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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

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Date of Order : 28.8.2001.

O.A.NO. 185/2001

1. Amit Srivastava S/o Shri J.J.R. Srivastava aged about 32 years, resident of 6-B Ber Saraj DDA Flats, New Delhi, at present employed on the post of Sub Inspector in the office of Supdt. Of Police, CBI, Jodhpur (Under suspension with Headquarter at SIC-IV/CBI, NDMC Building, Yashwant Place, Chankypuri, New Delhi).
2. A.S.Tariyal S/o Shri A.S.Tariyal, aged about 40 years, Resident of 134, Mahadev Nagar, at present posted on the post of Inspector in the office of Supdt. of Police, CBI, Jodhpur (presently under suspension with Hqrs at SCB,CBI Mumbai).

.....Applicants.

VERSUS

1. Union of India through Secretary to Department of Personnel & Training, North Block, New Delhi.
2. The Director, CBI, CGO Complex, Block No. 3, Lodhi Road, New Delhi.
3. Dy.Inspector General of Police, CBI ACB, Mumai Region, 11-A, Tanna House, NLP Marg, Coloba, Mumbai.
4. Shri Navin Goyal, DSP CBI ACB, 11-A, Tanna House, NLP Marg, Coloba,Mumbai.

.....Respondents.

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Mr. J.K.Kaushik, Counsel for applicants.
Mr.N.M.Lodha,Counsel for the respondents.

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CORAM :

HON'BLE MR. JUSTICE B.S.RAIKOTE, VICE CHAIRMAN

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O R D E RBY THE COURT :

This Application is filed under section 19 of the Administrative Tribunals Act, 1985, by Shri Amit Srivastava and Shri A.S.Tariyal for quashing the Chargesheet dated 7th March, 2000 vide Annexs. A/1 and A/2. They have also prayed for an alternative relief of staying the departmental proceedings till the finalisation of the criminal case. However, now, the applicants have restricted their prayer only regarding alternative relief of staying the departmental proceedings till the conclusion of the criminal case.

The learned counsel appearing for the applicants contended that in substance the charge in the departmental case and the charge in the criminal case, are one and the same, if the departmental proceedings are allowed to go on during the pendency of the criminal case, his defence would be affected. He also submitted that in view of the judgement of the Hon'ble Supreme Court reported in AIR 1999 SC 1416 - Capt. M. Paul Anthony Vs. Bharat Gold Mines Ltd. and Another, the departmental proceedings are liable to be stayed since the nature of the charge in criminal case is grave and the case involves complicated questions of facts and law, therefore, it would be in the interest of both the parties to stay the departmental proceedings during the pendency of the criminal case. He invited my attention to the charges framed in the departmental case as well as the chargesheet filed in the criminal court and submitted that this is an appropriate case for granting the relief as prayed for.

3. The learned counsel appearing for the respondents submitted that this is not a fit case in which the departmental proceedings could be stayed during the pendency of the criminal case. He also submitted that even otherwise, the application is not in time and this Tribunal has no jurisdiction to entertain this present proceedings. He elaborated his

contention stating that the chargesheet in the instant case has been issued by the C.B.I., Mumbai, and this Tribunal has no jurisdiction to consider the said chargesheet issued by Mumbai Office. He also stated that the chargesheet is issued on 7.3.2000 whereas this application is filed after one year on 20.7.2001, therefore, this application is liable to be dismissed on the ground of limitation also.

4. Having regard to the contentions raised on both sides, I have to first consider the preliminary objections raised by the respondents.

5. So far as the jurisdiction of this Tribunal is concerned, I have to see the Rule 6 of the Central Administrative Tribunal (Procedure), Rules, 1987. The said Rule reads as under :-

"6..Place of filing application (1) An application shall ordinarily be filed by an applicant with the Registrar of the Bench within whose jurisdiction -

- (i) the applicant is posted for the time being, or
- (ii) the cause of action, wholly or in part, has arisen:

Provided that with the leave of the Chairman the application may be filed with the Registrar of the Principal Bench and subject to the orders under Section 25, such application shall be heard and disposed of by the Bench which has jurisdiction over the matter."

