

THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

O.A. No. 269/2002

T.A. No.

200

DATE OF DECISION

May 14/8

AM (A) / 1

14/8

18/8

Ajmer Singh Barar

Petitioner

Mr. C.B. Sharma.

Advocate for the Petitioner(s)

s

Versus

UOI & Others

Respondent

Ms. Shalini Sheron for Mr. Bhanwar Bagri

Advocate for the Respondents(s)

CORAM:

The Hon'ble Mr. Justice G.L.Gupta, Vice Chairman

The Hon'ble Mr. A.K. Bhandari, Administrative Member.

(A.K. Bhandari)
Administrative Member

(G.L.Gupta)
Vice Chairman.

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 ?

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

C.A No.269/2002

Date of decision

18.08.03

Ajmer Singh Parar, S/o Shri Pooran Singh, aged about 50 years resident of 7 GE, Rail Vihar-I, Sec 9 Vidhyadhar Nagar, Jaipur. Presently working as Inspector, Central Bureau of Narcotics, Office of Superintendent Central Bureau of Narcotics, E-2, 21-D Shiv Marg, Rani Park, Jaipur.

: Applicant

VERSUS

1. Union of India, through its Secretary, to the Government of India, Department of Revenue, Ministry of Finance, Central Bureau of Narcotics, North Block, New Delhi.

Commissioner of Central Bureau of Narcotics, 19, the Mall Morar, Gwalior (M.P.)

Deputy Narcotics, Commissioner, Central Bureau of Narcotics, Mahavir Nagar-I Jhalawar Road, Kota.

: Respondents.

Mr. C.B.Sharma, : Counsel for the applicant.
Mr. Bhanwar Bagri : Counsel for the respondents.

CORAM

The Hon'ble Mr. Justice G.L.Gupta, Vice Chairman.

The Hon'ble Mr. A.K. Bhandari, Administrative Member.

ORDER

Per Mr. Justice G.L.Gupta:

The applicant seeks quashment of the charge sheet dated 18.04.2002 served upon him.

2. It is averred that while the applicant was working as Sub-Inspector in the respondents' department in the year 1988, a case under Sec. 8/18 of the N.D.P.S. Act was registered against him and a challan was filed with the allegations on 01.07.88, opium was recovered from the truck driven by one Gurcharan Singh, and that on investigation it was found that the applicant was the mediator in the transaction of sale of Opium and he had received commission of Rs.5,000/-. Gurcharan Singh and others

absconded. The applicant was tried. After completion of the trial, he was acquitted vide order dated 24.02.99. Thereafter the applicant has been served Charge Sheet Annex. A.1.

2.1 The say of the applicant is that when he has been acquitted by the Criminal Court and the allegations in the charge sheet before the Criminal Court and the allegations in the present charge sheet in the departmental enquiry are based on the same set of facts, and therefore, charge sheet is liable to be quashed. It is stated that there is no justification to initiate disciplinary proceedings against the applicants 14 years after the alleged mis-conduct.

3. In the counter, the respondents' case is that the applicant joined hands with the smugglers and he has been acquitted by giving benefit of doubt. It is stated that the scope and purpose of criminal trial and the scope and purpose of departmental enquiry are different and therefore there is no bar to hold the departmental enquiry on the same facts.

rejoinder

4. In the 4 the applicant has stated that no preliminary enquiry was ever conducted and the present departmental enquiry is based only on the basis of the documents filed before the Criminal Court and therefore it is likely to cause unnecessary harassment to the applicant.

5. The respondents have filed reply to the rejoinder.

6. We have heard the learned counsel for the parties and perused the documents placed on record.

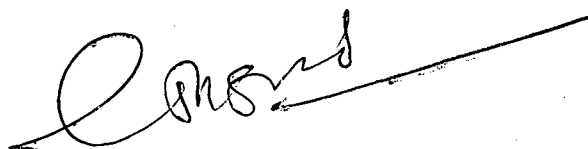
7. Mr. Sharma, learned counsel for the applicant, pointing out that the allegations in the criminal trial as also in the departmental proceedings are the same and that the department has not intended to examine any witness in the departmental enquiry, contended that on the



basis of documents annexed to the charge sheet no mis-conduct is made out. Relying on the case of Capt. M. Paul Anthony vs. Bharat Gold Mines Ltd and another [1999 (3) SCC 679], Mr. Sharma canvassed that the charge sheet should be quashed. He further pointed out that after the acquittal by the Criminal Court, the applicant has been given promotions and for no just cause the charge sheet has been served in 2002, 14 years after the alleged incident.

8. On the other hand Ms. Shalini Sheron, learned counsel for the respondents contended that the scope of charges in the disciplinary proceedings and in the criminal trial are different and there cannot be any objection in holding the departmental enquiry.

9. We have given the matter our thoughtful consideration. It is seen that the applicant has not yet filed reply to the charge sheet. It is settled legal position that mere acquittal in a criminal case does not debar the department from initiating disciplinary proceedings, more so when the acquittal is recorded by giving benefit of doubt. The enquiry in a departmental proceedings relates to conduct or breach of duty of the delinquent officer to punish him for his misconduct defined under the relevant statutory rules or law. The strict standard of proof or applicability of the Evidence Act stands excluded in the disciplinary inquiry. The proof in that behalf is not as high as in an offence in criminal charge. The nature of evidence in criminal trial is entirely different from the departmental proceedings. In the former, prosecution is to prove its case beyond reasonable doubt on the touch stone of human conduct. The standard of proof in the departmental proceedings is not the same as of the criminal trial. The evidence required in the departmental enquiry is not regulated by Evidence Act. See Depot Manager, Andhra Pradesh State Road Transport Corporation, vs. Mohd. Yousuf Miya etc. [AIR 1997 SC 2232].



10. It is thus manifest that simply because an employee has been acquitted in a criminal charge, it may not be proper to quash the charge sheet issued in the departmental proceedings for the misconduct.

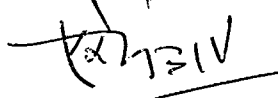
10.1 It is not the case where the criminal case and the disciplinary proceedings are going side by side and the defence of the applicant in the criminal trial is likely to be prejudiced. The criminal case, as stated, has already been decided. The Court cannot be justified in quashing the charge sheet issued to the applicant, may be on the same allegations on which the criminal case was filed.

10.2 Apart from the same, it is seen that the department does not intend to examine any witness in the disciplinary proceeding and the enquiry is to be decided on the basis of documents only. It is obvious that the disposal of the inquiry is not likely to take much time.

10.3 It is further seen that the applicant has already been given promotion to the higher post. Therefore, it is also not the case where the applicant may be deprived of the promotion due to the pendency of the disciplinary enquiry.

11. Consequently, we find no merit in this O.A. However, we direct that the disciplinary proceedings should be completed in all respects within a period four months from the date of communication of this order. The applicant should co-operate in the enquiry. The O.A. stands disposed of.

12. No order as to costs.


(A.K. Bhandari)

Administrative Member


(G.L.Gupta)

Vice Chairman.

jsv.