

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH, JODHPUR.

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Date of Decision: 18.3.97

OA 299/96

Attar Singh, SDE UHF (Maintenance) RAPP, Rawatbhata, Chittoregarh.

... Applicant

Versus

1. Union of India through the Chief General Manager (Maint.), NTR, Kidhbbhai Bhawan, New Delhi.
2. The Assistant Director General (DI), (Enquiring Authority), Department of Telecommunication, West Block-I, Wing-2, Ground Floor, R.K.Puram, new Delhi.
3. The Director (Mtce), Amunity Block IInd Floor, General Manager Telecon Department Complex, Jaipur.

... Respondents

CORAM:

HON'BLE MR.GOPAL KRISHNA, VICE CHAIRMAN

HON'BLE MR.O.P.SHARMA, ADMINISTRATIVE MEMBER

For the Applicant

... Mr.J.K.Kaushik

For the Respondents

... Mr.Vinit Mathur

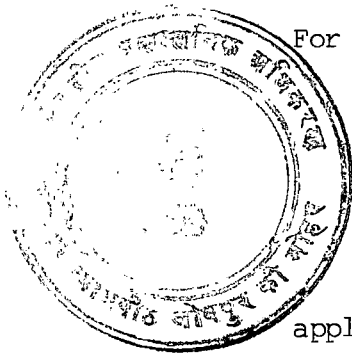
O R D E R

PER HON'BLE MR.GOPAL KRISHNA, VICE CHAIRMAN

In this application u/s 19 of the Administrative Tribunals Act, 1985 applicant, Attar Singh, has sought a direction restraining the respondent from proceeding further in the departmental enquiry initiated against him through memo dated 9.1.96 and letter dated 7.6.96.

2. The case of the applicant is that during his posting as Assistant Engineer (Microwave Maintenance) at Sikar, a First Information Report was lodged against him with the Special Police Establishment, Jaipur Branch under Sections 409, 467, 479 and 477 of the Indian Penal Code and Section 13(2) read with Section 13(1)(c) of the Prevention of Corruption Act, 1988 on the allegation that certain amount of government money was misappropriated. After completion of the investigation a charge-sheet was presented before the Special Judge, CBI Cases, Jaipur, and the trial is still pending in the aforesaid court. Despite the pendency of the criminal trial after a lapse of about five years without there being any justification respondent No.1 issued a memo dated 9.1.96 alongwith the statement of articles of charges and statement of imputation. It is further stated that the charges framed by the department are the same for which the applicant is facing criminal prosecution. The applicant replied to the charges and requested therein that the departmental enquiry should not proceed during the pendency of the

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criminal trial. However, respondent No.1 has appointed respondent No.2 as the enquiring authority. It is, therefore, pleaded by the applicant that since the departmental enquiry and criminal trial are grounded on the same set of facts, the departmental enquiry ought to have been stayed.

3. On the contrary, the respondents have stated that the decision to initiate disciplinary proceedings against the applicant in addition to his criminal prosecution has been taken as per directions issued by DOT and conveyed by ADG (Vigilance) DOT vide his communication dated 30.8.93, at Ann.R-1. It is pleaded by the respondents that criminal prosecution and departmental proceedings can proceed simultaneously.

4. We have heard the learned counsel for the parties and have gone through the records of the case.

5. At the very outset, the learned counsel for the respondents has cited JT 1996 (8) SC 684, State of Rajasthan vs. B.K.Meena and others, in which Hon'ble the Supreme Court has held that criminal prosecution and disciplinary proceedings, even if based on the same set of facts, can go on simultaneously. Since the controversy raised in the present application has been set at rest by the aforesaid decision of Hon'ble the Supreme Court, we find that the present application is not maintainable.

6. The OA stands dismissed accordingly. No order as to costs.

(O.P.SHARMA)

ADMINISTRATIVE MEMBER

(GOPAL KRISHNA)
VICE CHAIRMAN

VK