

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 191 of 1999

Jabalpur, this the 25th day of March 2003.

Hon'ble Mr. Shanker Raju - Member (Judicial)  
Hon'ble Mr. R.K. Upadhyaya - Member (Admnv.)

Bhagwati Prasad Dubey, S/o Shri Pd. Dubey,  
45 yrs., Asstt. Post Master (mail) Head Post  
Office, Chhaterpur (under suspension),  
R/o Mohan Ganj Bijawar, Distt, Chhaterpur. APPLICANT

(By Advocate - Shri R.K. Gupta)

VERSUS

1. The Union of India  
Through the Secretary Ministry of  
Telecommunication, (Postal)  
New Delhi.
2. The Director, Postal Services, Head  
Quarter, Office of the Chief Post  
Master General, M.P. Circle, Dak  
Bhawan, Bhopal
3. The Divisional Superintendent,  
of Post Offices, Chhaterpur Division,  
Chhaterpur.
4. Shri S.C. Tiwari, Enquiry Officer  
and Sub Divisional Inspector, Newadi  
sub Division, Newadi, Distt. Tikamgarh

RESPONDENTS

(By Advocate - None)

ORDER (ORAL)

Mr. Shanker Raju, Member (J):

None appeared for the respondents even on the second call. As the matter pertains to the year 1999 involving a simple issue, the same is disposed of under Rule 16 of the Central Administrative Tribunal (Procedure) Rules, 1987.

2. Applicant while working as APM (Mail) was involved in a criminal case under Section 409/420 IPC vide FIR No.37/97, for misappropriation of two amounts, to the tune of Rs.25,000/- and Rs. ~~24~~ 24,000/- and was placed under suspension on 7.11.1996. A disciplinary proceeding for

a major penalty under Rule 14 of the CCS (CCA) Rules, 1965 was initiated against him vide memorandum dated 16.4.97. Simultaneously after completion of the criminal investigation a chargesheet has been filed before the competent court of jurisdiction wherein on 16.6.99 a charge has been framed against him under Section 409/420 and the case has progressed by recording of evidence.

3. Learned counsel for applicant contended that substantially both the proceedings are founded on the same sets of facts, involving common witnesses. In the event he is compelled to participate in the proceedings he shall have to disclose his defence which shall prejudice him in the criminal trial and is contrary to the decision of the Apex Court in State of Rajasthan v. B.K. Meena, (1996) 6 SCC 417 as well as Capt. M. Paul Anthony v. Bharat Gold Mines (1999) (2) JT SC 456.

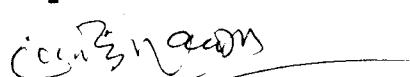
4. On the other hand, respondents in their reply rebutted the contentions and stated that both the proceedings are different and can be going on simultaneously even on the same sets of facts.

5. By an order dated 17.5.99 respondents have been directed not to proceed with the examination of the witnesses in the enquiry.

6. We have carefully considered the contentions of applicant and the reply filed by respondents. From the perusal of the record we find that both the disciplinary as well as criminal proceedings are founded on the same set of facts involving common witnesses and other evidence. If applicant is compelled to participate

in the proceedings he shall be greatly prejudiced in the matter of his defence to be tendered in the criminal trial. This can be avoided by ensuring that the enquiry proceeds after common witnesses in disciplinary proceedings who are also figuring in the chargesheet filed in criminal case are examined first in the trial. However, we are also aware of the fact that stay of disciplinary proceedings cannot be for long period pending criminal proceedings and expeditious disposal of the proceedings is in the interest of the charged officer. The Apex Court in B.K. Meena's case (supra) has observed that even if stayed at one stage, the decision may require re-consideration if the criminal case gets unduly delayed.

7. Having regard to the aforesaid observations OA is disposed of with the direction to keep the disciplinary proceedings in abeyance till common witnesses figuring in the chargesheet served upon applicant in disciplinary proceedings are examined and cross examined by applicant in criminal trial and thereafter to resume the proceedings. However, if the trial is unduly delayed due to attribution of applicant they are at liberty to approach this Tribunal for re-consideration. With these observations OA stands disposed of. No costs.

  
(R.K. Upadhyaya)

Member (A)

  
(Shanker Raju)  
Member (J)

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