

***IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ WP(C) No.1758/2008

%Date of Decision: 24.04.2008

Government of NCT Delhi ...Appellant
Through: Ms. Sonia Mathur, Advocates.

Versus

Ex. ASI Surinder Kumar ...Respondent
Through:

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)

This Writ Petition arises out of the order dated 5th November 2007 passed by the Central Administrative Tribunal whereby the learned Tribunal has quashed the order of dismissal of the respondent under Article 311 (2)(b) of the Constitution of India.

A sting operation was telecasted on NDTV on 7th February 2006 in which the respondent was shown demanding and negotiating amount of bribe with one Mr. Anand. Thereafter, an interview of Mr. Anand and his family members was telecasted in which he leveled allegations of harassment against the respondent.

The Disciplinary Authority passed the order of dismissal of the respondent 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 the dismissal, the respondent 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 of the Hon'ble Supreme Court on the subject. The learned Tribunal allowed the OA and quashed the dismissal of the respondent.

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 the present case of sting operation. The department could have proved the charge against the respondent by examining the witnesses from NDTV who carried out the sting operation. We are further of the view that conducting of the departmental enquiry in sting operation is all the more necessary in order to rule out the possibility of any motivated action in sting operation. Whether such a sting operation was genuine or not has to be proved by cogent evidence and for this, it is not difficult to produce the material witnesses.

We, therefore, dismiss the writ without costs.

(J.R. MIDHA)
JUDGE

(A.K. SIKRI)
JUDGE

April 24, 2008
s.pal