

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO.: 1166 of 1993.

Dated this Wednesday, the 4th day of August, 1999.

Balkishan Laxmichand Didwani, Applicant.

Shri P. A. Prabhakaran, Advocate for the
applicant.

VERSUS

Union of India & Another, Respondents.

Shri K. D. Kelkar, Advocate for the
Respondents.

CORAM: Hon'ble Shri Justice R. G. Vaidyanatha, Vice-Chairman.

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

(i) To be referred to the Reporter or not ? uo

(ii) Whether it needs to be circulated to other Benches
of the Tribunal ? uo


(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

OS*

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CORAM : Hon'ble Shri Justice R. G. Vaidyanatha, Vice-Chairman.

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Balkishan Laxmichand Didwani,
resident of
A/104, Revenue Colony,
Akola Tq.
Dist. Akola (Maharashtra)

Working in the office of
Assistant Commissioner of
Income-Tax, Wardha Circle,
Wardha Circle, Wardha.

... Applicant.

(By Advocate Shri P. A. Prabhakaran)

VERSUS

1. Deputy Commissioner of Income-Tax,
Akola Range, Akola,
Near Head Post Office,
Akola, Dist. Akola.
2. Deputy Commissioner of Income Tax,
(Inquiring Authority), Room No. 450,
Fourth Floor, Aaykar Bhavan,
M. K. Road, Bombay - 400 020.

... Respondents.

(By Advocate Shri K. D. Kelkar)

ORDER (ORAL)

PER : Shri R. G. Vaidyanatha, Vice-Chairman.

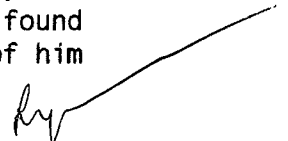
This is an application where the applicant wants the stay of the disciplinary enquiry proceedings till the disposal of criminal case No. 6 of 1992. Respondents have filed reply. The Court has granted interim stay of disciplinary enquiry proceedings and the stay was made absolute.


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2. We have heard the Learned Counsel appearing on both sides. The applicant is a clerk in the Income-tax office at Akola. On an allegation of accepting illegal gratification of Rs. 4,000/- he was said to have been trapped and he has been prosecuted in the criminal court. In the meanwhile, the department issued a charge-sheet dated 25.09.1991 alleging misconduct on the part of the applicant. The applicant has approached this Tribunal stating that the disciplinary enquiry should not be proceeded with till the disposal of the criminal case.

3. After hearing both the counsel and having regard to the law bearing on the point, we hold that there is no bar in proceeding with the disciplinary enquiry simultaneously or parallel to criminal case. That is the law declared by the Apex Court in its latest judgement reported in 1992 (2) SLR (SC) 338 (Capt. M. Paul Anthony V/s. Bharat Gold Mines Ltd. & Another). Infact, in that judgement the Supreme Court has noticed the decisions bearing on that point and has held that there is no legal bar for parallel departmental proceedings where criminal case is pending. The conclusion of the Supreme Court are given in para 22 of the reported judgement. For our present purpose, conclusion no. (v) is relevant, whichs reads as follows :

"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 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, administration may get rid of him at the earliest."



Therefore, the Supreme Court has observed that even if by chance the disciplinary proceedings are stayed due to pendency of criminal case, the stay in the disciplinary enquiry case could be vacated if the disposal of the criminal case is unduly delayed.

In the present case, we find that criminal case was filed in 1992. Now seven years have lapsed but there is no progress and there is no material to show that there is a likelihood of criminal case being concluded shortly. However, since we are not aware of the exact position today in the criminal case, we feel that the stay of the disciplinary enquiry be extended by another four months and if by that time the criminal case does not come to a conclusion, then there must be no bar ^{for} on the department to proceed with the disciplinary enquiry.

4. In the result, the O.A. is disposed of by directing the extension of stay of disciplinary enquiry till 31.12.1999. If in case the criminal proceedings come to an end by that date, then the disciplinary authority shall decide whether on the basis of the result of the criminal case he should proceed with the disciplinary enquiry or not. If the criminal case is not concluded by 31.12.1999, then the stay stands vacated. The disciplinary enquiry can be proceeded with after 31.12.1999 and then it should be completed as per rules.

All contentions on merits are left open. No order as to costs.

B. N. Bahadur

(B. N. BAHADUR)

MEMBER (A)

R. G. Vaidyanatha

(R. G. VAIDYANATHA)

VICE-CHAIRMAN.