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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR
BENCH, JAIPUR.

O.A.No.1006/92

Dt. of order: 14.9.1993

Om Prakash Mathur

: Applicant

Vs.

Union of India & Ors. : Respondents

Mr.P.V.Calla : Counsel for applicant

Mr.Manish Bhandari : Counsel for respondents

CORAM

Hon'ble Mr.Justice D.L.Mehta, Vice Chairman

Hon'ble Mr.O.P. Sharma, Member (Adm.).

PER HON'BLE MR.JUSTICE D.L.MEHTA, VICE CHAIRMAN.

Heard the learned counsel for the parties.

Applicant prayed that the letter dated 22.9.88 may be quashed. He has further prayed that the proceedings taken so far against the petitioner in pursuance of the charge sheet Annx.A-3 may be quashed and set aside.

2. This Bench and other Courts have taken a view that the criminal case and the disciplinary proceedings can take place simultaneously and there is no legal bar. However, in the facts and circumstances, the disciplinary proceedings may be stayed if the circumstances so required.

3. For this reason, we are of the view that the charge sheet can ~~not~~ be quashed and the charge sheet served will be survive. His second ground in para 18 that the non-applicant No.3, Shri M.L.Sharma, who is the Enquiry Officer is not acting in a fair and objective manner. It was also submitted that Shri M.L.Sharma is acting in a prejudicial manner and has said that the case has been registered at the behest of the vigilance, therefore, he will have to record a finding of guilt. On behalf of Mr.M.L.Sharma, no reply has been filed particularly when Mr.Sharma has been impleaded as a party in

this O.A. In this circumstances, it is necessary to change the Enquiry Officer. Mr. Manish Bhandari, counsel for the respondents stated that Mr. M.L.Sharma, has already been transferred and they are appointing ~~the a~~ new Enquiry Officer. However, this will not solve the problem. The proceedings taken by Mr. Sharma are quashed and the charge sheet will continue. Any proceedings taken by Mr. Sharma after the issuance of the charge sheet shall not be considered and de novo enquiry be held against the applicant from the stage when Mr. M.L.Sharma, started the proceedings. The O.A. stands disposed of. Parties to bear their own costs.

(O.P.Sharma)
Member(Adm)

(D.L.Mehta)
Vice Chairman.