

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 1489 of 2003

New Delhi, this the 8th day of July 2003

HON'BLE MR. KULDIP SINGH, MEMBER (JUDL)

Shri Sukhpal Singh
S/o Shri Om Prakash Tomar
R/o CA-88/2 Tagore Garden,
New Delhi.

-APPLICANT

(By Advocate: Shri Sanjeev Sharma, proxy counsel
for Ms. Geeta Luthra, Counsel)

Versus

1. Commissioner of Police,
Police Headquarter
I.P. Estate,
New Delhi.
2. Joint Commissioner of Police,
South Delhi Range,
I. P. Estate.
3. Additional DCP,
South District,
P.S. Hauz Khas,
Delhi Police.
4. Satpal Chaudhary
R1/SD Enquiry Officer,
Delhi Police, PS Hauz Khas,
Delhi.

-RESPONDENTS

ORDER

By Hon'ble Mr. Kuldip Singh, Member (Judl)

The applicant through this OA seeks permanent injunction/stay on enquiry ordered by Additional DCP, South District, Delhi Police vide order dated 14.5.2003 till the disposal of the criminal case arising out of FIR No. 318/2002 dated 19.8.2002 under Sections 451/342/384/506 pending in the Court of Judicial Magistrate 1st Class, Gurgaon, Haryana.

2. The applicant, who is working as a Constable with Delhi Police, has been issued the following



charge-sheet:-

A case was registered against Constable Sukhpal Singh No.1301/SD and others Vide FIR No.318 dated 19.8.2002 u/s 451/1342/384/506 IPC PS DLF Gurgaon on the allegation that Shri Jagdish Chander Sharma S/o Late Pt. Shiv Charan Sharma R/o F-714 Fisttullah Building, Jal Vayu Tower, Sector 56, Gurgaon reported at PS DLF Gurgaon that on 14.8.2002 he along with his family were present in his house. At about 8.00 P.M five young persons along with two ladies entered in his house. They disclosed themselves as the staff from CIA and wanted to search his house as they had information regarding flesh trading in the premises. They demanded Rs.1,00,000/- to hush up the matter. They extorted Rs.16,000/- from the complainant and Rs.6,000/- from his wife and two mobile phones. Thereafter they took the complainant, his wife and son to Greater Kailash from where the wife of the complainant collected Rs.50,000/- from one Rupender Singh and handed over to them. They also threatened them not to lodge any complaint otherwise they would have to face dire consequences. They also asked them to keep ready the remaining amount of Rs.40,000/- which would be collected by them in a day or two. On 19.8.2002 at about 6.15 PM Constable Harjinder Singh contacted the complainant to collect the remaining amount, where he was overpowered with the help of one Guard Ramesh Chand and handed over to the Police. On interrogation Constable Harjinder Singh disclosed that he alongwith Constable Surender Singh of PS Najafgarh, Constable Sukhpal Singh of South District, Constable Raj Singh and Constable J.K. Sharma of Special Cell/SB extorted Rs.72,000/- and two mobile phones from the complainant. The amount of extortion was equally distributed amongst the five. Constable Harjinder Singh was arrested but all others were absconding and evading arrest. Constable Sukhpal No.1301/SD was marked absent vide DD No.19 dated 20.8.2002. He was placed under suspension vide this office order dated 13.9.2002 on having been involved in the above case.

It was further ordered that the enquiry be held on day to day basis.

3. The applicant submits that since FIR has already been registered and trial is going on at Gurgaon so the defence of the applicant would be prejudiced in the criminal case if the enquiry is allowed to be commenced, as such it is prayed that the enquiry may be


stayed.

4. I have heard the learned counsel for the parties and gone through the records of the case.

5. Though the charge-sheet and FIR has been placed on record but there is no material on record to suggest as to how the defence of the applicant would be prejudiced. The list of witnesses in both the cases have not been placed on record. The learned counsel for the applicant heavily relied upon the case reported in 1996 (6) SCC 417 entitled as State of Rajasthan Vs. B.K. Meena and Others wherein it has been held as follows:-

"The only ground suggested in the decisions of the Supreme Court as constituting a valid ground for staying the disciplinary proceedings is that the 'defence of the employee in the criminal case may not be prejudiced'. This ground has, however, been hedged in by providing further that this may be done in cases of grave nature involving questions of fact and law. It means that not only the charges must be grave but that case must involved complicated questions of law and fact. Moreover, 'advisability', 'desirability' or 'propriety' as the case may be, of staying the departmental enquiry has to be determined in each case taking into consideration all the facts and circumstances of the case. Stay of disciplinary proceedings cannot be, and should not be, a matter of course. All the relevant factors, for and against, should be weighed and a decision taken keeping in view the various principles laid down in the Supreme Court's decisions (emphasis supplied)".

6. In the present case on going through the grounds except for bald statement made by the applicant that the commencement of the enquiry would prejudice his case. There is nothing to show that the cases of grave



nature involves questions of fact and law which may be
 complexed one so I do not find that any case is made out
 for setting ^{aside} the disciplinary proceedings, no ground to
 interfere with the order passed by the respondents.

7. OA is accordingly dismissed in limine.


 (KULDIP SINGH)
 MEMBER (JUDL)

/Rakesh