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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

O.A. NO.1349/2002

This the 23rd day of July, 2002.

HON'BLE SMT. LAKSHMI SWAMINATHAN, VICE-CHAIRMAN (J)

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

Bir Pal Singh S/O Tale Ram,
R/O E-123-A, Jeewan Park, Pankha Road,
Uttam Nagar, Delhi-110059
employed as Inspector of Police,
CBI/SIU.XVII, C.G.O.Complex,
New Delhi (presently under suspension). ... Applicant

(By Shri D.S.Chaudhary, Advocate)

-versus-

1. Union of India through
Secretary, Ministry of Personnel,
Public Grievances and Pensions,
Department of Personnel and Training,
North Block, New Delhi-110001.

2. Director,
Central Bureau of Investigation,
Block No.3, CGO Complex, Lodhi Road,

3. Dy. Inspector General of Police,
CBI/SIC-III/New Delhi,
Block No.3, 6th Floor, CGO Complex,
Lodhi Road, New Delhi-110003.

4. Shri Sanjay Awasthi,
SP/CBI/SIU.VIII,
Block No.3, CGO Complex,
Lodhi Road,
New Delhi-110003. ... Respondents

(By Shri M.M.Sudan, Senior Standing Counsel)

ORDER (ORAL)

Hon'ble Shri V.K.Majotra, Member (A) :

Applicant has impugned order dated 8.5.2002
(Annexure A-1) passed by Deputy Inspector General of
Police, respondent No.3, rejecting applicant's request to
stay the departmental proceedings till completion of
investigation in the criminal case.

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2. The learned counsel of applicant stated that a criminal case was registered against applicant on 27.1.1999 under Sections 120-B/201/409 IPC read with Section 13(i)(c) read with 13(2) of Prevention of Corruption Act. He stated that though investigation in the criminal case has not been closed despite passage of a period of three years, respondents have issued chargesheet dated 2.1.2002 (Annexure A-3) against applicant under rule 8 of Delhi Special Police Establishment (Subordinate Ranks) Discipline & Appeal Rules, 1961. The learned counsel contended that if the disciplinary proceedings are continued, his defence would be prejudiced in the criminal case, therefore, Annexure A-1 should be quashed and set aside and further proceedings in the departmental enquiry should be stayed till completion of the investigation of the criminal case.

3. The learned counsel of respondents stated that during investigation of the criminal case, one of the suspects, Ram Chander, Head Constable, absconded and till date he has not been intercepted. Though investigation of the case involving applicant is complete, the same has been kept pending awaiting interception of suspect Ram Chander. The investigation has disclosed that applicant committed various acts of omission and commission in his capacity as Incharge Malkhana, facilitating substitution of trap amount of Rupees two lakhs and as such departmental proceedings have been initiated against him. The learned counsel stated that disciplinary proceedings should not be stayed in routine and as a matter of fact,

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disciplinary enquiry and criminal case can proceed simultaneously depending on the facts and circumstances.

4. There is no bar or prohibition against simultaneous criminal and disciplinary proceedings. The desirability or propriety to stay the disciplinary proceedings has to be determined taking into consideration all the facts and circumstances of the case. The ground that "defence of the employee in the criminal case may not be prejudiced" is only one of the factors for consideration. If a criminal case is unduly delayed, that itself may be a good ground for going ahead with the disciplinary enquiry. The standard of proof, the mode of enquiry and trial in both disciplinary proceedings and criminal case are entirely distinct and different. Staying of disciplinary proceedings pending criminal trial cannot be a matter of course but a considered decision. In the case of **Depot Manager, Andhra Pradesh State Road Transport Corporation v. Mohd. Yusuf Mian**, 1997 SCC (L&S) 548 wherein **State of Rajasthan v. B.K.Meena**, 1997 (1) SLJ 86 (SC) was also considered, the Supreme Court held that disciplinary proceedings would continue simultaneously with the criminal proceedings. However, in **Capt. M.Paul Anthony v. Bharat Gold Mines Ltd.**, 1999 (3) SLJ 152 (SC), it was held as follows :

"If the departmental proceedings and criminal case are based on identical and similar set of facts and the charge in the criminal case against the delinquent employee is of a grave nature which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case."

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In the present case, we have to consider that although the investigation in the criminal case is complete, the criminal trial has not yet initiated. Its initiation is getting delayed because one of the suspects, Ram Chander, Head Constable, is absconding since 29.1.1999. It appears that initiation of the criminal trial and its conclusion will consume a very long period. In such a case disciplinary enquiry cannot be and should not be delayed unduly. In the facts and circumstances of the present case, when there is no possibility of initiating and concluding the criminal case in the foreseeable future, it is certainly not desirable to stay the departmental proceedings.

5. Having regard to the reasons recorded and discussion made above, we find no infirmity in Annexure A-1 dated 8.5.2002. As such, the OA is dismissed. No costs.

V. Majotra

(V. K. Majotra)
Member (A)

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)

- /as/