

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.2322/2000
with
O.A.No.2679/2000

17

Hon'ble Shri S.R.Adige, Vice-Chairman(A)
Hon'ble Shri Shanker Raju, Member(J)

New Delhi, this the 2nd day of ~~April~~^{MAY}, 2002

O.A.No.2322/2000:

1. Shri K. Venugopalan
S/o Sh. A. Kuppuswamy
R/o B-17, Phase-II,
Kurinchi Housing Unit,
Coimbatore (Tamilnadu),
Pin-641021.
2. V.L.Reddy
s/o Shri V.Kista Reddy
r/o House No.17-1-382/VP/27
Vishnu Puri Colony
Karmanghar
Hyderabad - 74.
3. Babu Lal Gautam
s/o Shri Radhey Shyam Gautam
r/o Vill. Narhauli
P.O.-Aduki
Distt. Mathura (UP)-282 001.
4. Shio Dutta Prasad
s/o Late Basgit Sah
r/o Gandhi Nagar
Near Shiv Mandir
P.O. - Dehri-on-sone
Distt. Rohtas,
Bihar - 821307.
5. U.K.Sarkar
s/o Late Shri J.C.Dey Sarkar
r/o Vill + P.O. Ranipatra
Distt-Purnea,
Bihar - 854 337.
6. Ravindra Prasad Singh
s/o Shri Ram Lakhan Singh
r/o Vill. Majosdih
P.O.-Bachhawara
Distt. Begusarai
Bihar - 851111.
7. N.Hari Kumar
s/o Late Shri P.Narayanan Nair
r/o Puthen Veedu Kolani
P.O.Thodupuzha, Kerla - 685584.
8. T.K.Chary
s/o Shri T.G.Chary
r/o House No.1-2-33
Old Alwal, Bolaram
Secunderabad (AP)-500 010. ... Applicants.
(By Advocate: Sh. Bhrun K. Sinha)

VERSUS

18

1. Union of India
Through its Secretary
Ministry of Communication
Department of Posts
Dak Bhavan, Sansad Marg
New Delhi.
2. Assistant Director General (DI)
Dak Bhavan
Sansad marg, New Delhi.
3. Sr. Superintendent of Post Office
Hyderabad
South East Division
Hyderabad-500027
4. Superintendent of Post Office
Rohtash Division
Sasaram, Bihar-821115
5. Superintendent of Post Offices
Purniea Division
Purniea
Bihar - 251001
6. Suptt. of Post Offices
Idukki Division
Thodupwzha-685584
7. Suptt. of Post Offices
Sangreddy Division
Sangareddy-502001. ... Respondents

(By Advocate: Shri H.K.Gangwani)

with

O.A.No.2679/2000:

1. K.Manivannan
s/o Late R.Katheresanavi
1/831, Vallalar Street
Bharati Nagar
Ramanathpuram District
Tamil Nadu - 623 503.
2. M.Balakrishnan
s/o Late Sri M.K.Muniyandi
1996, Rajendram Nagar
Thanjavur - 613 004.
3. Dhananjay Jha
s/o Sri Anand Kishor Jha
Qtr. No.O-36
B-1, Dilsad Garden
Delhi - 110 095. .. Applicants

(By Advocate: Shri Barun K. Sinha)

Vs.

19

1. Union of India through
its Secretary
Ministry of Communication
Department of Posts
Dak Bhawan, Sansad Marg
New Delhi.

2. Assistant Director General (DI)
Dak Bhawan
Sansad Marg
New Delhi.

3. Superintendent of Post Offices
Ramanathapuram District
Ramanathapuram 623 501

4. Superintendent of Post Offices
Maviladuturai Division
Mayiladuturai 609 001.

5. Sr. Post Master
Parliament Street (HPO)
New Delhi - 110 001.
(By Advocate: Shri H.K.Gangwani)

.. Respondents

O R D E R

By Shanker Raju, M(J):

As these two OAs involve common questions of fact and law, they are being disposed of by this common order:

2. Applicants have sought stay of disciplinary proceedings initiated by the respondents simultaneously along with a criminal prosecution. Applicants in these cases while working as Postal Assistants in Army Postal Services had appeared in IPO/IPM Examination held on 7.8.1996 at different centres in India. On an anonymous complaint made to the Assistant Director General (Vigilance) regarding falsification of records a preliminary investigation was carried out which ultimately culminated in a FIR No.413/97 registered on 4.10.1997 against the applicants under Section 420/468/471 and 120(B) I.P.C. of Police Station Parliament Street, New Delhi. On completion of the investigation a chargesheet was

submitted before the competent Court at Patiala House in the year 1998 and at present the matter is stated to be awaiting adjudication.

3. Meanwhile applicants are also being proceeded against departmentally under Rule 14 of CCS (CCA) Rules, 1965 on the charge of faking answer books, replacing the same and manipulating fictitious marks borne in the tabulation sheets with the malafide intention of getting undue advantage over other candidates in order to be placed in the merit list.

4. This Court by interim order dated 6.11.2000 in OA No.2322/2000 and order dated 21.12.2000 in OA No.2679/2000 had stayed the disciplinary proceedings and those interim orders have been extended from time to time.

