

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

OA No.1127/93

Date of decision:24.5.93

Sh. Udeybir Singh ... Applicant
versus

Commissioner of Police,
Delhi & ors. ... Respondents

CORAM:THE HON'BLE MR.I.K.RASGOTRA, MEMBER(A)
THE HON'BLE MR.J.P.SHARMA, MEMBER(J)

For the Applicant ... Sh.A.S.Grewal, Counsel.

JUDGEMENT(ORAL)

(BY HON'BLE SH. J. P. SHARMA, MEMBER(J))

Shri Udeybir Singh, SI, has been facing departmental enquiry on the summary of allegations dated 18.1.93(Annexure A-3) which is produced below:-

"It is alleged that while posted at Police Station Karol Bagh on 2.9.1992 at about 3.00 PM, ASI Uday Veer Singh No.2633/D alongwith Const.Kartar Singh No.986/C visited the residence of one Sh.Dharam Vir S/O Ram Chander r/o New Umanpur, First Pusta, P.S.Seelam Pur North-East District, Delhi alongwith his staff consisting of 7/8 persons. It is further alleged that ASI Uday Veer Singh No.2633/D and his staff start beatings Sh.Dharam Vir and his four tenants with sticks. It is also alleged that ASI Uday Veer Singh No.2633/D dropped him and others back at their residence on 2.9.1992 at 9.00 PM. It is further alleged that ASI Uday Veer Singh No.2633/D and Ct.Kartar Singh No.986/C did not observe proper procedure and also failed to take help of local police of police station Seelam Pur. they also failed to lodge any D.D.entries regarding lifting of Sh.Dharam Vir and others for investigation in case FIR No.324/92 u/s 379/IPC/P.S. Karol Bagh. It is also alleged that they did not also bother to intimate the facts to the S.H.O. and gave several beatings to Dharam Vir and kept him in his custody unauthorisedly and dropped him at his residence by violating the procedure of investigation. It is further alleged that later Sh.Dharam Vir was got medically examined in R.M.L.Hospital by Police station Seelampur and the Doctor opined the injuries caused to Sh.Dharam Vir as grievous.

This is a serious mis-conduct on the part of A.S.I.Uday Veer Singh No.2633/D and Ct.Kartar Singh No.986/C being member of a disciplined force,

who beaten the public men and caused injuries upon them by misusing their official powers.

The above act on the part of A.S.I. Udai Veer Singh No.2633/D and Ct. Kartar Singh No.986/C amounts to grave misconduct and unbecoming of a police officer which render them liable to be dealt with departmentally u/s 21 D.P. Act-1978." (2)

2. The learned counsel for the applicant argued that in the departmental enquiry the prosecution witnesses would be cross examined which will lead to opening of ~~the~~ the defence. This will prejudice his defence proposed to be taken in the criminal case pending trial in FIR No.591/92 u/s 325/323/34 I.P.C.

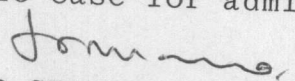
3. We have heard the learned counsel for the applicant at length. The law on the point has been laid down in the case of **KUSHESWAR DUBEY VS.M/S BHARAT COKING COAL LTD. & ORS.**(AIR 1988 SC 2118) wherein the Hon'ble Supreme Court has laid down that the departmental proceedings as well as criminal trial can go ^{on} simultaneously depending on the circumstances and the facts of the case. It is further held that no straight jacket formula can be laid down as to in which case the disciplinary proceedings should be stayed or in other case where it can go on. In the case of **NARESH CHAND & ORS.VS.U.O.I.**(OA No.3057/92) decided on 3.5.93 on which the learned counsel for the applicant has placed reliance is not relevant. Firstly because the facts in that case are not clear and detailed. Secondly, in the present case, the applicant has already been given relief by the respondents vide order dated 24.2.93 passed by the Deputy Commissioner of Police, Central Distt., Delhi

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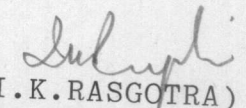
that the departmental enquiry against the applicant has been kept in abeyance after examining the prosecution witnesses/evidence.

4. The learned counsel for the applicant contended that by cross examining the witnesses of the department, the applicant will disclose his defence. The defence stage is reached when an accused in the criminal case is examined under Section 311 Cr.P.C and not earlier. Cross examination of the witnesses of the prosecution is only to impeach the credit of the witnesses, to discredit their credibility. It is only in cross cases where each party has to disclose its defence in the examination of witnesses and not otherwise. Besides in the present case, the summary of allegations go ^{to} far ahead of the accusation in the criminal case which is only confined to hurt/grievous hurt to the complainant of the case.

5. In view of the above facts, we do not find that any interference is required with the impugned orders dated 18.1.93 and 24.2.93. The OA is dismissed at the admission stage itself under Section 19(3) of the Administrative Tribunals Act, 1985 making no prima facie case for admission.


(J.P. SHARMA)
MEMBER(J)

24.5.93


(I.K. RASGOTRA)
MEMBER(A)

SNS