

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 663/93

DECIDED ON 19.8.1993

Prem Raj

... Petitioner

vs.

Commissioner of Police, Delhi
& Others

... Respondents

CORAM :

THE HON'BLE MR. JUSTICE S. K. DHAON, V.C.(J)
THE HON'BLE MR. B. N. DHOUNDIYAL, MEMBER (A)

Shri B. R. Saini, Counsel for Petitioner

Ms. Veena Kalra, Proxy Counsel for Shri
D. N. Goburdhun, Counsel for Respondents

JUDGMENT (ORAL)

Hon'ble Mr. Justice S. K. Dhaon —

The petitioner, an Assistant Sub Inspector (ASI), is being subjected to a departmental inquiry on the basis of the order dated 24.9.1992 passed by the Deputy Commissioner of Police. In the said order it is recited that the petitioner was arrested on 17.8.1991 in case FIR No.53/91 dated 16.8.1991 for demanding and accepting illegal gratification of Rs.300/- as consideration for submitting a favourable report in favour of one Mohd. Israel Ansari. The important words in the order are : "The case is still pending trial in the Court of Special Judge, Delhi." The petitioner has come to this Tribunal with the prayer that since the departmental proceedings and the criminal trial relate to the same charge, the departmental proceedings may be quashed. On 24.3.1993, this Tribunal passed an interim order staying the departmental proceedings.

2. A counter affidavit has been filed on behalf of the respondents.

3. Annexure A-5 is a true copy of the charge framed against the petitioner by the Special Judge, Delhi. There are two charges. Both of them are inter-related. The gravamen of the charge is that the petitioner in his capacity as ASI, being a public servant, accepted or obtained a sum of Rs.300/- from Mohd. Israel Ansari, as illegal gratification.

4. We have already adverted to the order by which disciplinary proceedings have been initiated. The order indicates the reasons for initiating the departmental inquiry. The reason being the criminal trial which the petitioner is facing.

5. The question is whether, having regard to the facts and circumstances of the instant case, it will be expedient in the interest of justice to allow the departmental proceedings to be continued simultaneously with the criminal trial. It appears that the petitioner may be seriously prejudiced in his defence in the criminal trial if he is compelled to disclose his defence in the departmental proceedings. In a criminal trial the burden is on the prosecution to prove its case beyond any shadow of doubt whereas in the departmental proceedings, the onus is on the delinquent employee to prove his case. In these circumstances, we direct that the departmental proceedings shall remain in abeyance till the completion of the criminal trial. If the petitioner is acquitted, it will be open to the authority concerned to apply its mind and decide as to whether the departmental proceedings should continue or not. If the petitioner is convicted, that may be the end of the matter.

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6. With the above directions, this application is disposed of finally. There shall be no orders as to costs.

B. N. Dhaon
(B. N. Dhaundiyal)

Member (A)

S. K. Dhaon
(S. K. Dhaon)

Vice Chairman (J)

as