

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.567 of 2004

New Delhi, this the 4th day of March, 2004

HON'BLE MR.KULDIP SINGH, MEMBER(JUDL)
HON'BLE MR.S.A. SINGH, MEMBER (A)

Shri Vijay Kumar
S/o Shri R.D. Singh
R/o C-4, 1-A, Battery Lane,
Rajpur Road,
Delhi-110 054.

...Applicant

By Advocate: Shri Manoranjan.

Versus

1. Government of NCT Delhi
Through its Chief Secretary,
I.P. Estate, Delhi Sachivalaya,
New Delhi-110 002.
2. Commissioner, Sales Tax
Bikrikar Bhawan, I.T.O.,
New Delhi-110 002.
3. Mrs. Achla Singh
Additional Commissioner,
Food and Supply Department,
K-Block, Vikas Bhavan,
I.P. Estate,
New Delhi.

...Respondents

O R D E R(ORAL)

By Hon'ble Mr.Kuldip Singh, Member(Judl)

The applicant has filed this OA seeking the relief to the effect that the directions be issued to the respondents to stop the departmental proceedings initiated by respondent No.1 till the finalisation of the criminal case pending in the court of P.K. Bhasin, ASJ, Delhi under the Prevention of Corruption Act.

2. Facts in brief are that the applicant is being proceeded departmentally on the following allegations:-

"While working as ASTO, ward-72, Sales Tax Department, Shri Vijay Kumar had committed misconduct in as much as he had demanded, accepted and obtained Rs.5000/- in collusion with one Shri Satish Kumar S/o Late Shri Jamuna Dass R/o 5/134 Nirankari Colony, Delhi, a private person, from Shri Vijay Kumar Dewan S/o Shri

D.S. Dewan R/o 19/596 , DDA Flats, Kalkaji, who was running a shop in the name and style "M/s Dewan Electrical Works" at A-14/2, Mukherjee Nagar Complex, Delhi on 21.6.2000 in order to withdraw a notice issued under Section 23(6) of Sales Tax Act, 1975.

Thus, Shri Vijay Kumar, ASTO failed to maintain absolute integrity and devotion to duty and acted in a manner which is unbecoming of a Government Servant, thus violating the provisions of Rule 3 of Central Civil Service (Conduct) Rules, 1964".

3. The applicant in the OA allege that on the same facts and statements a criminal case under Prevention of Corruption Act had also been registered against the applicant and since the allegations in both the cases and the witnesses are also the same so the proceedings before the departmental enquiry should be stayed as it will jeopardise the defence of the applicant.

4. We have heard the learned counsel for the applicant and gone through the record.

5. The learned counsel for the applicant has also relied upon a judgment reported in 1999 (3) SCC 679 entitled as Capt. M. Paul Anthony Vs. Bharat Gold Mines Ltd. and Another.

6. We have considered the contentions raised by the learned counsel for the applicant.

7. As regards the judgment cited by the learned counsel for the applicant is concerned, we have also gone through the same. It will not be out of place to mention

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that in para 22 of the aforesaid judgment, the Apex Court after analysing the law on the subject, has laid down the following principles:-

"(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 Departmental proceedings and the criminal case are based on identical and similar set of facts and the charges in the criminal case against the delinquent employee is of a grave nature which involves 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, the administration may get rid of him at the earliest (emphasis supplied)".

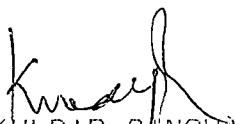
8. The court had observed that departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar in their being conducted simultaneously, though separately. Thus the general principle is that proceedings on both the sides, i.e., criminal court as well as the departmental authority can proceed simultaneously and it is only in those circumstances where the charge against the delinquent is of such a grave nature which involves

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complicated question of law only then it is desirable to stay the departmental proceedings till the conclusion of the criminal case. But in this case the learned counsel for the applicant is unable to convince us whether the charge is of a grave nature and complicated question of law is involved. Even in the case cited by the learned counsel for the applicant the court had given liberty to the departmental authority to revive the proceedings if the trial is taking undue long time, but here in this case the criminal trial is going on and the counsel for the applicant was unable to convince us that the charges in both the cases involve complicated questions of law itself or otherwise to stay the same, hence we do not think it appropriate to issue notice.

9. In view of the above, OA has no merits and the same is dismissed in limine.


(S.A. SINGH)
MEMBER (A)


(KULDIP SINGH)
MEMBER (J)

Rakesh