Central Administrative Tribunal
Prncipal Bench

O.A. 905/93

New Delhi this the 25th day of July, 1997

Hon'ble Smt. Lakshmi Swaminathan, Member(J).
Hon'ble Shri R.K. Ahooja, Member(A).

Jagdish Singh,
S/o Shri Prem Singh,
R/o Vill & PO- Mundka,   ... Applicant.
Delhi.

By Advocate Shri Shankar Raju.

                        Versus

1. Commissioner of Police, Delhi,
   Delhi Police Headquarters,
   M.S.O. Building, I.P. Estate,
   New Delhi.

2. Additional Commissioner of Police,
   (Armed Police), Delhi Police Headquarters,
   M.S.O. Building, I.P. Estate,
   New Delhi.

3. Deputy Commissioner of Police,
   7th Bn. D.A.P. Pitampura Lines Police,
   Delhi.   ... Respondents.

By Advocate Shri Vijay Pandita.

                O R D E R (Oral)

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

         The grievance of the applicant in this case is that
he had been falsely implicated in a criminal case in which he
was subsequently exonerated. Prior to that, however, acting
under the provisions of Article 311 (2), proviso (b) of the
Constitution, the respondents had issued the impugned order
dated 27.5.1989 dismissing him from service without holding
any inquiry. On his acquittal from the criminal charges by
the criminal competent court, the respondents reinstated the
applicant from service vide their order dated 2.8.1991. The
respondents again seem to have reconsidered the matter and
set aside their order dated 2.8.1991 by the order dated

1.7.1992 stating therein that the applicant has been deemed to have been dismissed, as already ordered earlier. This order is passed on 1.7.1992. The appeal preferred by the applicant has also been dismissed by order dated 1.10.1992 on the ground that the appeal could lie but not against the second dismissal. The applicant has filed this application impugning these various orders.

2. We have perused the records and heard Shri Shankar Raju, learned counsel for the applicant and Shri Vijay Pandita, learned counsel for the respondents.

3. Shri Vijay Pandita, learned counsel, has fairly submitted that the other two similarly situated persons who were co-accused in the criminal case, have since been reinstated. Therefore, he submits that the respondents have no objection to treat the applicant in the same manner. Shri Shankar Raju, learned counsel, has, on the other hand, submitted that in view of the fact that the applicant had been recently operated and was admitted in the hospital between 28.4.1989 and 12.5.1989, therefore, he should be treated on different footing and he should be reinstated with full consequential benefits, including backwages.

4. We have considered the records and the submissions made by the learned counsel for the parties. We are not impressed by the arguments advanced by the learned counsel regarding the sickness of the applicant at the time of the incident. It may be noticed that there were four persons, two are alleged to have committed rape two others stood by. In any case, we are not required to give any findings on this matter at this stage. We note that the respondents have reinstated the other two persons who were
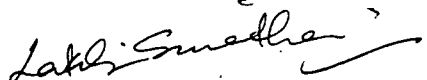
involved in the incident on 23.5.1989. The impugned order dated 1.7.1992 dismissing the applicant from service with retrospective effect is also bad in law. This order is, therefore, quashed and set aside. The respondents are directed to reinstate the applicant in service within one from from the date of receipt of a copy of this order. They shall take a decision within a period of three months as to whether they intend to hold a departmental proceeding against the applicant. In case, they decide to do so, they shall complete the same within a period of six months thereafter. The intervening period between the date of dismissal and the date of reinstatement initially on 1.7.1992 and thereafter in pursuance of this order shall be regulated in accordance with law, passing an appropriate order in this regard along with the final order.

for which the competent authority shall

O.A. allowed as above. No order as to costs.

(R.K. Ahooja)
Member(A)

(Smt. Lakshmi Swaminathan)
Member(J)

'SRD'