

Central Administrative Tribunal  
Principal Bench: New Delhi

O.A. NO. 523/2000

(10)

New Delhi this the 1st day of March 2001

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

R.N. Madan,  
Enforcement Officer,  
(Under Suspension),  
46, Samaj Kalyan Cooperative Group,  
Housing Society, New Delhi.

(By Advocate: Shri R.K. Handoo)

Versus

1. Union of India  
Through  
The Secretary,  
Ministry of Finance  
Department of Revenue,  
North Block, Central Secretariat,  
New Delhi-110 001.
2. The Director,  
Enforcement Directorate,  
(FERA), Ministry of Finance,  
Department of Revenue,  
6th Floor, Lok Nayak Bhawan,  
Khan Market, New Delhi-110 003.

(By Advocate: Shri H.K. Gangwani)

ORDER (Oral)

Applicant seeks a direction to respondents not to proceed with departmental proceedings initiated against him vide Memorandum dated 14.10.1999 (Annexure A-3) till the conclusion of the criminal proceedings against him.

2. Heard applicant's counsel, Shri R.K. Handoo and respondents counsel, Shri H.K. Gangwani

3. By Memorandum dated 14.10.1999, departmental proceedings have been initiated against the applicant, on the charge that while functioning as Enforcement Officer, Directorate of Enforcement, New

Delhi, he demanded illegal gratification of Rs. 1 lakh and accepted Rs. 15,000/- on 9.7.1997 from one Shri Deepak Gupta for not including his name as one of the conspirators in a case of FERA violation Shri Raman Mehta of M/s. Pretty Women which was being investigated by the applicant.

4. It is not denied that a charge-sheet under Section 7 & 13(2) read with Section 13(1)(d) of P.C. Act 1988 (Annexure A-2) has also been instituted against the applicant, on the basis of a written complaint dated 9.7.1997 filed by Shri Deepak Gupta that applicant demanded illegal gratification of Rs. 1 lakh and accepted Rs. 15,000 from him for not including his name as one of the conspirators in the aforesaid case of FERA violation by Raman Mehta which was being investigated by applicant.

5. A perusal of the documents and witnesses relied upon in the criminal case and in the departmental proceeding makes it clear that all the documents and witnesses relied upon in the departmental proceedings are included amongst the documents and witnesses in the criminal case. Respondents themselves admit in their ~~test~~ reply <sup>test</sup> all the relied upon documents and witnesses in the departmental proceedings appeared in the charge sheet filed by the CBI in the criminal case. It is true that a few additional documents and additional witnesses have been listed in record of the criminal

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case, but in so far as these additional documents are concerned they are mainly the copies of certain petitions and court orders, while the additional witnesses in the criminal case are those officers who would be summoned in the criminal case to prove the documents.

6. Under the circumstances, we are satisfied that the evidence to be relied upon by the prosecution in the departmental proceedings as well as in the criminal case is very much the same.

7. In this connection our attention has been invited to the Hon'ble Supreme Court's Judgement in Capt. M. Paul Anthony Vs. Bharat Gold Mines Ltd. & Anr JT 1999 (2) SC 456 wherein the principles have been laid down governing cases where departmental proceedings may be kept in abeyance till the conclusion of the criminal case. Those principles are contained in Para 22, of the aforesaid ruling wherein it has been interalia laid down what while there is no legal bar to departmental proceedings and criminal proceedings being conducted simultaneously though separately, where the departmental proceedings and criminal case are based on identical and similar set of facts and the charge against the delinquent employee is of a grave nature which involves complicated question of law and facts, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case. Whether the charge in the criminal case is grave and whether complicated questions of law would arise or not, would depend on the particular facts and circumstances of

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that case. At the same time due regard has to be given to the fact that the departmental proceeding is not unduly delayed.

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8. As stated above, it is clear that in the present case, the departmental proceedings and the criminal proceedings are based on identical and similar set of facts and the charge in the criminal case against the applicant is undoubtedly is of a grave nature. It can also not be denied that complicated questions of law and facts are likely to be raised in this case.

9. Under the circumstances, applying the aforesaid ruling, we consider this a fit case to direct respondents to stay the departmental proceedings initiated against applicant vide Memo dated 14.10.1999 for the present, on account of the pendency of the criminal case against him, giving liberty to respondents that if the criminal case is unduly delayed, they may approach the Tribunal for reassumption of the departmental proceedings against the applicant.

10. O.A stands disposed of accordingly. No costs.

A.K. Vedavalli

(Dr. A. Vedavalli)  
Member (J)

S.R. Adage

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

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