From the reading of the above rule, it is clear that an application can be filed before the Bench within whose jurisdiction the applicant is posted for the time being or the cause of action, wholly or in part arises. It is not in dispute that the alleged acts on the part of the applicants with Shri Deepak Gopalia and Shri Tarun Gopalia, and recording the alleged false statements from them, have all happened at Jodhpur only i.e. on 18.10.1999. When the alleged acts took place the applicants were working as Inspectors, C.B.I. at Jodhpur Office. From this, it follows that the applicants can



maintain this application being officers posted at Jodhpur. It is also stated that the inquiry proceedings are going on at Jodhpur. In this view of the matter, I have no doubt in my mind this Tribunal has jurisdiction to entertain this application notwithstanding the fact that the chargesheet is issued by an authority at Mumbai. Since the alleged acts have taken place at Jodhpur, it can also be said that atleast part of cause of action arises at Jodhpur and as such, this Bench has jurisdiction to entertain this application. The fact that by the order of suspension the applicants are asked to change headquarters would not affect the jurisdiction of this Tribunal. The delinquent officials are normally directed by the suspension order to stay at a particular place to ensure a fair trial and also to see that the files are not interfered with by such officials. Since both the applicants have been serving as Inspectors in C.B.I. Office at Jodhpur, therefore, under Rule 6 of the Central Administrative Tribunal (Procedure), Rules, 1987, this Tribunal has jurisdiction to entertain this application.

6. Taking up the issue as to the limitation, I find that the only prayer of the applicants is that the departmental proceedings may be stayed till the conclusion of the criminal case. It is not in dispute that both the departmental proceedings as well as the criminal case, are pending as on today, therefore, the short point I have to see is, whether the departmental proceedings can be stayed during the pendency of the criminal case. In this view of the matter, the question of limitation does not pose any difficulty in disposing of this application.

7. On merit, the counsel appearing for the applicants invited my attention to the chargesheet issued in the departmental proceedings and the chargesheet filed in the criminal court and contended that both the charges are regarding the same subject matter and the same would be the evidence in both the cases. He further contended that if the departmental proceedings are allowed to go-on the applicants would be prejudiced in the sense that they have to disclose their defence and if they discloses the



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defence, there is possibility that their defence would be covered-up in the criminal case, therefore, it is a fit case for staying the departmental proceedings in view of the judgement rendered by Hon'ble the Supreme Court reported in AIR 1999 SC 1416 - Capt. M. Paul Anthony Vs. Bharat Gold Mines Ltd. and Another.

8. From the reading of the chargesheet issued in the departmental proceedings and the chargesheet filed in the criminal court, I find that both these proceedings relate to one incident. It is alleged by Shri Deepak Gopalia and Shri Tarun Gopalia in their complaint given to the department as well as in the criminal case that on 18.10.1999 afternoon, during office hours the applicants colluded with each other mis-behaved with Deepak Gopalia and Tarun Gopalia and recorded their statements falsely under threat and coercion. But, in the criminal case they further alleged that the applicants caused heart to them in order to extract the false statements of confession. In substance, I find that the charge in the departmental proceedings and the charge in the criminal proceedings are identical. The case also involves complicated questions of facts and law. In these circumstances, without expressing any opinion on merits of the case, I think it appropriate to stay the departmental proceedings for a period of one year from today. If the criminal case is not concluded before one year from today, the departmental proceedings may be revived, and accordingly, I pass the order as under :-

"The Application is partly allowed. The Departmental proceedings initiated on the basis of Annexs. A/1 and A/2 dated 7th March, 2000, are stayed for one year from today. In case, the criminal case is not concluded within that period of one year, the departmental proceedings shall be revived and concluded according to the law. No costs."


(Justice B.S.Raikote)
Vice Chairman

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