

O.A. No. 105/2009 (Interim order)

13.03.2009
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KBSR/KN

C-I

Mr. M.R. Rajendran Nair (Sr.) with Mr. M.R. Hariraj
Mr. P. Nandakumar

The applicant, while working under the second respondent was served with a memo with a copy of a complaint preferred by one Shri Venugopalan Nair, Peon, Office of the AG (A & E), Trivandrum, alleging that the applicant had, along with others assaulted him physically on 05-11-2007. Annexure A-2 refers. An F.I.R. was also lodged by the said complainant, vide FIR No.309/07 dated 05-11-2007, (Annexure A-3). In the final report submitted before the Judicial Magistrate of First Class, Trivandrum, the said Venugopalan Nair is the first witness and there are certain other witnesses as well. After the applicant had given his Annexure A-4 representation against the memo, he was served with a charge memo under rule 14 of the CCS(CC&A) Rules, vide Annexure A-5. The applicant denied the charges, vide Annexure A-6. By Annexure A-7, a minor amendment was made to the charge memo at Annexure A-5, in that the name of the complainant Shri Venugopalan Nair has also been included as one of the witnesses in the Departmental proceedings. The respondents have also appointed the Inquiry officer and Presenting officer and as such, the applicant had made a detailed representation

(Annexure A-8) requesting the authorities to suspend the departmental inquiry as the same would prejudicially affect the criminal proceedings to the detriment of the applicant. However, by Annexure A-1 order the request of the applicant has been rejected citing DOPT OM dated 01-08-2007. Hence, this O.A. challenging Annexure A-1 order and also with an interim prayer to the effect that the respondents be restrained from proceeding with the inquiry during the pendency of this O.A.

2. At the time of admission hearing, the senior counsel for the applicant and the respondent's counsel addressed the court on the grant of interim order.
3. Senior counsel for the applicant argued that as the inquiry proceedings as well as the criminal proceedings are based on the same set of facts as also that as the main witness in these two proceedings is one and the same viz the complainant, in view of various decisions of the Apex Court, it is only appropriate that the departmental proceedings are stayed till the disposal of the O.A. The senior counsel took us through both the charge sheet as well as the F.I.R. to substantiate that there is substantial similarity in the two. He has further assured that the applicant would pray the criminal court for early trial of the criminal proceedings.

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4. Respondents' counsel argued that it is not as a matter of rule that when parallel proceedings exist that invariably the departmental proceedings shall have to be suspended. The question that should be considered is as to the gravity of the misconduct/offence and the complexity of the legal issue involved in the case. A number of decisions have been cited by the counsel for the respondents to hammer home his point that this is not a case where interim order deserves to be passed.

5. The authorities relied upon by the counsel for the parties are as under:-

- (a) (1996) 6 SCC 417
- (b) (1999) 3 SCC 679
- (c) 2004 (6) SCALE 467 = (2004) 7 SCC 442
- (d) JT 2007(2) SC 620 = (2007) 10 SCC 385
- (e) 2004 (10) SCALE 340 = (2005) 10 SCC 471
- (f) 1988 (4) SCC 319
- (g) 2006(5) SCC 446
- (h) (2008) 1 SCC 650
- (i) (1997) 2 SCC 699
- (j) (2004) 7 SCC 27
- (k) 2000 (1) KLT 994
- (l) 2005 (1) KLT 899

6. Before going into the facts of the case, it would be appropriate to refer to the decisions on the subject matter. These are as hereunder:-

- (a) ***Delhi Cloth & General Mills Ltd. v. Kushal Bhan,(1960)***
3 SCR 227: The Apex Court in this case has held as under:-

"We may, however, add that if the case is of a grave nature or involves questions of fact or law, which are not simple, it would be advisable for the employer to await the decision of the trial court, so that the defence of the employee in the criminal case may not be prejudiced."

(b) In **Tata Oil Mills Co. Ltd. v. Workmen, (1964) 7 SCR 555**, the above view has again been echoed in the following words:-

"As this Court has held in the *Delhi Cloth and General Mills Ltd. v. Kushal Bhan*, it is desirable that if the incident giving rise to a charge framed against a workman in a domestic enquiry is being tried in a criminal court, the employer should stay the domestic enquiry pending the final disposal of the criminal case. It would be particularly appropriate to adopt such a course where the charge against the workman is of a grave character, because in such a case, it would be unfair to compel the workman to disclose the defence which he may take before the criminal court."

