

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 667/93
T.A. No.

199

(A)

DATE OF DECISION 26.8.1993.

<u>Shri Bhagat Singh</u>	Petitioner
<u>Shri A. S. Grewal</u>	Advocate for the Petitioner(s)
Versus	
<u>Union of India</u>	Respondent
<u>Shri Amresh Mathur</u>	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. J.P. Sharma, Member (Judl.)

The Hon'ble Mr. B.K. Singh, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

JUDGEMENT (Oral)

(By Hon'ble Mr. J.P. Sharma, Member)

The applicant is a Constable in the Delhi Police.

He has been served with a summary of allegations under Section 21 of the Delhi Police Act, 1978 (Annexure A-2).

This is in pursuance of the order dated 31.1.1993 issued by the Deputy Commissioner of Police (Annexure A-1) along with the summary of allegations. The list of witnesses to be examined in the departmental enquiry under the Delhi Police (Punishment & Appeal) Rules, 1980 has also been furnished. The applicant made a representation to the respondents, i.e., Dy. Commr. of Police, to the effect

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that a case, FIR 667/84 for kidnapping one, Seema, is pending trial in the Criminal Court of P.S. Adarsh Nagar, Delhi, in which the applicant is also one of the accused under Section 363, 366, 368, 376/120-B of the I.P.C. along with other accused. In the application, the applicant has prayed that the departmental proceedings be stayed till the disposal of the criminal trial against him.

2. A notice was issued to the respondents and in their reply, it is stated that the applicant is involved in a criminal case, involving moral turpitude and as such, is to be tried in a departmental enquiry because one of the letters annexed in the Supreme Court was said to be written by the applicant. It is further stated that a departmental enquiry will have no effect on the criminal case. The matter has already become much older and almost a decade is going to pass.

3. We have heard the learned counsel for the parties. The law on the subject has been clearly laid down by the Hon'ble Supreme Court in the case of Bisheshwar Dubey Vs. Union of India, A.I.R. 1988 SC 2118. The Hon'ble Supreme Court observed that no straight jacket formula can be laid down whether there should be simultaneous proceedings against the delinquent departmentally or as an accused in a criminal case. It depends on the facts and circumstances of each case. The Hon'ble Supreme

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Court has also considered the case of Delhi Cloth Mill and other two cases decided earlier. In some of the cases, the Hon'ble Supreme Court has stayed the departmental enquiry and also in the case of Bisheshwar Dubey, the order for staying the departmental enquiry by the High Court was upheld.

4. In fact, if the applicant has to face both, departmental and criminal proceedings, then if he is made to disclose his defence in the departmental enquiry, in the event of its use in the criminal proceedings, the applicant shall be prejudiced in his defence in the criminal case and a decision ultimately passed by the criminal court on the disclosure in the departmental enquiry, cannot be said to be, in any way, unjustified. Under law of evidence, a person can be confronted with the earlier statements given in order to test his credibility or impeach his credit.

5. In view of this fact, the learned counsel for the applicant also submitted that the enquiry may continue upto the stage of defence and the applicant be not compelled to give his defence, which stage will arise after the framing of the charge in the departmental enquiry under the Delhi Police (Punishment & Appeal) Rules, 1980.

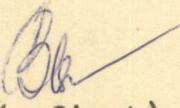
6. The learned counsel for the respondents also did not seriously dispute this point.

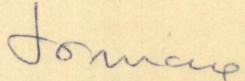
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7. The application is, therefore, partly allowed with the direction to the respondents that they can continue with the departmental enquiry exhausting the examination of departmental/prosecution witnesses and may go upto the stage of framing of charge, if it is so warranted. If need be, thereafter, the further proceedings be stayed, which shall commence after the criminal case is finally decided by the trial court. The respondents shall be free to place a copy of this order before the criminal court for expeditious disposal of that case, if so advised. No costs.


(B.K. Singh)
Member (A)


(J.P. Sharma) 26/8/73
Member (J)