

J D Mochi Applicant (s).

## Versus

Versus

Union India 26 Respondent (s).

SR NO.	DATE.	ORDERS.
		Dept Inquiry (Copy <del>and</del> Serial)

SR NO.	DATE.	ORDERS,
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Jayantilal Dhulabhai Mochi

: Applicant

Versus

Union of India & Others

: Respondents

Coram : Hon'ble Mr. G.S.Nair

: Vice Chairman

Hon'ble Mr. M.M.Singh

: Administrative  
Member

Counsel for the applicant

: Miss.J.C.Bhatt

Counsel for the respondents.

: Mr.J.D.Ajmera

ORAL ORDER

Date: 20/3/1990

Per: Hon'ble Mr. G.S.Nair

: Vice Chairman

Heard Miss.J.C.Bhatt, counsel on behalf of the applicant and Mr.J.D.Ajmera, counsel on behalf of the respondents. Mr.Ajmera opposes the admission of the application. The applicant while functioning as Extra Departmental Branch Postmaster was put off duty on account of <sup>the initiation of criminal</sup> ~~crimination~~ proceedings. The first respondent had initiated departmental proceedings against the applicant by issuing memorandum of charges on 20.11.89 wherein five articles of charges are specified. Since an <sup>F.I.R.</sup> ~~FR~~ was filed before the Criminal Court the applicant approached the Tribunal with OA/38/90, <sup>wherein</sup> when a direction was given by the Tribunal to the applicant to make a written representation to the disciplinary authority requesting him to keep the departmental proceedings in abeyance till the disposal of the criminal case. Such a representation was filed by the applicant but it was rejected by the second respondent by the order dated 15.2.1990 <sup>on the ground</sup> that the points in the Departmental Inquiry as well as those in the police complaint are different. In the present application the applicant has prayed for quashing the aforesaid order and to stay the departmental ~~proce~~ proceedings.

*[Signature]*

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It is trite that the pendency of criminal proceedings is no bar to the initiation of the departmental proceedings. The reason is obvious, for the matter <sup>involved</sup> ensued in the departmental proceedings is not the same as in the criminal proceedings, though the origin of the two proceedings may be have connected with some common incident or act on the part of a civil servant. In the instant case there is nothing on record to show <sup>that</sup> even a charge sheet has been filed against the applicant before the criminal court; there is only <sup>one</sup> F.R. where offences under section 409 and 471 of the IPC are referred to. From the memorandum of charges issued by the second respondent it is seen that the imputations in the departmental proceedings covered <sup>related to</sup> different aspects. The charge <sup>related to</sup> issued is failure to observe absolute integrity. Lapses on the part of the applicant in not making proper consideration of MO forms <sup>presented</sup> for booking, and not granting <sup>to the department</sup> receipts ~~remitting on the part~~ are also included. Similarly the ~~non supply of proceedings to the reprobate~~ and the act of not crediting certain amounts in the Govt. accounts are also referred to. In this circumstances, the second respondent cannot be faulted in holding that the points in the departmental proceedings and ~~the~~ in the criminal proceedings are different and on that <sup>premise</sup> ~~problems~~ to proceed with the departmental inquiry.

It follows that there is no case for entertaining this application. Accordingly this application is rejected.

M. M. L.  
(M.M.Singh)  
Administrative Member

G. S. Nair  
(G.S.Nair) 20.3.90  
Vice Chairman