(c) In **Kusheshwar Dubey v. Bharat Coking Coal Ltd., (1988) 4 SCC 319**, which has been relied upon by the senior counsel for the applicant, the facts of the case and the view of the Apex Court are as under:-

"2. The appellant is an employee in the Balihari Colliery of Respondent 1 and in 1986 was working as an electrical helper. On the allegation that he physically assaulted a supervising officer by name S.K. Mandal, he was subjected to disciplinary proceedings as also a criminal prosecution. Since the disciplinary proceeding as also the criminal trial were taken simultaneously, the appellant filed a civil action in the court of Munsif at Dhanbad asking for injunction against the disciplinary action pending criminal trial. On December 6, 1986 the Munsif made an order staying further proceedings in the disciplinary action till disposal of the criminal case.

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 "..... while there could be no legal bar for simultaneous proceedings being taken, yet, there may be cases where

it would be appropriate to defer disciplinary proceedings awaiting disposal of the criminal case. In the latter class of cases it would be open to the delinquent employee to seek such an order of stay or injunction from the court. Whether in the facts and circumstances of a particular case there should or should not be such simultaneity of the proceedings would then receive judicial consideration and the court will decide in the given circumstances of a particular case as to whether the disciplinary proceedings should be interdicted, pending criminal trial. As we have already stated that it is neither possible nor advisable to evolve a hard and fast, strait-jacket formula valid for all cases and of general application without regard to the particularities of the individual situation. For the disposal of the present case, we do not think it necessary to say anything more, particularly when we do not intend to lay down any general guideline.

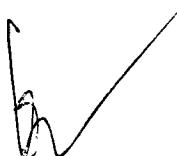
8. In the instant case, the criminal action and the disciplinary proceedings are grounded upon the same set of facts. We are of the view that the disciplinary proceedings should have been stayed and the High Court was not right in interfering with the trial court's order of injunction which had been affirmed in appeal."

(d) ***State of Rajasthan v. B.K. Meena, (1996) 6 SCC 417:*** This is a case of an I.A.S., Officer, and relates to alleged misappropriation of Funds. The apex Court has held in this case as under:-

"14. It would be evident from the above decisions that each of them starts with the indisputable proposition that there is no legal bar for both proceedings to go on simultaneously and then say that in certain situations, it may not be 'desirable', 'advisable' or 'appropriate' to proceed with the disciplinary enquiry when a criminal case is pending on identical charges. The staying of disciplinary proceedings, it is emphasised, is a matter to be determined having regard to the facts and circumstances of a given case and that no hard and fast rules can be enunciated in that behalf. The only ground suggested in the above decisions as constituting a valid ground for staying the disciplinary proceedings is that "the defence of the employee in the criminal case may not be prejudiced". This ground has, however, been hedged in

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by providing further that this may be done in cases of grave nature involving questions of fact and law. In our respectful opinion, it means that not only the charges must be grave but that the case must involve complicated questions of law and fact. Moreover, 'advisability', 'desirability' or 'propriety', as the case may be, has to be determined in each case taking into consideration all the facts and circumstances of the case. The ground indicated in D.C.M. and Tata Oil Mills is also not an invariable rule. It is only a factor which will go into the scales while judging the advisability or desirability of staying the disciplinary proceedings. One of the contending considerations is that the disciplinary enquiry cannot be — and should not be — delayed unduly. So far as criminal cases are concerned, it is well known that they drag on endlessly where high officials or persons holding high public offices are involved. They get bogged down on one or the other ground. They hardly ever reach a prompt conclusion. That is the reality in spite of repeated advice and admonitions from this Court and the High Courts. If a criminal case is unduly delayed that may itself be a good ground for going ahead with the disciplinary enquiry even where the disciplinary proceedings are held over at an earlier stage. The interests of administration and good government demand that these proceedings are concluded expeditiously. It must be remembered that interests of administration demand that undesirable elements are thrown out and any charge of misdemeanour is enquired into promptly. The disciplinary proceedings are meant not really to punish the guilty but to keep the administrative machinery unsullied by getting rid of bad elements. The interest of the delinquent officer also lies in a prompt conclusion of the disciplinary proceedings. If he is not guilty of the charges, his honour should be vindicated at the earliest possible moment and if he is guilty, he should be dealt with promptly according to law. It is not also in the interest of administration that persons accused of serious misdemeanour should be continued in office indefinitely, i.e., for long periods awaiting the result of criminal proceedings. It is not in the interest of administration. It only serves the interest of the guilty and dishonest. While it is not possible to enumerate the various factors, for and against the stay of disciplinary proceedings, we found it necessary to emphasise some of the important



