

**\*IN THE HIGH COURT OF DELHI AT NEW DELHI**

**+W.P.(C) No.1101/2008 and 1102/2008**

%Date of Decision:24.04.2008

**W.P.(C) No.1101/2008**

GOVT. OF NCT, DELHI & ORS. ...Petitioners  
Through: Ms. Sonia Mathur, Advocate

Versus

Ex. HEAD CONST. HANS RAJ & ANR. ...Respondent  
Through: Mr. Sachin Chauhan, Advocate.

**W.P.(C) No.1102/2008**

GOVT. OF NCT, DELHI & ORS. ...Petitioners  
Through: Ms. Sonia Mathur, Advocate

Versus

Ex. CONST. BASU DEV & ORS. ...Respondent  
Through: Mr. Rajiv Bakshi, Advocate.

**CORAM :-**

**THE HON'BLE MR.JUSTICE A.K.SIKRI  
THE HON'BLE MR. JUSTICE J.R. MIDHA**

1. Whether Reporters of Local papers may be allowed to see the Judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

**J.R. MIDHA, J. (Oral)**

These writ petitions arise out of common order dated 21<sup>st</sup> September, 2007 whereby the learned Tribunal has quashed the termination of the respondents under Article 311(2)(b) of the Constitution of India.

The case against the respondents is that on 29<sup>th</sup> August, 2006 they were posted at Police Station Chandni Chowk and they went to one Ashok Kumar for execution of recovery memo and non-bailable warrants received from the Sales Tax Department and demanded the bribe of Rs.10,000/-. Mr. Ashok Kumar agreed to pay Rs.5,000/- on 4<sup>th</sup> September, 2006. In the meantime, Mr. Ashok Kumar lodged a complaint with the Anti-Corruption Branch who apprehended the respondents and caught them red-handed while accepting bribe of Rs.5,000/- from Mr. Ashok Kumar. FIR No.68/2006 dated 4<sup>th</sup> September, 2006 was registered against the respondents. The Disciplinary Authority passed the order of dismissal of the respondents under Article-311(2)(b) of the Constitution of India without holding any departmental enquiry. The respondent's appeal against the dismissal order was dismissed by the Appellate Authority, aggrieved against which the respondents filed the OA before the learned Central Administrative Tribunal.

The learned Tribunal held that the departmental enquiry can be dispensed with only if it is not reasonably practicable to hold the enquiry and the reasons for the same are recorded in writing. The learned Tribunal referred to and relied upon the judgments on the subject. The learned Tribunal quashed the termination of the respondents.

We agree with the findings of the learned Tribunal that there were no grounds for the authority to hold that a regular departmental enquiry was not reasonably practicable. In our

opinion, it is reasonably practicable to conduct the departmental enquiry in these cases. The Department can prove the charge against the respondents by examining the witnesses from the Anti-Corruption Department who apprehended the respondents and caught them red-handed while accepting the bribe of Rs.5,000/- as well as other witnesses. This is certainly not a case where the witnesses may not come forward to depose against the respondents.

We dismiss the writ petitions without costs.

**(J.R. MIDHA)**  
**JUDGE**

April 24, 2008  
s.pal

**(A.K. SIKRI)**  
**JUDGE**