

In the Central Administrative Tribunal

Principal Bench: New Delhi

OA No.1571/87

Date of decision: 04.12.1992.

Shri S.B. Ahluwalia

...Petitioner

Versus

Lt. Governor of Delhi & Others

...Respondents

Coram:-

The Hon'ble Mr. Justice V.S. Malimath, Chairman
The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the petitioner Shri Shankar Raju, Counsel.

For the respondents None

Judgement(Oral)
(Hon'ble Mr. Justice V.S. Malimath, Chairman)

Shri S.B. Ahluwalia, the petitioner was a Head Clerk in the Sales Tax Department. On the ground that he has forged certain documents and made use of the same for conferring undue benefit to some persons disciplinary proceedings have been initiated against him. He has been kept under suspension pending the said disciplinary proceedings. At the same time, the petitioner is being prosecuted for offences punishable under Sections 420, 468 and 479 of the Indian Penal Code readwith Section 34 of the Indian Penal Code in the Court of the Metropolitan Magistrate. We are informed by the petitioner that ✓ the charges have been framed against the petitioner

in the said criminal case on the basis of F.I.R. No.925 dated 18.3.1984 which was lodged in the Darya Ganj Police Station and that the case has been fixed for hearing on 9.8.1993. In the reply filed in this case, though there is none to represent and argue for the respondents, it is stated that these facts are admitted. The stand taken, however, is that the fact that the petitioner is being prosecuted in respect of the same conduct in the Criminal Court does not preclude the authorities from holding disciplinary proceedings against the petitioner. The law is well settled on this question. There is no bar for holding disciplinary proceedings for misconduct merely because in respect of the same conduct the person concerned is also being prosecuted in a criminal Court. It would not come in the way of the authorities conducting disciplinary proceedings in respect of the misconduct of the delinquent official. But what we are concerned in this case is as to whether it is just and fair to hold disciplinary proceedings against the petitioner when he is facing criminal trial before the Court of the Metropolitan Magistrate. The law on this question is well settled namely if the charges are very grave and the case involves serious questions of facts and law, there is every likelihood of prejudice being caused to the delinquent official if the disciplinary enquiry as well as the criminal

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proceedings are proceeded with simultaneously vide **AIR**

1960 SC 806 between Delhi Cloth and General Mills Limited

Vs. Kaushal Bhan. On facts we do find that the charges levelled against the petitioner are very serious. There is a charge of cheating and charge of forgery and there is a further charge of making use of the forged documents. These are indeed very serious charges involving serious examination of questions of facts and law. As substantially the same imputations are involved in the disciplinary proceedings as is clear from the charges framed against the petitioner, we are inclined to take the view that it is just and fair that the disciplinary proceedings are stayed till the disposal of the criminal case against the petitioner. In the circumstances, we are also inclined to take the view that there is nothing wrong in continuing the petitioner under suspension during the pendency of these proceedings, having regard to the nature of the charges levelled against the petitioner.

2. For the reasons stated above, this petition is allowed and the respondents are restrained from continuing the disciplinary proceedings against the petitioner till the disposal of the criminal case launched against the petitioner in respect of the same charges. After

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pending
the termination of the / criminal case the disciplinary
authority is entitled to proceed with the disciplinary
enquiry. Let a copy of this order be sent to the
respondents forthwith. The O.A. stands disposed of with
the aforesaid direction. No costs.

Julphu
(I.K. RASGOTRA)
MEMBER(A)

Malimath
(V.S. MALIMATH)
CHAIRMAN

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