

**Central Administrative Tribunal
Principal Bench, New Delhi.**

**CP-305/2017 in
OA-439/2010**

New Delhi this the 11th day of May, 2017.

Hon'ble Mr. Shekhar Agarwal, Member (A)
Hon'ble Mr. Raj Vir Sharma, Member (J)

Sh. Baljeet Singh (Ex.Constable)
No. 273/DAP (PIS No. 28000035)
S/o Sh. Suraj Bhan,
R/o Village 7, PO-Gubhana,
Distt. Jhajjar, PS-Sadar Bahadurgarh,
Haryana.

..... Petitioner

(through Sh. Sahil Mongia, Advocate)

Versus

1. Sh. Brahm Singh,
Additional Commissioner of Police,
(Armed Police)
Administrative Block,
New Police Lines,
Kingsway Camp,
New Delhi-110009.

2. Sh. Vikramnit Singh,
Deputy Commissioner of Police,
1st BN. DAP,
Kingsway Camp,
New Delhi-110009.

..... Respondents

ORDER (ORAL)

Mr. Shekhar Agarwal, Member (A)

This Contempt Petition has been filed for alleged disobedience of the order dated 10.03.2010. On being asked as to how Contempt Petition has been filed after a delay of several years, learned

counsel for the petitioner Sh. Sahil Mongia submitted that the petitioner had protection of the aforesaid order of this Tribunal. Yet in complete violation of the same, the respondents have now passed an order dated 03.11.2016 by which the petitioner has been removed from service. Learned counsel submitted that the appeal of the petitioner against the order of the Addl. Sessions Judge convicting him is still pending before Hon'ble High Court of Delhi. As such, the respondents have committed contempt by passing the aforesaid order.

2. We have considered the aforesaid submissions. On going through our order in question, we find that in para-6, the following is laid down:-

"6. Taking notice of the provisions of Rule 11(1) of the Delhi Police (Punishment and Appeal) Rules which provided that on conviction, although punishment of removal could be imposed by the appointing authority without further enquiry, it had been specifically provided that such decision can be taken only after the disposal of the appeal filed from the order of the Addl. Sessions Judge. Counsel pointed out that this stipulation has been thoroughly overlooked, and the Commissioner had not adverted to the pendency of the appeal which had been filed promptly. After the conviction, the impugned order has been passed on 09.05.2008 overlooking the presence of Rule 11 (1) of the Rules. It is highlighted that in OA 544/2006 and connected cases, on 30.07.2007, a Bench had held that proceedings overlooking Rule 11 (1) are not sustainable. Although the order was carried in appeal in WPC 1044/2008, as early as on 4.12.2008, the High Court had upheld the order. Therefore, the law is well settled that in spite of conviction, proceedings as envisaged under Article 311 (2)(a) are not possible to be imposed so long as the appeal is pending as far as an officer of Delhi Police is concerned. Thus, we find that the Annexure A-1 requires to be set aside."

2.1 It is evident that the embargo put on the respondents by Rule-11 of Delhi Police (Punishment & Appeal) Rules mentioned in the above para pertains to not passing the order of removal before decision in the appeal "only without further enquiry". Thus, according to this rule till appeal against the order of conviction is decided, police personnel of subordinate rank cannot be removed from service without further enquiry under Article 311(2)(a) merely on the basis of order of conviction. In the instant case, however, the order has been passed after conducting a departmental enquiry. This is evident from a mere reading of the order itself. Thus, we do not find this order to be contumacious and passed in violation of our order dated 10.03.2010.

3. Accordingly, this Contempt Petition is not maintainable and is dismissed.

(Raj Vir Sharma)
Member (J)

(Shekhar Agarwal)
Member (A)

/Vinita/