

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No.1597/2013

New Delhi this the 2nd day of August, 2016

HON'BLE MR. JUSTICE M.S. SULLAR, MEMBER (J)
HON'BLE MR. V.N. GAUR, MEMBER (A)

1. Constable Inder Pal Singh (PIS No.28941745)
S/o Late Shri Krishan Pal Singh
R/o Barrack No.3, Vikas Puri,
3rd Bn. DAP, New Delhi.
2. Constable Vijay Singh (PIS No.28940997)
S/o Shri Puran Singh
R/o Barrack No.1, Vikas Puri,
3rd Bn. DAP, New Delhi. ..Applicants

(Argued by: Shri M.K. Bhardwaj, Advocate)

Versus

Commissioner of Police & Ors. through:

1. The Commissioner of Police,
PHQ, MSO Building,
IP Estate,
New Delhi-02.
2. The Dy. Commissioner of Police,
3rd Bn. DAP,
Vikas Puri, New Delhi.Respondents

(By Advocate: Mr. N. K. Singh for Ms. Avnish Ahlawat)

ORDER (ORAL)

Justice M. S. Sullar, Member (J)

The applicants have preferred the instant Original Applicant (OA), challenging the impugned orders dated 17.11.2011 (Annexure A-1) and dated 09.04.2013 (Annexure A-2), whereby Departmental Enquiry (DE) was initiated against them, being illegal, arbitrary and without jurisdiction, invoking the provisions of Section 19 of the Administrative Tribunals Act, 1985.

2. The respondents refuted the claim of the applicants, filed their reply, denying all the allegations and grounds contained in the main OA, and prayed for its dismissal.

3. During the course of arguments, learned counsel for respondents has raised a preliminary objection of maintainability of this OA, being premature, as according to him, no adverse punishment order has yet been passed by the competent authority against the applicants and respondents are taking action against them in pursuance of order dated 29.07.2009 (Annexure A-4) in OA No. 1048/2009 by this Tribunal.

4. Faced with the situation, at the very outset, instead of arguing the matter on merits, the learned counsel intends to withdraw the OA to enable the applicants to file fresh OA to challenge the punishment order, if passed by the Disciplinary Authority in the Departmental Enquiry. Therefore, OA is dismissed as withdrawn, with the aforesaid liberty.

Needless to mention that the Disciplinary Authority would naturally decide the matter after taking into consideration the import and effect of Rule 11(3) of the Delhi Police (Punishment & Appeal) Rules, 1980, in accordance with law. However, the parties are left to bear their own costs.

(V.N. GAUR)
MEMBER (A)

(JUSTICE M.S. SULLAR)
MEMBER (J)
02.08.2016

Rakesh