

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO.: 109 of 2000.

Dated this Friday, the 28th day of April, 2000.

Shri S. P. Sangappa, Applicant.

Shri S. R. Atre, Advocate for the
applicant.

VERSUS

Union of India & Others, Respondents.

Shri V. S. Masurkar, Advocate for the
Respondent Nos. 1 & 2.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).

Hon'ble Shri S. L. Jain, Member (J).

- (i) To be referred to the Reporter or not ? *Yes*
- (ii) Whether it needs to be circulated to other Benches
of the Tribunal ? *No*
- (iii) Library. *No.*

B.N.B.
(B.N. BAHADUR)
MEMBER (A)

OS*

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Hon'ble Shri S. L. Jain, Member (J).

S. Prabhu Sangappa,
Commercial Officer with the
Mahanagar Telephone Nigam Ltd.,
Residing at -
A-58, Telecom Officers Transit
Quarters, V. K. Road,
Mulund (West),
Mumbai - 400 080.

... Applicant.

(By Advocate Shri S. R. Atre)

VERSUS

1. The Union of India through
The Chief General Manager,
Mahanagar Telephone Nigam Ltd.,
Telephone House, 15th floor,
V.S. Marg, Dadar (W),
Mumbai - 400 028.
2. The Deputy General Manager
(Personnel),
O/o. the General Manager (P),
Telephone House, 6th floor,
V.S. Marg, Dadar (W),
Mumbai - 400 028.
3. Shri H.V. Gangwani,
Inquiry Officer,
O/o. the Deputy Engineer,
(Departmental Enquiries),
Old Telephone Exchange, 1st floor,
Naupada, Opp: Malhar Cinema,
Thane - 400 601.

... Respondents.

(By Advocate Shri V.S. Masurkar for
Respondent Nos. 1 and 2).

OPEN COURT ORDER

PER : Shri B. N. Bahadur, Member (A).

This is an application made by Shri S. Prabhu Sangappa,
seeking the relief in substance for deferring departmental

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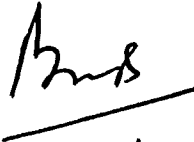
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proceedings, that have been taken up against him, till the High Court at Mumbai decides his criminal appeal in which a stay has also been granted. We have heard the Learned Counsel appearing on both sides.

2. The facts in this case are simple, in that the applicant has been proceeded against in a disciplinary enquiry and the articles of Charge are at page 22. It is conceded by applicant that in regard to similar charges in a criminal case, he has been convicted and that in his appeal before the Hon'ble High Court which is pending, a stay has been granted.

3. The Learned Counsel for the applicant argued his case strenuously first making the point that the charges are similar and when he has already been convicted in a criminal case and when the matter is still in progress, as described, the departmental authorities should be directed to stay their hand in proceeding with the departmental enquiry. The Learned Counsel argued that the departmental enquiry will be conducted prejudicially in view of the fact that his total defence stands disclosed in the criminal case. It is his contention that any Enquiry Officer will be naturally prejudiced by the decisions already given in the criminal case. This point, about his defence being already disclosed, was stressed upon repeatedly by the Learned Counsel to make the plea regarding staying of the departmental enquiry.

4. The Learned Counsel, in fact, referred to the well known decisions of the Hon'ble Supreme Court on the subject and the latest decision of this Bench of the Tribunal in O.A. Nos. 921/99 and 922/99 (batch) dated 21.02.2000 where one of us was a party (Shri B. N. Bahadur).



5. The Learned Counsel sought to draw support from this judgement where the law settled in catena of judgement of the Hon'ble Supreme Court have been discussed. He took us specifically over paragraph 5 of the aforesaid judgement to make a point that this case is different in as much as in the other cases the departmental enquiry had been started several years ago whereas in this case the enquiry is now being restarted and is at the initial stage.

6. We have heard the Learned Counsel for the Respondents, and have also seen the written statement filed. The Counsel for respondents relied on his written statement, and the catena of judgement cited and made a point that it was not expected that Government would wait till all remedies available in the criminal case to the applicant were exhausted. He pointed out that their enquiry would be more focussed on the flaws in the procedural aspects and the guilt of the applicant therein. Intentions and motives of criminal nature are being more specifically looked at in the criminal case. He further argued that as per settled law, Tribunals have been exhorted to avoid interference in Disciplinary Enquiry cases until punishment is awarded.

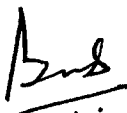
7. The issue in this case is simple, that is, whether the applicant deserves the reliefs sought for the deferment of the departmental proceedings pending decision on his appeal in the criminal case. This issue has been settled in a large number of cases by the Hon'ble Supreme Court, which are well known and are being depended upon by the Respondents. The basic point has repeatedly been made that there is no bar to hold departmental proceedings simultaneously and that, normally

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Tribunals should not defer them. The main ground for deferment comes in cases where disclosure of defence in the departmental proceedings would seriously prejudice the delinquent officer or would raise complications on major questions of law in the criminal case. The Learned Counsel for the Applicant has strenuously tried to show how his case would come under the special category even vis-a-vis well known decision cited. We have considered his argument carefully in the background of the facts and circumstances of the case, and are not convinced that any case has been made out before us for staying the departmental proceedings.

8. One of his major points that he has already disclosed his defence in the criminal case infact goes against him as per the settled law. Merely to conclude that the Inquiry Officer will be prejudiced or will arrive at a similar decision would be an unsupportable assumption. The Inquiry Officer is bound by the well known principles and rules regarding conducting departmental enquiry and we see no reason to apprehend at this stage as to why he will be prejudiced. This argument raised by the Learned Counsel for the Applicant does not therefore hold water. Infact, the reasons discussed in the O.A Nos. 921/99 and 922/99 based on the law settled by the Hon'ble Supreme Court are valid in this case also.

9. The Learned Counsel had referred to the case decided by the Calcutta High Court, a copy of which is at exhibit R-2, (1998 (7) SLR 540) to make the point that the ratio settled here supports him. Infact, it clearly does not, because the phrase "unless punishment is imposed" refers to the same departmental enquiry and not vis-a-vis a separate criminal case.



10. In view of the discussions made above, we are not convinced that there is any case made out for interference by this Tribunal. In consequence, this application is hereby dismissed, with no order as to costs.

P. Jain
(S. L. JAIN)
MEMBER (J).

OS*

B.N. Bahadur

(B.N. BAHADUR)
MEMBER (A).