

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK,**

**ORDER SHEET**

COURT NO. : 1

04.01.2018

O.A./260/207/2014  
FOR FURTHER ORDER

ANADI CHARAN PALAI  
-V/S-  
D/O POST

ITEM NO:6

FOR APPLICANTS(S) Adv. : MR.H.B.SUTAR

FOR RESPONDENTS(S) Adv.: MR.D.K.MALLICK

Notes of The Registry	Order of The Tribunal
	<p>Heard Ld. Counsels appearing for both the sides.</p> <p>2. The applicant has filed this O.A. for quashing of the disciplinary proceeding so also the memorandum of charges drawn against him under Annexure-A/1. Needless to say that vide order dated 09.04.2014 there was interim stay of not taking further action in pursuance to the memorandum of charge till further orders.</p> <p>3. On verification of the record, it is seen that the applicant while working as GDS/BPM, Bamkura Branch Post Office, was involved in misappropriation of government money in respect of two Savings Bank Account to the tune of Rs. 2,45,300/- for which an FIR was lodged on 29.11.2013 at Dhusuri Police Station of Bhadrak District. Police registered a case under Section 409/420 of IPC. Ld. Counsel for the applicant fairly admitted that trial is pending in the Criminal Court. For the selfsame misappropriation, memorandum of charge was issued on 03.08.2012, i.e. much prior to filing of FIR. On perusal of Article I and II of the charge memo, it is seen that for misappropriating deposit of the Savings Bank Account holders and for failing to maintain absolute integrity and devotion of duty, disciplinary proceeding was initiated.</p> <p>4. Since it is for the administrative department (Disciplinary Authority) to examine the amount of deposit and defalcation, it shall be premature to pass any comment on the merit of the disciplinary proceeding at this stage of the case.</p> <p>5. In the case of <i>Secretary, Ministry of Defence Vs. Prabhash Chandra Mirdha</i> [(2013) 1 SCC (L&amp;S) 121], Their Lordships of the Hon'ble Apex Court have univocally observed that law does not permit quashing of a charge sheet in a routine manner. Had it been the case of competent authority not issuing the charge memo or the charges being vague, the matter could have been different. According to Their Lordships, quashing of a charge memo in a routine</p>

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manner is not permissible as department should be given full opportunity to prove the allegation leveled against the delinquent employee and issue of a charge memo does not give rise to a cause of action. Even the applicant failed to demonstrate if any prejudice has been caused to him by the action of the department.

6. On perusal of the record, it is found that the competent authority has initiated the proceeding at the first instance and, subsequently, only on the advice of the higher authority, one criminal case has been registered. As observed by the Hon'ble Apex Court in the case of *Deputy Inspector General of Police Vs. S.Samuthiram reported in I(2013) 1 SCC (L&S) 229*, there is no bar for continuance of the disciplinary proceeding and criminal trial in a case of misappropriation as the standard of proof in both the proceedings are different.

7. In the instant case, since there is nothing wrong in initiation of a disciplinary proceeding, in view of defalcation of public money by a postal employee and rather defrauding the depositors, no interference is called for at this stage as there is no material to quash the charge memo or the disciplinary proceeding. Hence ordered.

8. O.A. being devoid of merit is dismissed. No costs.

9. Stay order granted by this Tribunal on 09.04.2014 is hereby vacated.

(DR. MRUTYUNJAY SARANGI)  
MEMBER (A)

  
(SUSHANTA KUMAR PATTNAIK)  
MEMBER (J)

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