

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

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O.A.NO.1015/91

DATE OF DECISION: 15th JAN. 92.

SHRI B.S. NEGI

....

APPLICANT

VERSUS

UNION OF INDIA & ORS.

....

RESPONDENTS

CORAM:-

THE HONBLE MR. T.S. OBEROI, MEMBER(J)

THE HON'BLE MR. I.K. RASGOTRA, MEMBER(A)

COUNSEL FOR THE APPLICANT : SHRI V.S.R. KRISHNA

COUNSEL FOR THE RESPONDENTS : SHRI N.S. MEHTA, SR.STANDING
COUNSEL

JUDGEMENT

(of the Bench delivered by Hon'ble Mr. T.S. Oberoi, Member(J)).

This O.A., filed under Section 19 of the Administrative Tribunals Act, 1985, is directed against the order dated 10.4.1991 (Annexure A-1), issued by the Joint Secretary (Vigilance), U.P.S.C., New Delhi, declining applicant's request for stay of the disciplinary proceedings against him, under Rule 14 of CCS CCA Rules, 1965.

2. The facts leading to the filing of the present O.A., briefly stated, are that the applicant besides certain others were proceeded against for offences under Section 120-B read with 420, 468, 471 I.P.C. and Section 5(2) read with Section 5(1)(c)(d) of Prevention of Corruption Act (Act II) of 1947. The C.B.I., after investigation of the case, presented challan against 4 of the accused persons, by showing them in column No.1 of the charge sheet, while the applicant and another, were shown in column No.2 thereof,

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showing that the C.B.I. had not found enough material to proceed against the applicant and the other, shown in column No.2 of the charge sheet. However, they could be proceeded against, at any stage, if the trial court so decided after finding sufficient material, against them as well, under the provisions contained in Section 319 of the Code of Criminal Procedure. According to the applicant, this has not been done so far, whereas the respondents, vide their impugned order dated 10.4.1991, have declined his request to stay the disciplinary proceedings against him under the CCS CCA Rules, 1965, on the ground that the applicant's case is different from those of Sh. Rati Pal Saroj and another, namely, Sh. Inder Nath Uppal, two of the other accused, shown in column No.1 of the charge sheet, in the criminal case against them. The applicant has claimed parity of treatment with the said two accused, namely, Sh. Rati Pal Saroj and Sh. Inder Nath Uppal, submitting that it will cause prejudice to him as the prime accused is not being proceeded against, in the departmental disciplinary proceedings, whereas he is being made to face the disciplinary proceedings under Rule 14 of the CCS CCA Rules, 1965. It has also been submitted that it may lead to anomalous situation if the result of the criminal case against the said 4 accused persons, and that of the disciplinary case against him, end in varying conclusions. He also contended that by showing him in column No.2 in the charge sheet, atleast the C.B.I. has not found the case against him as serious as that against those shown

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in column No.1, whereas by declining to stay the civil disciplinary proceedings against him, which have been stayed against the said main accused persons, the position against him, is the-other-way-round. He, therefore, prayed for the relief as per the submissions made in the present O.A. as per para-8 thereof.

3. The respondents have opposed the applicant's prayer, on the ground that the case of the applicant is different from that of the other accused persons, shown in column No.1 of the charge sheet, in the criminal case, inasmuch as the applicant is not being proceeded against in the criminal case, and is facing only the Civil Disciplinary case. Further, by referring to the relief prayed for as per the present O.A., it was contended on behalf of the respondents that the same, as per the first part of paragraph, cannot be granted, as the respondents cannot be stopped from proceeding against the applicant, in civil disciplinary proceeding, and so far as the second part of the relief claimed by the applicant is concerned, the same also, cannot be granted as the applicant's case, as earlier stated, is different, from that against the others, in column No.1 of the charge sheet, more so, degree of proof required in a criminal case is beyond all doubt, while in civil disciplinary proceedings, it is on the basis of preponderance of evidence.

4. We have carefully considered the rival contentions,

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as briefly discussed above. We have also perused the material on record, as adduced by both the sides. Reading together, the prayer made by the applicant, in his representation dated 26.10.1990 (Annexure-1 of paper-book), with impugned order (Annexure-1), in the light of the prayer clause, it leaves us in no manner of doubt that though quashing of Annexure A-1 has been sought for, by the applicant, but, when read with his representation dated 26.10.1990, it comes to only the stay of the civil disciplinary proceedings against him, till finalisation of the criminal case. Objection in this regard, as put forth by the learned senior counsel for the respondents, therefore, to our mind, is not sustainable. Keeping the same as well as the other aspect that the civil disciplinary proceedings against two of the accused have already been stayed by the respondents themselves, as would be seen from documents at Annexure A-5 and A-6 to the paper-book), we find force in the submissions of the learned counsel for the applicant, about the likelihood of prejudice being cause to the applicant, if the civil disciplinary proceedings against him are not ordered to be stayed, till finalisation of the criminal case. We order accordingly, and the O.A. is decided on these lines, without any order as to costs.

I.K. Rasgotra
(I.K. RASGOTRA)

MEMBER(A) 15/1/92

T.S. Oberoi
(T.S. OBEROI)

MEMBER(J)