

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 3126 /19 92

(8)

DATE OF DECISION : 13-2-1998

HON'BLE SHRI JUSTICE K. M. AGARWAL, CHAIRMAN

HON'BLE SHRI R.K. AHOJA, MEMBER (A)

Ashok Kumar & anr.

... Applicant(s)

-Versus-

Delhi Administration & ors.

... Respondent(s)

Advocates :

Mr./Ms. Shyam Babu for Applicant(s)

Mr./Ms. Surat Singh for Respondent(s)

1. Whether to be referred to Reporter? Yes
2. Whether to be circulated to other Benches? No.

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(K. M. Agarwal)
Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH.

(9)

O.A. No. 3126/1992.

NEW DELHI, THIS THE 13th DAY OF FEBRUARY, 1998.

HON'BLE MR. JUSTICE K.M.AGARWAL, CHAIRMAN.

HON'BLE MR. R.K.AHOOJA, MEMBER (A).

1. Ashok Kumar (1538/SW) son of Shri Devinder Singh, Resident of Vill. Khera Khurd, Delhi, presently posted as Constable in South West District, Delhi.
2. Verender Kumar (1882/SW), son of Shri Umrao Singh, Resident of Vill. Manikpur Thana Barot Distt. Meerut (UP), presently posted as Constable in South West District, Delhi. ...Applicants.

(BY ADVOCATE SHRI SHYAM BABU)

Versus

1. Delhi Administration Delhi through its Chief Secretary, 5, Sham Nath Marg, Delhi.
2. The Deputy Commissioner of Police, South West District, New Delhi.
3. Shri Raj Pal Singh (Enquiry Officer) Inspector Special Staff/South West District, Delhi. ...Respondents

(BY ADVOCATE SHRI SURAT SINGH)

ORDER

Justice K.M. Agarwal:

By this application under Section 19 of the Administrative Tribunals Act, 1985, the applicants have made a prayer for quashing the Departmental Enquiry, (in short, the "D.E."), initiated against them under Section 21 of the Delhi Police Act, 1978, (in short, the "Act"), during pendency of a criminal trial against them.

2. Briefly stated, both the applicants were Constables in Delhi Police at the relevant time when a

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criminal case and the D.E. were started against them. F.I.R. No.93/91 was lodged against them and against few others on 20.4.1991 for commission of certain offences, including one under Section 302 I.P.C. for murder of one Miss Poonam by an official pistol and cartridges. On the basis of this F.I.R., a criminal case was started against them and during the pendency of the criminal trial, they were charge-sheeted in a D.E. for unauthorised absence for 5 or 6 hours on the date of the offence and for misuse of the official pistol and cartridges. The initiation of D.E. during pendency of criminal trial is challenged on the ground that the allegations in criminal case and those in the D.E. were the same and, therefore, there was likelihood of prejudice and miscarriage of justice, if both the proceedings were allowed to continue simultaneously. The application is resisted.

3. After hearing the learned counsel for the parties and perusing the record, we are of the view that the scope of trial in the criminal case was and is altogether different from that in the D.E., though certain facts appeared to be common for purposes of the trial and the D.E. and, therefore, we find no merit in this application. In criminal trial, the question to be decided is about the participation or involvement of the applicants in the offences under Section 302 and under other sections of the Indian Penal Code for which they are charged. In the D.E., the question is if the applicants or anyone of them remained on unauthorised absence for 5 or 6 hours as alleged and if they misused the official pistol and/or cartridges in the manner alleged. For this reason, the reference to Rules 11 and 12 of the Delhi Police (Punishment and Appeal)

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Rules, 1980 by the learned counsel for the applicants
was misplaced and misconceived.

4. In the result, this O.A. fails and it is
hereby dismissed. No costs.

Km.

(K.M.AGARWAL)
CHAIRMAN

~~Reedhan~~
(R.K.AHOOJA)
MEMBER (A).