considerations in view of the fact that very often the disciplinary proceedings are being stayed for long periods pending criminal proceedings. Stay of disciplinary proceedings cannot be, and should not be, a matter of course. All the relevant factors, for and against, should be weighed and a decision taken keeping in view the various principles laid down in the decisions referred to above.

16. Now, let us examine the facts of the present case. The memo of charges against the respondent was served on him, along with the articles of charges, on 13-10-1992. On 9-2-1993, he submitted a detailed reply/defence statement, running into 90 pages, controverting the allegations levelled against him. The challan against him was filed on 15-5-1993 in the criminal court. The respondent promptly applied to the Tribunal and got the disciplinary proceedings stayed. They remain stayed till today. The irregularities alleged against the respondent are of the year 1989. The conclusion of the criminal proceedings is nowhere in sight. (Each party blames the other for the said delay and we cannot pronounce upon it in the absence of proper material before us.) More than six years have passed by. The charges were served upon the respondent about 4 years back. The respondent has already disclosed his defence in his elaborate and detailed statement filed on 9-2-1993. There is no question of his being compelled to disclose his defence in the disciplinary proceedings which would prejudice him in a criminal case. The charges against the respondent are very serious. They pertain to misappropriation of public funds to the tune of more than rupees one crore. The observation of the Tribunal that in the course of examination of evidence, new material may emerge against the respondent and he may be compelled to disclose his defence is, at best, a surmise — a speculative reason. We cannot accept it as valid. Though the respondent was suspended pending enquiry in May 1990, the order has been revoked in October 1993. The respondent is continuing in office. It is in his interest and in the interest of good administration that the truth or falsity of the charges against him is determined promptly. To wit, if he is not guilty of the charges, his honour should be vindicated early and if he is guilty, he should be dealt with appropriately without any avoidable delay. The criminal court may decide — whenever it does — whether



the respondent is guilty of the offences charged and if so, what sentence should be imposed upon him. The interest of administration, however, cannot brook any delay in disciplinary proceedings for the reasons indicated hereinabove.

17..... Staying of disciplinary proceedings pending criminal proceedings, to repeat, should not be a matter of course but a considered decision. Even if stayed at one stage, the decision may require reconsideration if the criminal case gets unduly delayed."

(e) **Depot Manager, A.P. SRTC v. Mohd. Yousuf Miya, (1997) 2 SCC 699:** The Apex Court in this case has held as under:-

"8. We are in respectful agreement with the above view. The purpose of departmental enquiry and of prosecution are two different and distinct aspects. The criminal prosecution is launched for an offence for violation of a duty, the offender owes to the society or for breach of which law has provided that the offender shall make satisfaction to the public. So crime is an act of commission in violation of law or of omission of public duty. The departmental enquiry is to maintain discipline in the service and efficiency of public service. It would, therefore, be expedient that the disciplinary proceedings are conducted and completed as expeditiously as possible. It is not, therefore, desirable to lay down any guidelines as inflexible rules in which the departmental proceedings may or may not be stayed pending trial in criminal case against the delinquent officer. Each case requires to be considered in the backdrop of its own facts and circumstances. There would be no bar to proceed simultaneously with departmental enquiry and trial of a criminal case unless the charge in the criminal trial is of grave nature involving complicated questions of fact and law. Offence generally implies infringement of public (sic duty), as distinguished from mere private rights punishable under criminal law. When trial for criminal offence is conducted it should be in accordance with proof of the offence as per the evidence defined under the provisions of the Evidence Act. Converse is the case of departmental enquiry. The enquiry in a departmental proceedings relates to conduct or breach of duty of the

