

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No.376/2016

Order Reserved on :24.02.2016
Order Pronounced on:26.02.2016

**Hon'ble Ms.Chameli Majumdar Member, (J)
Hon'ble Mr. K.N. Shrivastava, Member (A)**

Dr.Ravi Inder Singh, IAS,
Principal Secretary,
22, Jasmanium 2,
Vatika City,
Sohna Road,
Sector 49, Gurgaon,
Haryana. ... Applicant

(By Advocate : Shri C.Harishanker with Shri Sushil
Gupta and Ashley Cherian)

Versus

Union of India
Through the Secretary,
Department of Personnel,
Ministry of Personnel, Public Grievances &
Pensions, North Block,
New Delhi-110001. ... Respondent

(By Advocate: Shri R.N.Singh)

ORDER

By Hon'ble Shri K.N. Shrivastava, MEMBER(A):

The applicant in this OA has prayed for a direction to the respondents not to proceed ahead with the disciplinary proceedings against him pursuant to the charge

memorandum No.106/19/2010-AVD-I, dated 16.09.2015
(Annexure A-4)

2. When the case was taken up for admission, learned counsel for the applicant submitted that the applicant is facing criminal proceedings in the court of Special Judge in FIR No.15 dated 22.11.2010 filed by Special Cell for the same charges for which the respondents have started disciplinary proceedings against him by issuing Annexure A-4 charge memorandum dated 16.9.2015. It was also submitted that if the disciplinary proceedings are allowed to continue, the information furnished by the applicant to defend himself in the said proceedings would prejudice his case before the criminal court and hence in the interest of justice this Tribunal may be pleased to stay the disciplinary proceedings till the proceedings before the criminal court are disposed of.

3. We have considered the arguments of learned counsel for the applicant and have also perused the pleadings. It is settled law that criminal proceedings as well as disciplinary proceedings against a delinquent Government servant, for the same charges, can continue simultaneously.

4. We are not inclined to accept the argument of learned counsel for the applicant that disclosure of information by the applicant in the disciplinary proceedings may harm his interest in the criminal proceedings. To buttress his contention, learned counsel has placed reliance on the judgment of Hon'ble Supreme Court in the case **of Capt. M.**

Paul Anthony Vs. Bharat Gold Mines Ltd. & Anr.

[(1999) 3 SCC 679] to say that if the disciplinary proceedings and criminal proceedings are based on the same set of facts and are to be proved by the same witnesses then findings recorded in disciplinary enquiry cannot be sustained. We have perused **Capt. M. Paul Anthony** (supra). The facts of the case were as under:

The appellant was Security Officer in Bharat Gold Mines Ltd. He was placed under suspension and disciplinary as well as criminal proceedings were initiated against him on the ground that in a police raid, mining sponge gold balls were recovered from his house. He was placed under suspension. Criminal proceedings were started against him in a criminal court of law. Simultaneously departmental disciplinary proceedings were also started against him. In the disciplinary proceedings, an ex-parte order was passed dismissing him from service. He was later acquitted by the

criminal court. On his acquittal, he approached Bharat Gold Mines Ltd with a request to take him back in service but the said request was not considered. Finally his matter reached the Hon'ble Supreme Court. The Hon'ble Apex Court held that ex parte disciplinary enquiry cannot sustain in view of the fact that both in criminal proceedings as well as in the disciplinary proceedings, the appellant was charged with the same offence and he has been acquitted in the criminal proceedings.

5. From the above, it becomes quite clear that the ratio of **Capt. M.Paul Anthony** (Supra) cannot be applied in the instant case, as the facts and circumstances of the two cases are completely different.

6. In view of above, we are hold that the appellant has approached this Tribunal prematurely and without any valid cause of action as well as without exhausting all the departmental remedies. Hence, we dismiss the OA at the admission stage itself.

7. No order as to costs.

(K.N.Shrivastava)
Member(A)

(Chameli Majumdar)
Member(J)