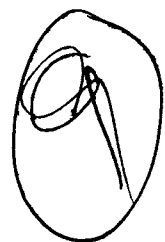


CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI



O.A. NO. 935/92

DECIDED ON : October 30, 1992

Virender Pal Singh

... Applicant

Vs.

Union of India & Ors.

... Respondents

CORAM

THE HON'BLE MR. P. C. JAIN, MEMBER (A)

THE HON'BLE MR. J. P. SHARMA, MEMBER (J)

Shri Mahesh Srivastava, Counsel for Applicant

Smt. Rajkumari Chopra, Counsel for Respondents

J U D G M E N T

Hon'ble Shri P. C. Jain, MEMBER (A) —

In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant who was posted as a temporary Ambulance Driver in the Ordnance Factory, Muradnagar, is aggrieved by the rejection of his request, vide letter dated 17.2.1992 (Annexure-A), for postponing the departmental inquiry initiated against him vide memorandum of chargesheet dated 20.8.1991 (Annexure-B). He has prayed for setting aside the aforesaid impugned order, and as an interim measure, to stay further proceedings in the departmental inquiry initiated vide chargesheet dated 20.1.92 (this date appears to be wrong as the chargesheet is dated 20.8.1991).

2. The facts giving rise to this O.A., briefly stated, are that while on duty from 8.00 p.m. on 29.5.1991 till 5.30 a.m. on 30.5.1991 at the Factory Hospital, the applicant was asked at about 9.15 p.m. to bring one patient, Shri Pradeep, from

Ue.

19

quarter No. 595/26/R, Ordnance Factory Estates<sup>Ch.</sup>, Muradnagar by ambulance No. UGU-8525. While he was going for the above purpose, he is said to have driven the ambulance in a rash and negligent manner resulting in accident of one Shri S. C. Singh, Chargeman Grade-II/Security who died on the spot. An FIR was lodged on 29.5.1991 and a case under Sections 279/304-A/424 - IPC is said to have been registered against him. On the other hand, vide memorandum of chargesheet dated 20.8.1991, he has been served with three articles of charge. The first charge relates to his running away from the scene without stopping the vehicle as a result of which the patient who was to be brought to the Hospital by that ambulance was not brought by the ambulance but the patient's father brought him on his bicycle. In the second charge it is alleged that his conduct in driving the ambulance in a rash and negligent manner and as a result thereof one factory employee died, is stated to be a conduct unbecoming of a Government servant. The third charge contains the allegation that inspite of his duty at the Factory Hospital from 8.00 p.m. to 5.30 a.m. on 29/30.5.1991, the applicant after the aforesaid incident parked the ambulance in the Hospital and left his duty without any permission and did not return till the time of his duty. This conduct is alleged to be objectionable as well as unbecoming of a Government servant.

3. The respondents have contested the O.A. by filing a return to which a rejoinder has also been filed by the applicant. As the pleadings in this case were complete, it was decided with the consent of the parties to dispose of the case finally at the admission stage itself. Accordingly, we have perused



the material on record and also heard the learned counsel for the parties. It may be mentioned here that by an order passed on 8.4.1992, a Bench of this Tribunal had directed, as an interim measure, for keeping the proceedings of the departmental inquiry in abeyance. This interim order has continued since then.

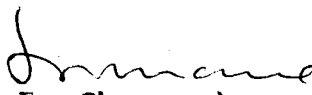
4. The main ground urged before us is that the charges levelled against the applicant in the inquiry proceedings as well as in the criminal case are same and identical and accordingly, the inquiry proceedings should be deferred till the conclusion of the criminal proceedings as the applicant will have to disclose his defence and the criminal case pending against him shall be adversely affected. It needs to be stated that all the charges levelled against the applicant in the departmental proceedings are neither identical nor same as in the criminal case registered against him. Further, we were informed by the learned counsel for the applicant that no challan has been filed to the knowledge of the applicant in the criminal case against him so far. In view of this, the contention of the applicant that the witnesses in the departmental proceedings as well as in the criminal case are same cannot be accepted. Though the applicant has obtained anticipatory bail, yet he has not been summoned by the court in connection with the aforesaid criminal case and unless the challan in that case is filed it cannot be said that the witnesses cited in support of the memorandum of chargesheet are the same as in the criminal case. It has been consistently held by the Supreme Court in the cases of - (1) Delhi Cloth & General Mills Ltd. vs. Kushal Bhan : AIR 1960 SC 806; (2) Tata Oil Mills Co. Ltd. vs. Its Workmen : AIR 1965 SC 155;


Ce.

12

(3) Jang Bahadur Singh vs. Baij Nath Tiwari : AIR 1969 SC 30; and (4) Kusheshwar Dubey vs. M/s Bharat Coaking Coal Ltd. & Ors. : AIR 1988 SC 2118, that there is no legal bar for simultaneous proceedings for a criminal offence in a court of law and for departmental proceedings in accordance with the relevant service rules. Similarly, it cannot be said that principles of natural justice require that an employer must wait for the decision in the criminal case before taking disciplinary action against an employee. No hard and fast or rigid formula has been laid down for determining the cases in which it would invariably be desirable to stay the disciplinary proceedings pending disposal of the criminal case; it is on the facts and in the circumstances of each case that a view has to be taken as to whether in any particular case it would be judicially desirable to stay the departmental proceedings pending disposal of a criminal case. The decisions of the Supreme Court and a number of judgments of the Tribunal have been considered by a Bench of this Tribunal to which one of us (Hon'ble Shri P. C. Jain) was a party, in O.A. No. 60/92 between Ranbir Singh vs. Delhi Administration, Delhi decided on 14.8.1992. In view of the fact that a challan in the criminal case is yet to be filed and the articles of charge in the disciplinary proceedings are neither the same nor similar to the offences involved in the criminal case, we do not consider it a fit case for interference.

5. In the light of the foregoing discussion, the O.A. is held to be devoid of merit and is accordingly dismissed. Needless to state that the interim order passed on 8.4.1992 also stands automatically vacated. No costs.

  
( J. P. Sharma )  
Member (J)

  
( P. C. Jain )  
Member (A)