

Central Administrative Tribunal
Principal Bench: New Delhi

OA No. 1295/98

New Delhi this the 9th day of February, 2000

Hon'ble Mr. Justice V. Rajagopala Reddy, VC (J)
Hon'ble Mrs. Shanta Shastry, Member (A)

Dr. P.P. Singh
S/o Shri Kundan Singh
R/o Sector III House No. 321
R.K. Puram,
New Delhi.

...Applicant

(By Advocate: Shri M.P. Raju)

Versus

Union of India
through Secretary,
Ministry of Health and Family Welfare
Govt. of India, Nirman Bhawan,
New Delhi.

...Respondent

(By Advocate: Shri P.H. Ramchandani)

ORDER (Oral)

By Reddy, J.-

The applicant is working as CMO in the Orthopaedics department, Safdarjung Hospital, New Delhi. He is alleged to have accepted a bribe of Rs.20,000/- and another amount of about Rs. 4,000/- from the patient Shri S.P.Singh for performing an operation on the minor son of Shri S.P. Singh, though he was to perform the operation free of fees. He, conducted the operation in a Private Nursing Home i.e. Madhu Maternity Centre, Greater Kailash, New Delhi after charging the above amount.

2. On the complaint given by Mr. S.P. Singh an FIR was said to be registered in May, 1996 by the CBI, Delhi Branch and a trap was laid in which the applicant was caught red handed. Again on

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2.11.96 he made another complaint and in the said complaint, the complainant has stated that in addition to the demand and payment of Rs. 20,000/- and Rs. 4,000/-, the applicant demanded an amount of Rs.1,000/- for issuing the "essentiality certificate" on 2.11.96. Another FIR dated 2.11.96 has been registered by the police and criminal proceedings were initiated and a charge sheet was also filed. It is stated that criminal proceedings are in progress. Thereafter, the applicant was also served with the charge memo dated 25.6.98 that he has committed grave misconduct and departmental proceedings were initiated under CCS (Conduct) Rules. As he denied the charges, an enquiry was sought to be held.

3. The applicant filed the OA, seeking stay of the proceedings before the Disciplinary Authority on the ground that he was being prosecuted on identical set of facts and that the same witnesses and documents are sought to be relied upon before the Criminal Court.

4. It is, however, the case of the respondents that the charge memo herein and the charge sheet filed by the police before the criminal court comprise of two separate and different episodes. The applicant is being proceeded departmentally on the allegation that being a Government servant he illegally accepted Rs.20,000/- and Rs. 4,000/- for the purpose of performing the operation on a patient, whereas in the charge sheet he was being prosecuted not only on the above

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allegations but also on the allegation that he had demanded a bribe of Rs. 1000/- for issuing "essentiality certificate" on 2.11.96. Thus the incidents being different, there was no need for staying the departmental proceedings. It is further stated that the case before the department does not involve any complicated question of fact or law.

5. We have given careful consideration to the arguments of the learned counsel.

6. It is clear from Annexure A-I, the statement of Article of Charge, enclosed along with the Charge Memo, that the applicant is sought to be proceeded with departmentally on the allegation that he had accepted Rs. 20,000/- and Rs. 4,000/- from Mr. S.P. Singh, the complainant before the police regarding the incident of 3.5.96. Though no copy of charge sheet has been filed either by the applicant or by the respondents, learned counsel for respondents draws our attention to the copy of the Sanction Order dated 10.3.98. A reading of the same makes it manifest that the sanction was given not only for accepting Rs. 20,000/- and Rs. 4,000/- from Mr. S.P. Singh on 3.5.96 but for the additional charge of demanding Rs. 1,000/- from Mr. S.P. Singh for issuing "essentiality certificate" on 2.11.96. The trap was laid and applicant was caught on 3.5.96 and the demand was made for Rs. 1,000/- on 2.11.96. Thus, the two incidents are distinct and different and far removed from one another. The grave charge of accepting Rs. 1,000/- on 2.11.96 is

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significantly absent in the charge memo in the departmental enquiry. Thus the departmental proceedings are restricted to the trap laid down by CBI on 3.5.96. Learned counsel for applicant, however, vehemently contends that the documents relied upon in the departmental enquiry mostly related to proving the charge of accepting Rs.1,000/- on 2.11.96. The FIR dated 2.11.96, Handing Over Memo dated 3.11.96 and Seizure Memo dated 4.11.96, in addition to that witnesses also comprise of the police witnesses i.e. Sr. No. 13 to 19 in the list of witnesses and other witnesses who support the allegation of accepting Rs. 1,000/- on 2.11.96. But what has to be looked into is the charge levelled against the applicant and not the evidence sought to be adduced. From perusal of the Articles of Charge, the charge that is sought to be proceeded against the applicant is the charge of accepting Rs. 20,000/- and Rs. 4,000/- on 3.5.96 it should be noticed that in the complaint dated 2.11.96, the complainant had also stated that the applicant had accepted Rs. 20,000/- and Rs. 4,000/- on 3.5.96. Hence the FIR dated 2.11.96 cannot therefore be said wholly irrelevant.

7. Further the learned counsel for applicant relies upon M.Paul Anthony Vs. Bharat Gold Mines Ltd. JT 1999 (2) SC 456. In this case the principles deduced from the preceding paragraphs of the judgment were summarised in paragraph-22. Learned counsel relies upon paragraph-22 (ii), which reads as under:

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"If the departmental proceedings and the 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".

8. We do not agree. We have already held above, that the two proceedings are not based on the same set of facts. Moreover, unless we find that the charges are grave in nature involving complicated questions of law or fact, both proceedings may go on, there is no bar for simultaneous proceedings both departmentally as well as on the criminal side. On a consideration of the facts we do not find that ⁱⁿ the facts and circumstances of the case that the case involved complicated issues of law or fact. This is a simple case of bribery by the applicant and he was caught in a trap, the complainant and his wife are sought to be examined in this case who are the direct witnesses. The documents are only few to be proved. The witnesses are also not too many. In the circumstances, this case does not fall within the ratio of the judgment in the above case.

9. We do not, therefore, find any merit in the OA and the same is dismissed. No costs.

Shanta K
(Mrs. Shanta Shastry)
Member (Admnv)

V. Rajagopala Reddy
(V. Rajagopala Reddy)
Vice-Chairman (J)

cc.