

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

+ **WP(C) No.1172/2008**

Reserved on: 9th July, 2008

Date of Decision: 4th September, 2008

1. The Executive Director,
MTNL K.L. Bhawan,
New Delhi-110050
2. The Area Manager (Telephone),
Hari Nagar,
New Delhi. ...Petitioners

Through: Ms. Rachna Joshi Issar, Advocate

versus

1. Shri Sher Singh
S/o Shri Birbal Singh,
R/o H.No. A-21, Gali No. 1,
Gaurav Nagar-II, Prem Nagar-III,
Nagloi, Delhi-110086. Respondent
2. Union of India,
Through the Ministry of Communication,
Department of Communication,
Sanchar Bhawan,
New Delhi. Proforma Respondent

Through: Mr. U.Srivastava, Adv.

CORAM:

HON'BLE MR. JUSTICE MADAN B. LOKUR

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.

This Petitioner has assailed the order dated 10th July 2007 passed by the Central Administrative Tribunal whereby the Tribunal has directed the Petitioner to reconsider the issue of disciplinary proceeding against the Respondent vis-à-vis other similarly situated employee, named, Raj Mal and also examine treating the suspension period as spent on duty with all consequential benefits.

The Respondent was working as Telecom Technical Assistant with the Petitioner at Nangloi Exchange, Delhi. On 8th March, 1996, FIR No. 12/1996 under Sections 7/13 of the Prevention of Corruption Act, 1988 was registered against the Respondent for demanding and accepting bribe from a subscriber who lodged the complaint with the Anti Corruption Department. On completion of investigation, charge-sheet was submitted in the Court. However, the criminal case was finally decided by the Special Judge, Delhi vide judgment dated 15th January 2005 and the Respondent was acquitted. No appeal has been filed against the said acquittal.

On 28th September 2006, the Petitioner issued a charge-sheet to the Respondent on the same allegations which constituted offence in the criminal case. The Respondent challenged the issuance of the charge-sheet before the learned Tribunal. In the OA before the learned Tribunal, it

was contended by the Respondent that in all post-acquittal cases, no departmental enquiries were held by the Petitioner. The Respondent gave other instances in the petition including the case of Raj Mal Vs. Union of India & Others O.A. No.2747/2005. The Respondent challenged the action of the Petitioner to be discriminatory.

The learned Tribunal referred to the case of Raj Mal (supra) who had also approached the Tribunal under similar circumstances and similar order was passed and the Petitioner implemented the said order and dropped the enquiry against Raj Mal. In respect of the other persons also, the Petitioner took similar decision. The learned Tribunal observed that although, the enquiry is permissible in law, there is no distinction between present case and the cases of other persons who were involved in similar cases and on their acquittal, the proceedings were dropped and the suspension period was treated as spent on duty.

We have examined the contentions of the parties. Considering that more than 12 years have lapsed from the date of the incident which took place on 8th March 1996, the Respondent having been acquitted as well as the Petitioner's decision to drop the proceedings in the case of similarly situated other employees, we would not like to interfere in the

present case. The writ petition is dismissed. However, this case should not be treated as a precedent for future.

J.R. MIDHA, J

MADAN B. LOKUR, J

SEPTEMBER 4, 2008

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