

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/01439/2014

HYDERABAD, this the 15th day of December, 2020

**Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member**



K.Parvaiah S/o K.Balaiah,
Age about 50 years,
Working as Sub Postmaster (Under Suspension),
Rudrur S.O. Nizamabad Division,
R/o L.I.G – 129, A.P.H.B.Colony,
Vinayak Nagar, Nizamabad – 503 003.Applicant

(By Advocate : Mr.M.Venkanna)

Vs.

1. Union of India, represented by
Its Secretary to the Government of India,
Ministry of Communications & IT,
Department of Posts, Dak Bhavan,
Sansad Marg, New Delhi-110001.
2. The Chief Postmaster General,
A.P. Circle, Dak Sadan,
Hyderabad – 500 001.
3. The Director of Postal Services,
O/o The Postmaster General,
Hyderabad Region, Hyderabad-500 001.
4. The Superintendent of Post Offices,
Nizamabad Division, NIZAMABAD 503003.Respondents

(By Advocate: Mr. K. Venkateswarlu, Addl. CGSC)

ORAL ORDER
(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)

Through Video Conferencing:

2. The OA is filed for directing the respondents not to proceed with the charge memo issued on 20.11.2014 as 3 criminal cases have been filed with similar charges in the competent court.
3. Brief facts are that the applicant while working as Sub Postmaster Rudrur Sub Post office, was placed under suspension on 15.3.2013 and Rule 14 charge memo was issued on 20.11.2014 for alleged discrepancies in Recurring Deposit Accounts. Simultaneously, members of the public lodged complaints against the applicant with the police leading to 3 criminal cases filed against the applicant. The applicant is aggrieved that the respondents are proceeding with the disciplinary case which will jeopardize his case in the criminal court, as the defense revealed in the disciplinary case could be used to his disadvantage in the criminal case and hence the OA.
4. The contentions of the applicant are that the nature of charges being one and the same, any revelation of the defense of the applicant in the disciplinary case could be used against him in the criminal case. Applicant cited the Hon'ble Supreme Court judgments in Captain Paul Anthony, G.M.Tank in support of his contentions. The disciplinary case is at the stage of examining the witnesses.
5. Respondents in the reply statement stated that the applicant was involved in alleged misappropriation of deposits in different savings accounts like RD, MIS etc standing at the Rudrur Sub Post office. The

depositors have complained to the police and to the respondents. Consequently, 3 criminal cases were registered against the applicant and after suspending the applicant, Rule 14 charge sheet was issued on 20.11.2014 by the respondents. For having been suspended, applicant moved the Tribunal in OA 680/2014 wherein it was directed to complete the disciplinary proceedings in 3 months time and when respondents took steps in this direction by issue of Rule 14 charge sheet/ appointing of I.O/P.O on 20.11.2014, applicant filed the instant OA. There is no bar to initiate disciplinary action even if the charges are similar as per Rule 57 of Postal Manual Volume –III.

6. Applicant counsel was absent even on revised call and the respondents counsel was present. The case belongs to the year 2014 and it would not be in the interest of justice to further procrastinate the matter. The matter came up for hearing on more than 15 occasions and today it was listed for final hearing and therefore, the case was adjudicated upon.

7. I. As seen from the records, the applicant was involved in alleged misappropriation of deposits made into the savings accounts like Recurring Deposits, Time Deposits etc. standing at Rudrar Sub Post office. Some of the depositors complained to the police and 3 criminal cases were registered against the applicant vide FIR Nos.68/2013, dt.08.03.2013, 81/2013 & 82/2013, dt. 21.03.2013. Simultaneously, complaints were received by the respondents from the depositors and hence the applicant was suspended w.e.f. 15.03.2013. Against the suspension applicant filed OA 680/2014 wherein Tribunal directed the respondents to conclude the disciplinary proceedings in 3 months. When the respondents issued the



Rule 14 charge sheet on 20.11.2014 and appointed IO/PO, the instant OA has been filed. The relief sought by the applicant in the present OA is as under:



Main relief:

"In view of the above facts and circumstances the applicant herein prays that this Hon'ble Tribunal may be pleased to direct the respondents not to go ahead with the inquiry in respect of the charges vide Memo No.F4-1/13-14 dated 20.11.2014 till the final outcome of the criminal trial vide CC No. 28/2014, 29/2014 and 711/2014 before the court of Hon'ble Judicial First Class Magistrate at Bhodan..."

Interim Relief:

"In view of the above facts and circumstances the applicant herein prays that this Hon'ble Tribunal may be pleased to direct 4th respondent not to act upon the charge sheet vide Memo No.F4-1/13-14 dated 20.11.2014, pending final disposal of this Original Application.."

More or less the main relief and the interim relief sought are one and the same. In the interim relief, it was not to act upon the charge sheet pending finalization of the OA and in the main relief it was to stop the disciplinary inquiry till the criminal case is adjudicated upon. In both, the relief sought was to get the disciplinary proceedings stayed till the criminal case comes to a finality.

II. The Tribunal dealt with the interim relief in an elaborate manner on 18.12.2014 and rejected the same as under:

"The applicant has sought the following interim relief:

"..that this Hon'ble Tribunal may be pleased to direct 4th respondent not to act upon the charge sheet vide Memo No.F4-1/13-14 dated 20.11.2014, pending final disposal of this Original Application."

