in acquittal of the applicants by order dated 30-4-91. However, this fact was considered in the judgement delivered by the Bench in the earlier order dated 24-11-92 and now there is no scope for the applicant to argue the same matter again.

7. The learned counsel for the applicant, placed emphasis on the provisions of rule 12 of the Delhi Police (Punishment and appeal) Rules, read with rules 1980 and argued that the Dy. Commissioner of Police cannot sit in judgement over the finding of Sessions Court as the applicants have been acquitted by the Session Court by judgement dated 30-4-1991. This fact has already been discussed in detail in the decision in the U.A. No.2431/92 decided on 23-10-92 in which one of us (Hon. Mr. J.P. Sharma, Jdl. Member) was also a party to the judgement.

8. In view of the facts and circumstances of the case, the applicants have no case. The interim order passed on 17-5-1993 is vacated and the respondents are free to proceed with the departmental enquiry against the applicants as per the extant rules and regulations.

No costs.


(B. K. SINGH)
Member (Adm.)


(J.P. SHARMA) 29/9/93
Member (Jud.)

Dated: 2nd Sept. 1993, New Delhi.

(tgk)