delinquent officer to punish him for his misconduct defined under the relevant statutory rules or law. That the strict standard of proof or applicability of the Evidence Act stands excluded is a settled legal position. The enquiry in the departmental proceedings relates to the conduct of the delinquent officer and proof in that behalf is not as high as in an offence in criminal charge. It is seen that invariably the departmental enquiry has to be conducted expeditiously so as to effectuate efficiency in public administration and the criminal trial will take its own course. The nature of evidence in criminal trial is entirely different from the departmental proceedings. In the former, prosecution is to prove its case beyond reasonable doubt on the touchstone of human conduct. The standard of proof in the departmental proceedings is not the same as of the criminal trial. The evidence also is different from the standard point of the Evidence Act. The evidence required in the departmental enquiry is not regulated by the Evidence Act. Under these circumstances, what is required to be seen is whether the departmental enquiry would seriously prejudice the delinquent in his defence at the trial in a criminal case. It is always a question of fact to be considered in each case depending on its own facts and circumstances. In this case, we have seen that the charge is failure to anticipate the accident and prevention thereof. It has nothing to do with the culpability of the offence under Sections 304-A and 338, IPC. Under these circumstances, the High Court was not right in staying the proceedings."

(f) **Capt. M. Paul Anthony v. Bharat Gold Mines Ltd., (1999) 3 SCC 679 :** In this case, after referring to various decisions of the past, the Apex Court has arrived at certain concrete conclusions and the same are as under:-

"22. The conclusions which are deducible from various decisions of this Court referred to above are:

(i) Departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar in their being conducted simultaneously, though separately.

(ii) If the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in the criminal case against the delinquent employee is of a grave nature which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case.

(iii) Whether the nature of a charge in a criminal case is grave and whether complicated questions of fact and law are involved in that case, will depend upon the nature of offence, the nature of the case launched against the employee on the basis of evidence and material collected against him during investigation or as reflected in the charge-sheet.

(iv) The factors mentioned at (ii) and (iii) above cannot be considered in isolation to stay the departmental proceedings but due regard has to be given to the fact that the departmental proceedings cannot be unduly delayed.

(v) If the criminal case does not proceed or its disposal is being unduly delayed, the departmental proceedings, even if they were stayed on account of the pendency of the criminal case, can be resumed and proceeded with so as to conclude them at an early date, so that if the employee is found not guilty his honour may be vindicated and in case he is found guilty, the administration may get rid of him at the earliest."

(g) **State Bank of India v. R.B. Sharma, (2004) 7 SCC 27:**
The Apex Court has in this case held as follows:-

"11. There can be no straitjacket formula as to in which case the departmental proceedings are to be stayed. There may be cases where the trial of the case gets prolonged by the dilatory method adopted by the delinquent official. He cannot be permitted to, on one hand, prolong criminal case and at the same time contend that the departmental proceedings should be stayed on the ground that the criminal case is pending.

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13.Though elaborate reasoning may not be necessary to be indicated, certainly, the skeletal description of how there is substantial similarity has to be indicated. That has not been done. The employee who appeared in person submitted that several materials are available which would go to show that the matter is substantially the same."

(h) In **Kendriya Vidyalaya Sangathan v. T. Srinivas**, (2004) 7 SCC 442, the views of the Apex Court are as under:-

"10. From the above, it is clear that the advisability, desirability or propriety, as the case may be, in regard to a departmental enquiry has to be determined in each case taking into consideration all facts and circumstances of the case. This judgment also lays down that the stay of departmental proceedings cannot be and should not be a matter of course."

(i) In **Hindustan Petroleum Corpn. Ltd. v. Sarvesh Berry**, (2005) 10 SCC 471, the Apex Court has stated:

"8. The purposes of departmental enquiry and of prosecution are two different and distinct aspects. Criminal prosecution is launched for an offence for violation of a duty the offender owes to the society, or for breach of which law has provided that the offender shall make satisfaction to the public. So, crime is an act of commission in violation of law or of omission of public duty. The departmental enquiry is to maintain discipline in the service and efficiency of public service. It would, therefore, be expedient that the disciplinary proceedings are conducted and completed as expeditiously as possible. It is not, therefore, desirable to lay down any guidelines as inflexible rules in which the departmental proceedings may or may not be stayed pending trial in criminal case against the delinquent officer. Each case requires to be considered in the backdrop of its own facts and circumstances. There would be no bar to proceed simultaneously with departmental enquiry and trial of a criminal case unless the charge in the

