

**Central Administrative Tribunal  
Principal Bench**

**OA No.1675/2017**

New Delhi, this the 07<sup>th</sup> day of August, 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman  
Hon'ble Ms. Aradhana Johri, Member (A)**

Shri Ashish Anan (Working as SDPO)  
Group A-DANIPS  
S/o Shri Rameshwar Dayal Meena  
Age about: 32 years  
Resident of: E-Type Quarter, Near Collectorate  
Dholar, Moti Daman-396220  
U.T. of Daman & Diu. ..Applicant

(By Advocate: Ms. Sriparna Chatterjee)

Versus

1. Union of India, through Joint Secretary(UT)  
Ministry of Home Affairs  
Jai Singh Marg  
Hanuman Road Area, Connaught Place  
New Delhi, Delhi-110001.
2. Smt. Meghna Yadav  
Having office at: SP Office  
Nani Daman-396210  
UT of Daman & Diu
3. Sh. Ravinder Sharma  
Investigation Officer  
SDPO Office, Nani  
Daman Police Station-396210  
Daman. ...Respondents

(By Advocate: Shri P.K. Singh for Shri Rajeev Kumar)

**ORDER (ORAL)****Justice L. Narasimha Reddy:-**

The applicant is a Police Officer in DANIPS. On the basis of an allegation against him and certain others FIR No.169/2016 was registered in PS Nani, Daman under Section 384, 120B and 506 of IPC. Simultaneously, departmental proceedings were initiated against him by issuing charge memo dated 11.01.2017. This OA is filed challenging the charge memo mainly on the ground that once the criminal case is pending, the applicant cannot be subjected to departmental proceedings.

2. The respondents filed a detailed counter affidavit stating *inter alia* that the purport of inquiry in the criminal proceedings on the one hand, and departmental proceedings on the other hand is different and no prejudice would be caused to the applicant if he is required to participate in the departmental proceedings. It is also stated that the criminal proceedings are at an initial stage.

3. Heard Ms. Sriparna Chatterjee, learned counsel for the applicant and Shri P.K. Singh for Shri Rajeev Kumar, learned counsel for the respondents.

4. It is a matter of record that the criminal proceedings on the one hand, and departmental proceedings on the other hand, have been initiated on the same set of allegations. Though the initiation of such proceedings cannot be found fault with, the settled law is that in matter of this nature, the departmental proceedings have to await till the conclusion of the criminal proceedings. It is a different matter that even if an employee is acquitted in criminal case, the department can continue the proceedings. The reason being that the burden of proof and the preponderance of evidence in criminal case on the one hand, and departmental proceedings on the other hand, are different. However, if an employee is required to submit explanation to the charge in the departmental proceedings, it would amount to compelling him disclose his defence in the criminal case.

5. We, therefore, allow the OA partly, directing that the proceedings initiated through the charge memo dated 11.01.2017, shall be kept pending till the criminal case, referable to FIR No.169/2016, of P.S. Nani, Daman, is decided. There shall be no order as to costs.

**(Aradhana Johri)**  
**Member(A)**

**(Justice L. Narasimha Reddy)**  
**Chairman**

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