

(VS)

Central Administrative Tribunal, Principal Bench

Original Application No. 2031 of 2000
M.A.No.1251/2001

New Delhi, this the 24th day of July, 2001

Hon'ble Mr. S. R. Adige, Vice Chairman(A)
Hon'ble Dr.A.Vedavalli,Member (J)

S.I. Anuj Aggarwal
(Under Suspension)
R/o B-18 B, Jawahar Park
Devli Road, Khanpur
New Delhi

- Applicant

(By Advocate - Ms.Jasvinder Kaur)

Versus

1. Commissioner of Police
Police Headquarters
I.P. Estate, New Delhi
2. Deputy Commissioner of Police
South Distt., New Delhi
Police Head Quarters
I.P. Estate, New Delhi

- Respondents

(By Advocate - Shri Ajesh Luthra)

O R D E R (ORAL)

By Mr.S.R.Adige, Vice Chairman(A)

Heard both sides.

2. In this OA, applicant impugns respondents' order dated 24.8.2000 (Annexure A-1), rejecting his request for keeping the disciplinary enquiry initiated against him vide order dated 20.5.2000 (Annexure A-2) pending till the disposal of the criminal case initiated on the basis of FIR dated 23.10.99 (page 29-30 of the OA).

3. By our order dated 14.5.2000, without going into the merits of the OA at that stage, we had disposed of the same giving liberty to the applicant that in the event chargesheet in the criminal case was

filed, it would be open to him to seek revival of the OA through an M.A. by filing a copy of aforesaid chargesheet in the criminal case.

4. Applicant has since filed copy of the chargesheet dated 6.7.2000 (Annexure A-2) together with M.A.1251/2001 in which it has been prayed that respondents be restrained from continuing with the disciplinary enquiry in view of the circular dated 31.8.99 till the finalisation of the criminal case pending before the competent criminal court.

5. We have heard applicant's counsel Ms.Jasvinder Kaur and respondents' counsel Shri Ajesh Luthra.

6. In view of the fact that the aforesaid affidavit has been filed, at the outset, we revive O.A.2031/2000. M.A.1251/2001 is disposed of accordingly.

7. Coming to the merits of the aforesaid OA, it is not denied that at least some of the charges in the criminal case are common with those contained in the departmental enquiry. In this connection, respondents own circular dated 31.8.99 (Annexure A-9), after referring to the Hon'ble Supreme Court's ruling dated 30.3.99 in Civil Appeal No.1906/99, Captain M.Paul Anthony vs. Bharat Gold Mines Limited & anr., has laid down that "in case where parallel departmental enquiry has been ordered in the criminal case on the

same facts as given in the criminal case, D.E. can be held in abeyance in the interest of natural justice till the conclusion of the criminal case."

8. In view of the fact that many of the charges in the disciplinary enquiry as well as in the criminal case are same; many of the witnesses are common; and the criminal case as well as disciplinary enquiry are basically grounded on the basis of same facts, we consider that this is a fit case to direct the respondents to keep the disciplinary enquiry pending till the disposal of the criminal case initiated against the applicant vide chargesheet dated 6.7.2000. ^{20.7.2000} However, if inordinately long time is taken in disposal of the criminal case against the applicant, following the ruling in Captain Paul Anthony's case (supra), it will be open to respondents to seek an order from the Tribunal for proceeding with the disciplinary enquiry against the applicant.

*Corrected as per
order dt 22.3.02
in MA 660/2002
16/4/02*

9. O.A. stands disposed of with the above directions. No costs.

A.Vedavalli
(Dr.A.Vedavalli)
Member(J)

S.R.Adige
(S.R.Adige)
Vice Chairman(A)

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