criminal trial is of a grave nature involving complicated questions of fact and law. Offence generally implies infringement of public duty, as distinguished from mere private rights punishable under criminal law. When trial for criminal offence is conducted it should be in accordance with proof of the offence as per the evidence defined under the provisions of the Indian Evidence Act, 1872 (in short "the Evidence Act"). Converse is the case of departmental enquiry. The enquiry in departmental proceedings relates to conduct or breach of duty of the delinquent officer to punish him for his misconduct defined under the relevant statutory rules or law. That the strict standard of proof or applicability of the Evidence Act stands excluded is a settled legal position. Under these circumstances, what is required to be seen is whether the departmental enquiry would seriously prejudice the delinquent in his defence at the trial in a criminal case. It is always a question of fact to be considered in each case depending on its own facts and circumstances."

(j) **NOIDA Entrepreneurs Assn. v. NOIDA, (2007) 10 SCC 385,**

"16. The standard of proof required in departmental proceedings is not the same as required to prove a criminal charge and even if there is an acquittal in the criminal proceedings the same does not bar departmental proceedings. That being so, the order of the State Government deciding not to continue the departmental proceedings is clearly untenable and is quashed. The departmental proceedings shall continue".

(k) In a very recent case of **Indian Overseas Bank v. P. Ganesan**, (2008) 1 SCC 650, the Apex Court has also considered the conduct of the parties as a relevant factor to decide whether the departmental proceedings should be stayed when parallel proceedings are conducted.

"23. The High Court, unfortunately, although it noticed some of the binding precedents of the Court failed to apply the law in its proper perspective. The

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High Court was not correct in its view in concluding that the stay of the departmental proceedings should be granted in the peculiar facts and circumstances of the case without analysing and applying the principle of law evolved in the aforementioned decisions. It, therefore, misdirected itself in law. What was necessary to be noticed by the High Court was not only existence of identical facts and the evidence in the matter, it was also required to take into consideration the question as to whether the charges levelled against the delinquent officers, both in the criminal case as also the in disciplinary proceedings, were same. Furthermore it was obligatory on the part of the High Court to arrive at a finding that the non-stay of the disciplinary proceedings shall not only prejudice the delinquent officers but the matter also involves a complicated question of law.

24. The standard of proof in a disciplinary proceedings and that in a criminal trial is different. If there are additional charges against the delinquent officers including the charges of damaging the property belonging to the Bank which was not the subject-matter of allegations in a criminal case, the departmental proceedings should not have been stayed.

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29. Furthermore, the discretionary writ jurisdiction under Article 226 of the Constitution of India should be exercised keeping in view the conduct of the parties. The respondents made a representation that in the event the order of suspension is revoked, they would cooperate with the enquiry officer. They kept on filing applications for extension of time which were allowed. They took benefit thereof. Without, however, filing show-cause, they moved the High Court. Furthermore, before the enquiry officer also, as noticed hereinbefore, although they had appointed the defence counsel, did not cross-examine the witnesses examined on behalf of the management. A large number of witnesses had already been examined on behalf of the appellants. The disciplinary proceedings, as we have noticed hereinbefore, have proceeded to a great extent. In



such a situation we are of the firm view that the discretionary jurisdiction should not have been exercised in favour of Respondents 1 to 4 by the High Court."

7. From the above, it is evident that holding of departmental proceedings can be stayed depending upon the nature and gravity of misconduct/offence and the purpose is to ensure that the delinquent does not disclose his evidence in advance, which would prove detriment to his case in the criminal proceedings.
8. In so far as the present case is concerned, it is to be seen whether the case complies with the aforesaid conditions to have the matter stayed. The gravity of offence in this case could be compared with that as in the case of *Kusheshwar Dubey v. Bharat Coking Coal Ltd.*, (1988) 4 SCC 319, wherein too there was an allegation of assault upon the colleague and the Apex Court held in that case that the departmental proceedings should have been stayed. This is the *prima facie* view that the Tribunal comes to which has to be further examined on receipt of counter from the respondents.
9. In view of the above, it is appropriate that in the instant case, interim prayer vide para 9 of the OA be allowed and the case listed for final disposal after completion of pleadings on priority basis.



10. Accordingly, as an interim order, respondents are restrained from proceeding further with the departmental proceedings till the disposal of the case. The respondents may file their reply within a period of three weeks. Rejoinder, if any, be filed within two weeks thereafter. List this case for final hearing on 28th April, 2009. It is made clear that save for very compelling reason, there shall be no adjournment of the case or grant of time for filing of counter or rejoinder.

