

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

* * *

O.A. NO. 423/93

Date of Decision : 24/02/98



Shri Prem Chand

...Applicant

Vs.

Delhi Administration & Anr.

...Respondents

CORAM

Hon'ble Shri J.P. Sharma, Member (J)

Hon'ble Shri S.R. Adige, Member (A)

For the Applicant

...Sh. Shankar Raju

For the Respondents

...None

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?

JUDGEMENT

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

The applicant is Sub Inspector posted in Police Station, Sultanpuri, Delhi. He has been served a summary of allegations and on the basis of the same he has also been charged which was framed against him on 10.2.1993 by the Enquiry Officer. The summary of allegations are that the applicant has been alleged to have committed misconduct by accepting and returning an amount of Rs.1,000 from one Shri Suresh Chander. He has also been further charged of demanding Rs.10,000. In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for the grant of the relief to set aside and quash the charge framed against the applicant (Annexure A5) and to set aside and quash the impugned

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orders (Annexure A2 and A3) and further directing the respondents to drop the departmental enquiry against the applicant and he be exonerated from the charges levelled against him.

2. We have heard the learned counsel for the applicant on admission. The first contention of the learned counsel for the applicant is that the charge framed against the applicant by the Enquiry Officer is illegal, arbitrary and mala fide. This fact cannot be considered by the Tribunal when the enquiry is still in progress. The summary of allegations served on the applicant (Annexure A3) is corroborated by the statement of Shri Suresh Chand on 29.7.1992. Shri Suresh Chand has also given a complaint against the applicant on 27.7.1992 on the basis of which the statement was recorded. Thus there was sufficient material before the Disciplinary Authority to institute an enquiry against the applicant as the act of the applicant as given out in the complaint and further in the statement dt. 29.7.1992 thus go to show misconduct on the part of the applicant. It is another matter that Shri Suresh Chand in a subsequent statement has resiled from

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certain facts, but the fact is that this Tribunal cannot sit as an Appellate Authority to judge the statement and appreciate the evidence at a time when the enquiry is still in progress.

The department has a right to enquire into a complaint and also to proceed with the enquiry if there is material which justifies that there is misconduct attributed to a delinquent employee. The charge has already been framed by the Enquiry Officer, ACP, Saraswati Vihar, New Delhi (Annexure A5). Thus it cannot be said that it is a case where the respondents have arbitrarily or in a mala fide manner proceeded against the applicant in an enquiry under Delhi Police (Punishment and Appeal) Rules, 1980.

3. The contention of the learned counsel is that the impugned charge framed against the applicant is in violation of Rule 16(iv)(a) of Delhi Police (Punishment and Appeal) Rules, 1980. This also cannot be judged at this stage unless the enquiry gets completed against the applicant. The next contention of the learned counsel for the applicant is that the approval given by the Disciplinary Authority to the charge framed by the Enquiry Officer is also in violation of Rule 16(iv)(b) of the said Rules. The contention of the learned counsel is that the Disciplinary Authority has not applied its mind at all because there is no evidence to substantiate the evidence and the Disciplinary Authority was legally bound to discharge the applicant from the

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allegations and to exonerate him in the departmental enquiry. This fact too cannot be considered at this stage when the enquiry is in progress. While approving of the charge against the applicant, the Disciplinary Authority has to see whether there is some basis to proceed against the applicant or not. The decision arrived at by the Disciplinary Authority in the departmental enquiry cannot be subject to the scrutiny by the Tribunal at this stage.

4. The learned counsel for the applicant also contended that there is no evidence against the applicant at all and the enquiry has been proceeded only to pass an order of removal from service against the applicant. This contention of the learned counsel cannot be accepted when there is already a complaint dt. 27.7.1992 against the applicant and the statement recorded on the basis of that complaint dt. 29.7.1992. It cannot be said that it is a case of no evidence.

5. Giving a careful consideration to the above facts and circumstances of the case, there is no case to interfere in the enquiry proceedings and the present Original Application is misconceived and, therefore, dismissed with liberty to the applicant to assail any order passed finally against him in the said enquiry proceedings in the competent forum subject to the law of limitation.

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(S.R. ADIGE)
MEMBER (A)

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J. P. Sharma
(J.P. SHARMA) 24.2
MEMBER (J)