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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

O.A.No.2612 of 1993

New Delhi, this the 28th day of September, 1994.

HON'BLE MR JUSTICE S.K.DHAON, ACTING CHAIRMAN
HON'BLE MR B.N.DHOUNDIYAL, MEMBER(A)

Shri Subhas Chand
Constable No. 677/NE, Delhi Police,
IP Estate, New Delhi. Applicant.
(through Mr J.P.Verghese, Advocate).

vs.

1. NCTO., through its Chief Secretary,
Old Secretariate, Delhi.
2. The Commissioner of Police
Police Headquarters, IP Estate,
New Delhi. Respondents.
(through Mr O.N.Trishul, Advocate).

ORDER (ORAL)

JUSTICE S.K.DHAON, ACTING CHAIRMAN

On the basis of an order passed by the Deputy Commissioner of Police, summary of allegations was furnished to the applicant on 10th November, 1993. These allegations, form part of the departmental inquiry against the applicant. The applicant came to this Tribunal with the allegation that an investigation in a criminal case registered against him is going on and the allegations in that case are precisely the same, as contained in the summary of allegations. He, therefore, made the prayer that the respondents may be directed not to continue with the departmental proceedings.

2. On 16th December, 1993, this Tribunal (Hon'ble J.P.Sharma and Hon'ble B.K.Singh) passed an interim order, the material portion

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of which is:

".....In the meantime the departmental proceedings to continue but the applicant may not be asked to be cross-examined and witnesses to be examined by the prosecution." This order continues to operate even now.

3. On 12th August, 1993, a charge-sheet was submitted by the Investigating Officer to the competent criminal Court concerned, showing therein the applicant as an accused person (in custody). It appears that the said charge-sheet was not before this Tribunal on 16th December, 1993. It has been brought on record by a subsequent affidavit filed by the applicant.

4. We have perused the contents of the charge-sheet submitted in the criminal Court and we have also perused the contents of the summary of allegations. We are satisfied that in the departmental proceedings, the applicant is facing charges similar to those, as contained in the charge-sheet. In view of the interim order, afore-quoted, nothing must have happened in the departmental proceedings, therefore, they are just pending. If the interim order is allowed to continue as it is, the practical effect will be that the departmental proceedings will remain practically stayed and the criminal proceedings will go on.

5. Keeping in view the principle that it is not illegal to continue the departmental proceedings and the criminal proceedings simultaneously except in a situation where there is likelihood of the Government servant being prejudiced in his

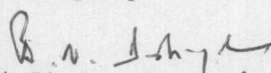
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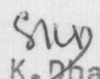
defence in a criminal case if he is compelled to disclose his defence in the departmental proceedings, we feel that this is a fit case where the departmental proceedings should be kept in abeyance till the culmination of the criminal proceedings. It goes without saying that on account of the pendency of the criminal case against the applicant, it will be open to the competent authority concerned to pass an order suspending the concerned person, if such an order has not already been passed.

6. We direct that the departmental proceedings shall be kept in abeyance till the culmination of the criminal proceedings launched against the applicant. If the applicant is ultimately convicted by the competent criminal Court, that may be the end of the matter. However, if the applicant is acquitted, it will be open to the authority concerned to make up its mind whether it will be feasible to continue with the departmental proceedings.

7. With these observations, this O.A. is disposed of finally but without any order as to costs.

28th Sept., 1994.
/sds/


(B. N. Dhoundiyal)
Member (A)


(S. K. Dhaon)
Acting Chairman