(Dated, the 13th March, 2009)

tnm —
(K. Noorjehan)
Administrative Member

W B S Rajan
(Dr. K B S Rajan)
Judicial Member

CVR.

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 105 OF 2009

Monday, this the 18th day of January, 2010.

CORAM:

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER
HON'BLE Ms.K.NOORJEHAN, ADMINISTRATIVE MEMBER

V.S. Binu, Clerk Typist,
Office of the Principal Accountant
General (Audit), Thiruvananthapuram,
residing at Poornima,
Thiruvananthapuram – 695 527.

Applicant

(By Advocate Mr. M.R. Rajendran Nair, Sr.
with Mr. M.R. Hariraj)

versus

1. Senior Deputy Accountant General (Admn.),
O/o. the Principal Accountant General (Audit),
Kerala, Thiruvananthapuram.
2. Principal Accountant General (Audit),
Kerala, Thiruvananthapuram.
3. Comptroller and Auditor General of India,
New Delhi.

Respondents

(By Advocate Mr. P. Nandakumar)

The application having been heard on 18.01.2010, the Tribunal on the same day delivered the following:

ORDER

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

The applicant in this O.A. has challenged the action on the part of the respondents in proceeding with the charge sheet issued to the applicant, vide Annexure A-5. On the same alleged episode for which the charge sheet has been issued, there has been a criminal case also under Section 332 of the Indian Penal Code before a criminal Court. At the time of admission, taking into account the entire conspectus of the case, there has been a stay of further proceedings till the disposal of the case, vide order dated 13.03.2009. Attempt

by the respondents in challenging the interim order could not be successful, vide judgment dated 6th April, 2009 in W.P.(C). No. 10353 of 2009. However, hearing was expedited.

2. When the case came up for final hearing, the senior counsel for the applicant submitted that in so far as the criminal case is concerned, the same is likely to be withdrawn, in which event there would be no impediment in holding the departmental inquiry. However, the senior counsel suggested that the applicant be permitted to pen a representation in this regard and suitable decision could be taken by the competent authority.
3. Counsel for the respondents submitted that there is no authentic information about the proposal for withdrawing of the criminal complaint. Nevertheless, if the case is decided on merit, it would go to show that the withholding of the departmental inquiry could be permitted only when the legal and factual issues involved are complicated in nature. Here again, there has been a discretion given to the competent authority that if the criminal case is likely to consume more time for disposal, there may not be any impediment in holding the inquiry. All depends on the facts of each case. The counsel submitted that the exceptional situation in this case is not present.
4. Arguments were heard and documents perused. A glimpse at the impugned order would go to show that decision to reject the request of the applicant for deferring the departmental inquiry had been taken taking into account the provisions of Government of India O.M. dated 01.08.2007 (Annexure A-9). Annexure A-9 reads as under:

"3. However, if the charge in the criminal case is of a grave nature which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case. This will depend upon the nature of offence and the evidence and material collected against the Government servant during investigation or as reflected in the charge sheet. If the criminal case does not proceed or its disposal is being unduly delayed, the departmental proceedings, even if they were kept pending on account of the pendency of the criminal case be resumed and proceeded with so as to conclude them at an early date, so that if the employee is found not guilty, his honour may be vindicated and in case he is found guilty, the administration may get rid of him at the earliest. If the case so warrants."

5. The decision by the authorities, referring to the above order dated 01.08.2007 does not manifest that there has been due consideration of the above provision after which only the decision to hold the inquiry was taken. In any event, by permitting the applicant to pen a representation relating to the stage of the criminal case, the respondents could consider the same and arrive at a decision. The request on behalf of the applicant is reasonable and the same would not cause any prejudice to the respondents. Without therefore, going into the merit of the case and leaving the legal issue open, this O.A. is disposed of with a liberty to the applicant to submit a representation to the respondents as stated above within a period of fifteen days from the date of communication of this order and on receipt of such a representation, the respondent No. 2 shall take a decision and communicate the same to the applicant within two months thereafter. No costs.

(Dated, the 18th January, 2010.)


 K.NOORJEHAN
 ADMINISTRATIVE MEMBER
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 Dr.K.B.S.RAJAN
 JUDICIAL MEMBER