5. Applicants impugn the action of the respondents in holding disciplinary as well as criminal proceedings simultaneously on the same set of facts and charge as well as on the same evidence. It is contended that respondents have not disputed that both the departmental proceedings as well as the criminal proceedings are founded on ^{the} same set of facts and rest on ^{the} same evidence and documents. It is argued that continuation of the disciplinary proceedings would prejudice the defence of the applicants in the criminal trial, as they would be compelled to disclose their defence. To substantiate their contention, the learned counsel for applicants placed reliance on a decision of the Apex Court in Capt. M.Paul Anthony Vs. Bharat Gold Mines Ltd., JT 1999(2) SC 456 and

further contended that the charge in the criminal case is grave as the punishment prescribed for cheating and falsification of record can extend upto life imprisonment. It is also contended that the charge incorporates complicated questions of law and fact, because the allegations against the applicants is in respect of falsification and replacing of answer books, which have been sent to CFSL for ascertaining their signatures in the answer sheets with a view to proving their guilt in the criminal trial. (2)

6. On the other hand, respondents' counsel while not denying during hearing that the criminal proceedings and the disciplinary proceedings were grounded on ^{the} same set of facts and evidence, contended that parallel proceedings could not be stayed as a matter of right. It was also contended that the charges levelled against the applicants ^{were} ~~who~~ neither grave nor ^{did} ~~does~~ they involve a complicated question of law and fact. Reliance in this contention was placed on a decision of CAT, Principal Bench in OA No.682/2001, I.J.Mahajan Vs. Union of India. It was further stated that the criminal trial had already been unduly prolonged and in that event, it would be advisable to resume the proceedings and to conclude it expeditiously in view of the decision of the Apex Court in State of Rajasthan Vs. B.K.Meena, 1996 SCC (L&S) 1455. It was lastly contended that the disciplinary proceedings were conducted on the basis of preponderance of probability and the misconduct alleged in the disciplinary proceedings was different from the offences with which applicants were charged in the criminal trial.

7. We have carefully considered the rival contentions and perused the materials on record.

22

8. In this connection, it would be relevant to reproduce the conclusions deduced by the Apex Court in cases where disciplinary proceedings are sought to be stayed during the pendency of criminal proceedings in the case of Capt. M. Paul Anthony Vs. Bharat Gold Mine (supra).

i) Departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar in their being conducted simultaneously, though separately.

ii) 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 employees is of a grave nature which involve complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case.

iii) Whether the nature of a charge in a criminal case is grave and whether complicated questions of fact and law are involved in that case, will depend upon the nature of offence, the nature of the case launched against the employee on the basis of evidence and material collected against him during investigation or as reflected in the charge sheet.

iv) The factors mentioned at (ii) and (iii) above cannot be considered in isolation to stay the Departmental proceedings but due regard has to be given to the fact that the departmental proceedings cannot be unduly delayed.

v) If the criminal case does not proceed or its disposal is being unduly delayed, the departmental proceedings, even if they were stayed on account of the pendency of the criminal case, can be resumed and proceeded with so as to conclude them at an early date, so that if the employee is found not guilty his honour may be vindicated and in case he is found guilty, administration may get rid of him at the earliest.

9. From the foregoing conclusions, it is clear that there is no bar for proceeding simultaneously in departmental as well as in criminal proceedings, but if it is established that the disciplinary proceedings and the criminal case are founded on identical and similar set of facts, and the charge in the criminal case is of a grave nature which involves complicated question of facts and law, it would be ^{desirable} ~~directed~~ to stay the disciplinary proceedings to avoid prejudice being caused to the delinquent official in the criminal trial.

10. In both the disciplinary as well as the criminal proceedings applicants have been charged with falsification of documents, committing fraud and forgery by manipulating the answer books and marks sheets to ^{gain} ~~give~~ advantage over the other candidates in the merit list. Both the disciplinary proceedings as well as the criminal proceedings are admittedly grounded on the same set of facts and evidence. In our considered view ^{the} ~~are~~ the offences for which the applicants have been charged in the criminal case, which entail punishment upto life imprisonment are grave in nature, and we find from the material on record that the charge in the criminal case ^{also} involves complicated question of fact and law.

11. The object behind staying of the disciplinary proceedings during the pendency of a criminal case grounded on the same set of facts and evidence, is to safeguard the interest of the delinquent as regards his defence in the criminal case inasmuch as if he is compelled to cross-examine the

witnesses and to reveal his defence in the disciplinary proceedings, his defence sought to be taken in the criminal trial would be disclosed, which would prejudice him in the criminal case.

12. In the light of the foregoing discussion, the present OAs are disposed of with a direction to the respondents to keep the disciplinary proceedings, initiated against the applicants, presently in abeyance, in view of the criminal proceedings which are grounded on the same set of facts and evidence and are subjudice before the trial court. However, having regard to para (v) of the Apex Court's conclusion in Captn. M. Paul Anthony's case (supra) extracted in Para 8 above, it is made clear that if the trial court's final decision in the criminal case is not handed down within six months from today, respondents shall be at liberty to resume the disciplinary proceedings in accordance with law. No costs.

Copy of this order be placed in other OA No.2679/2000.

S. Raju
(Shanker Raju)
Member(J)

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

/rao/