2. *Heard counsel for the applicant.*
3. *The learned counsel for the applicant while seeking the above interim relief submitted that the charges leveled against the applicant vide Memo. No. F4-1/13-14 dated 20.11.2014 are identical with the complaints given by the*



members of the public to the Police through three different complaints which were registered and charge sheets were also filed. He further submitted that substantial evidence and the witnesses in both the criminal cases and the departmental proceedings are one and the same and if the departmental enquiry is allowed to go ahead, the evidence that may be introduced in the departmental enquiry would be disclosed, thereby great prejudice would be caused to the applicant in defending the criminal case. Since the criminal cases are in the process of prosecution witnesses being examined, it is just and proper to keep the departmental proceedings in abeyance by staying the further proceedings in respect of charge memo dated 20.11.2014. He further submitted that the set of charges and witnesses are one and the same in both the criminal case and the departmental proceedings. In support of his case, learned counsel for the applicant relied upon the following decisions:

- (i) *Capt. M. Paul Anthony v. Bharat Gold Mines Ltd (CDJ 1999 SC 210);*
- (ii) *Ch. Appala Reddy v. Eastern Power Distribution Company of AP Ltd (CDJ 2005 APHC 767);*
- (iii) *G.M. Tank v. State of Gujarat & Anr (CDJ 2006 SC 415).*

4. We have heard learned counsel appearing for the respondents and we have perused the material on record and also the judgments cited by the learned counsel for the applicant.

5. Having seen the material on record, it is clear that though the charges are one and the same in both the cases, but the witnesses are different in the criminal proceedings and the departmental proceedings and particularly, in the present case on hand, the criminal case prosecution is under progress and finding has not yet been given by the criminal court. In the mean time, the respondent authorities issued the Memorandum of Charges and they are taking steps to conclude the departmental proceedings.

6. In the case of *Corporation of the City of Nagpur, Civil Lines, Nagpur & Another v. V. Ramachandra G. Modak & Others [AIR 1984 SC 626 (Three Judges)],* it has been held as follows:

“6. The other question that remains is if the respondents are acquitted in the criminal case whether or not the departmental inquiry pending against the respondents would have to continue. This is a matter which is to be decided by the department after considering the nature of the findings given by the criminal court. Normally, where the accused is acquitted honorably and completely exonerated of the charges it would not be expedient to continue a departmental inquiry on the very same charges or grounds or evidence, but the fact remains, however, that merely because the accused is acquitted, the power of authority concerned to continue the departmental inquiry is not taken away nor is its discretion in any way fettered.”

7. In view of the dictum laid down by the Hon'ble Supreme Court of India in the case referred above and in view of the facts and circumstances of the case, we do not find any merit to grant interim relief, that is, to stay the further proceedings in respect of the charge memo dated 20.11.2014. Accordingly, the interim prayer of the applicant is rejected.

8. The respondents are directed to file reply statement within four weeks.”

The above findings of this Tribunal in declining the interim relief require no further elaboration as they are self-speaking.

III. Besides, the standard of proof required in a criminal case is beyond reasonable doubt and in departmental case it is preponderance of probability. Further, ingredients of delinquency in a criminal case and a disciplinary case are different. It is the element of misconduct, which is examined in a disciplinary case and in the criminal case, it is the offence which takes the centre stage. Even if one is acquitted in a criminal case, the respondents are not restrained from taking disciplinary action against the employee as observed by the Hon'ble Apex Court recently in **Karnataka Power Transmission Corporation Ltd. vs Sri C. Nagaraju on 16 September, 2019** Civil Appeal No. 7279 of 2019 (Arising out of SLP (C) No. 25909 of 2013) as under:

“9. Acquittal by a criminal court would not debar an employer from exercising the power to conduct departmental proceedings in accordance with the rules and regulations. The two proceedings, criminal and departmental, are entirely different. They operate in different fields and have different objectives. In the disciplinary proceedings, the question is whether the Respondent is guilty of such conduct as would merit his (Ajit Kumar Nag (supra)) removal from service or a lesser punishment, as the case may be, whereas in the criminal proceedings, the question is whether the offences registered against him under the PC Act are established, and if established, what sentence should be imposed upon him. The standard of proof, the mode of inquiry and the rules governing inquiry and trial in both the cases are significantly distinct and different.

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13. Having considered the submissions made on behalf of the Appellant and the Respondent No.1, we are of the view that interference with the order of dismissal by the High Court was unwarranted. It is settled law that the acquittal by a Criminal Court does not preclude a Departmental Inquiry against the delinquent officer. The Disciplinary Authority is not bound by the judgment of the Criminal Court if the evidence that is produced in the Departmental Inquiry is different from that produced during the criminal trial. The object of a Departmental Inquiry is to find out whether the delinquent is guilty of misconduct under the conduct rules for the purpose of determining whether he should be continued in service. The standard of proof in a Departmental Inquiry is not strictly based on the rules of evidence. The order of dismissal which is based on the evidence before the Inquiry Officer in the disciplinary proceedings,



which is different from the evidence available to the Criminal Court, is justified and needed no interference by the High Court."



In the instant case, it has been noted while declining the interim relief that the list of witnesses in criminal cases and the departmental proceedings were different and therefore, the claim of the applicant that he was proceeded on a similar set of charges in all respects, is incorrect. Further, Rule 57 of P & T Manual permits simultaneous proceedings and it is also to be observed that the respondents were acting on the direction of the Tribunal in initiating disciplinary action against the applicant. It is not reasonable on part of the applicant to approach the Tribunal seeking revocation of suspension and, when the Tribunal directs respondents to conclude the disciplinary case in a given time interval, again approaching the Tribunal to restrain the respondent to act in the disciplinary case is not correct.

IV. Therefore, in view of the reasons given in the docket order dated 18.12.2014 while declining the interim relief and as per the legal principles laid down by the Hon'ble Supreme Court as cited in paras supra, we find no reason to interfere on behalf of the applicant.

The OA lacks merit for reasons discussed in paras supra and hence is dismissed, with no order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

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