

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

Original Application No.1538 of 2002.

ALLAHABAD, THIS THE 29TH DAY OF SEPT. 2005.

Hon'ble Mr. K. B.S. Rajan, Member-J.
Hon'ble Mr. A.K. Singh, Member-A

Narendra Pal Singh, Son of Shri Shiv Raj Singh, at present posted as Commercial Supervisor at North East Railway Sgstation Badayun U.P.

.....Applicant.

(By Advocate : Sri B.D. Shukla)

Versus.

1. Union of India through Secretary of Ministry of Railway Department, New Delhi.
2. The Divisional Railway Manager (Commercial), North East Railway, Izzat Nagar.
3. The Inquiry Officer, Northern East Railway, Badayun.

.....Respondents.

(By Advocate : Shri K.P. Singh)

O R D E R

The applicant has moved this application praying for quashing of the departmental proceedings and charge sheet dated 9.9.2002 on the ground that on the same matter criminal proceedings are pending before the Chief Judicial Magistrate, Badayun.

2. The applicant has also filed an amendment application No.1556/04 praying for the stay of the departmental proceedings.
3. The charges leveled against the applicant are contained in Memo dated 9.9.2002 and the same



relates to misconduct of fraud in matters of EFT (Extra Fair Ticket). The charge sheet in the criminal Court is under Section 467/468/471/409 and 420 IPC.

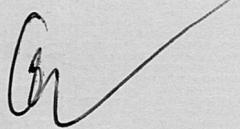
4. It is settled law that criminal proceedings and departmental inquiry can go simultaneously. The state of Rajasthan Vs. B.K. Meena, 1996(6) SCC 417 refers. In the said judgment, the Apex Court has held as under:-

A Constitution Bench of this Court rejected the said plea holding that there is no legal objection to the initiation or continuation of criminal proceedings merely because he was punished earlier in disciplinary proceedings. It is thus clear – and the proposition is not disputed by Mr K. Madhava Reddy, learned counsel for the respondent – that in law there is no bar to, or prohibition against, initiating simultaneous criminal proceedings and disciplinary proceedings. Indeed not only the said two proceedings, but if found necessary, even a civil suit can also proceed simultaneously.

5. Subsequently in the following two cases, the same view had been taken by the Apex Court:-

(a) *Senior Supdt. of Post Offices v. A. Gopalan, (1997) 11 SCC 239, at page 240 :*

6. We have heard Shri V.C. Mahajan, the learned Senior Counsel appearing for the appellants and Shri K.M.K. Nair, the learned counsel appearing for the respondent. Shri Nair has submitted that since the respondent has been acquitted by the criminal court on the charge of withdrawal of Rs 8000, the Tribunal was right in holding that the finding regarding the first charge could not be sustained. Shri Nair has placed reliance on the decision of this Court in *Nelson Motis v. Union of India*¹. The said decision does not lend support to the said submission of Shri Nair. In that case the Court



has rejected the contention that disciplinary proceedings could not be continued in the face of the acquittal in the criminal case and has held that the nature and scope of the criminal case are very different from those of a departmental disciplinary proceedings and an order of acquittal, therefore, cannot conclude the departmental proceedings. This is so because in a criminal case the charge has to be proved by the standard of proof beyond reasonable doubt while in departmental proceedings the standard of proof for proving the charge is preponderance of probabilities. The Tribunal was, therefore, in error in holding that in view of the acquittal of the respondent by the criminal court on the charge relating to withdrawal of Rs 8000 the finding on the first charge in the departmental proceedings cannot be upheld and must be set aside. The Tribunal was also not right in taking the view that even though the second charge of misappropriation of the sums of Rs

379 and Rs 799 realized as customs duty was established, the punishment of compulsory retirement that was imposed on the respondent could not be sustained. Having regard to the fact that the second charge related to misappropriation of funds for which the punishment of compulsory retirement could be imposed the Tribunal, in exercise of its jurisdiction, could not direct the appellate authority to review the penalty imposed on the respondent.

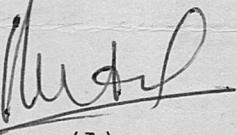
(b) **Capt. M. Paul Anthony v. Bharat Gold Mines Ltd., (1999) 3 SCC 679, at page 687 :**

As we understand, the basis for this proposition is that proceedings in a criminal case and the departmental proceedings operate in distinct and different jurisdictional areas. Whereas in the departmental proceedings, where a charge relating to misconduct is being investigated, the factors operating in the mind of the disciplinary authority may be many such as enforcement of discipline or to investigate the level of integrity of the delinquent or the other staff, the standard of proof required in those proceedings is also different than that required in a criminal case. While in the departmental proceedings the standard of proof is one of preponderance of the probabilities, in a criminal case, the charge has to be proved by the prosecution beyond reasonable doubt. The little exception may be where the departmental

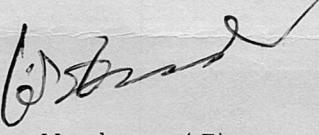
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proceedings and the criminal case are based on the same set of facts and the evidence in both the proceedings is common without there being a variance.

6. In view of the above, we have no hesitation to hold that the OA has no merit and accordingly, the same is dismissed. No costs.



Member (A)



Member (J)

/Asthana/