

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL


5.11.2009

OA No.532/2005

Mr. Tej Kumar Sharma, proxy counsel for
Mr. P.K.Sharma, counsel for applicant
Mr. Hemant Sharma, proxy counsel for
Mr. Paresh Chaudhary, counsel for respondents

Heard the learned counsel for the parties.

For the reasons dictated separately, the OA stands disposed
of.


(B.L.KHATRI)
Admv. Member


(M.L.CHAUHAN)
Judl. Member

R/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

JAIPUR, this the 5th day of November, 2009

ORIGINAL APPLICATION No.532/2005

CORAM:

HON'BLE MR.M.L.CHAUHAN, MEMBER (JUDICIAL)
HON'BLE MR. B.L.KHATRI, MEMBER (ADMINISTRATIVE)

Peeyush Gautam
s/o Sh. Y.K.Sharma,
Assistant Master of Mathematics,
Military School, Dholpur
r/o Vidhyaniwas, 5-A, Mahatma Gandhi Road,
Faizabad (UP).

.. Applicant

By Advocate: Shri Tej Kumar Sharma, proxy counsel for Mr.
P.K.Sharma)

Versus

1. The Union of India,
Through Secretary,
Ministry of Defence,
New Delhi.
2. The Principal of the
Military School, Dholpur (Raj.)
3. Lt. Col. K.Ramam, Former Principal of Military School, Dholpur
(Raj) at present- K.Ramam, Lt. Col. Offg Dir, MT 15 For DCOAS
(IS&T)

... Respondents

By Advocate: Shri Hemant Sharma, proxy counsel for Shri
Paresh Chaudhary for resp. No. 1 and 2)



ORDER (ORAL)

The applicant has filed this OA thereby praying for the following reliefs:-

- a) The impugned memorandum (Annexure A/1) dated 15.10.2005 may kindly be quashed. As being illegal, unjustified and not maintainable during the pendency of the criminal proceedings.
- b) Any other order of this Hon'ble Tribunal being just and proper in the case in the favour of the applicant may kindly be passed.

2. The grievance of the applicant is regarding chargesheet on account of mala-fide intention, since he had made complaint against the authorities.

When the matter was listed on 18.11.2005, this Tribunal has passed the following order:-

"The applicant has filed this OA for quashing and setting aside the impugned charge sheet dated 15.10.2005. The learned counsel for the applicant submitted that the applicant had been chargesheeted on account of malafide intention since he had complained against the authorities. However, father of the applicant had lodged a FIR in the Police Station. In article III of the charge, it is stated the applicant was informed that the applicant was not critically injured as alleged in the letter written by father of the applicant. The article of charge indicates that the applicant was "never critically injured as alleged in the letter." There is no denial of the fact that some army personnels entered into the room of the applicant and mercilessly beat up the applicant as alleged in the FIR dated 6.12.2004. In view of such facts, possibility of malafide cannot be ruled out.

In view of what has been stated above, issue notices to the respondents returnable within six weeks. In the meanwhile, the respondents may file reply their reply. Rejoinder, if any, be filed within two weeks thereafter.

....."

3. The respondents have filed reply. The fact that criminal case as well as departmental proceedings for the same incident is pending, has not been disputed. In the reply, the respondents have

stated that in the FIR No.171/2004, final report has been submitted against the applicant and the police has also investigated the matter under Section 182 Cr.P.C.

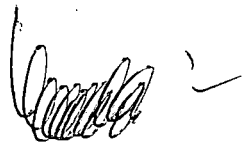
4. The applicant has filed rejoinder in which he has stated that he has filed Protest Petition against the report submitted by the police authorities which report has been submitted on the pressure of the respondents and the said Protest Petition has not been decided so far.

5. In view of the facts, as noticed above, and the fact that the applicant has admittedly sustained injury and he has been chargesheeted for exaggerating the said injury, we are of the view that at this stage, we need not to go into this question and ends of justice will be met; if direction is given to the respondents, not to proceed further in the matter till the matter is decided by the Criminal Court.

6. Accordingly, without going into the merits of the case, the present OA is disposed of with directions to the respondents not to proceed further pursuant to the chargesheet dated 15th October, 2005 (Ann.A/1) till disposal of the Criminal Case by the Trial Court pursuant to FIR No. 171/2004. Ordered accordingly.

7. The OA stands disposed of accordingly with no order as to costs.


(B.L. KHATRI)
Admv. Member


(M.L. CHAUHAN)
Judl. Member

R/