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In the Central Administrative Tribunal  
Principal Bench: New Delhi

OA No.597/92

Date of decision: 15.01.1993.

Shri Kali Charan

...Applicant

Versus

Delhi Administration & Another

...Respondents

Coram:-

The Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman (J)  
The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the applicant

Dr. J.P. Verghese, Counsel.

For the respondents

Shri Pawan Kumar Behl, Counsel.


Judgement(Oral)  
(Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman(J))

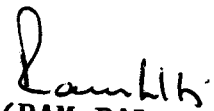
Both are finally heard. The impugned order was passed by the disciplinary authority under Article 311, proviso-2, clause-(b) of the Constitution of India, wherein it was held by him that it is not reasonably possible to hold an enquiry according to the principles laid down under Article 311 (2) of the Constitution. The applicant aggrieved by that order and according to the judgement of this Tribunal filed an appeal to the Lieutenant Governor of New Delhi, copy of which he has produced as Annexure-A along with the rejoinder. As laid down in paragraph-102 of **Union of India vs. Tulsiram Patel** (AIR 1985 SC 1416) one appellate avenue has to be provided to the delinquent if the orders have been passed under Clause-(b) of Proviso-2 because the regular enquiry could not be held according to Article 311 (2) of the Constitution. The applicant according to the principles laid down in **Nirmal Singh** (OA 1248/92) decided on 23.11.1992 has preferred this appeal to

8

Lieutenant Governor. But the next higher authority after the disciplinary authority is the Commissioner of Police and not the Lieutenant Governor. We are, therefore, of the view that the applicant should be provided an appellate avenue according to the **Tulsi Ram Patel** (supra) case.

2. We, therefore, partly allow this O.A. and direct the applicant to file an appropriate appeal against the impugned order before the Commissioner of Police within a period of 15 days from the date of communication of a copy of this judgement. Thereafter the Commissioner of Police shall decide the appeal within a period of three months. The O.A. is, therefore, disposed of, with no order as to costs.

  
(I.K. RASGOTRA)  
MEMBER(A)

  
(RAM PAL SINGH)  
VICE-CHAIRMAN(J)