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In the Central Administrative Tribunal
Principal Bench: New Delhi

OA No.693/92

Date of decision: 23.12.1992.

Shri Karam Singh

...Applicant

Versus

Commissioner of Police Delhi & Others

...Respondents

Coram:-

The Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman(J)

The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the petitioner

Shri Vijay Pal Singh, Counsel.

For the respondents

Ms. Anjana Gosain, Counsel.

Judgement(Oral)

(Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman)

Both are heard finally. The applicant in this Original Application prays for staying the parallel departmental enquiry in view of a chargesheet filed against him in the Criminal Court of Delhi for his prosecution under Section 409 of the Indian Penal Code. The allegation in the chargesheet is that he has embezzled the Government property, .38 revolver. For this embezzlement he is being trialed in a Criminal Court. For his misconduct he is being enquired in the departmental enquiry. The law on this point is well settled by the Apex Court in the case of **Kukeshwar Dubey Vs. Bharat Coking Coal Ltd. (AIR 1988 SC 2118)** in the following words:-

"The view expressed in the three cases of the Court seem to support the position that while there could be no legal bar for simultaneous proceedings being taken, yet, there may be cases where it would be appropriate to defer

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disciplinary proceedings awaiting disposal of the criminal case. In the latter class of cases it would be open to the delinquent-employee to seek such an order of stay or injunction from the Court. Whether in the facts and circumstances of a particular case there should or should not be such simultaneity of the proceedings would then receive judicial consideration and the Court will decide in the given circumstances of a particular case as to whether the disciplinary proceedings should be interdicted, pending criminal trial. As we have already stated that it is neither possible nor advisable to evolve a hard and fast, straight-jacket formula valid for all cases and of general application without regard to the particularities of the individual-situation. For the disposal of the present case, we do not think it necessary to say anything more, particularly when we do not intend to lay down any general guideline."

Thus, the subject matter of the departmental enquiry is completely different from the allegations made in the chargesheet. Further more, every case has to be viewed in its own facts and circumstances. In view of this decision of the Apex Court this O.A. has no merit and it is dismissed. The interim order passed earlier stands vacated.

2. There will be no order as to costs.

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

Ram Pal Singh
 (RAM PAL SINGH)
 VICE-CHAIRMAN(J)