

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

O.A. No.021/01018/2017 and O.A.No.021/00060/2018

:- Date of Order :19.09.2018.

Between :

Chinnam Ravi, s/o late C.Krishna Murthy,
Aged about 55 yrs, Occ:Deputy Director,
MES No.181598, O/o Chief Engineer (R&D),
Military Engineering Services, Secunderabad.

...Applicant in both OAs

And

1. UOI, rep., by Secretary, M/o Defence,
Sena Bhavan, New Delhi.

2. The Under Secretary to the Govt. Of India,
M/o Defence, Sena Bhavan, New Delhi.

3. The Joint Director General and CE (D&V),
E-In-C's Branch, Kashmir House, New Delhi.

4. The Chief Engineer, Southern Command,
Military Engineer Services, Pune.

5. The Chief Engineer, Air Force,
Military Engineering Services, Bangalore.

... Respondents in both OAs

Counsel for the Applicants ... Dr.A.Raghu Kumar

Counsel for the Respondents ... Mr.P.Krishna, Addl.CGSC

CORAM:

**THE HON'BLE MR.JUSTICE R.KANTHA RAO, MEMBER (JUDL.)
THE HON'BLE MRS.NAINI JAYASEELAN, MEMBER (ADMN.)**

ORAL ORDER

{ As per Hon'ble Mr.Justice R.Kantha Rao, Member (Judl.) }

Heard Dr.A.Raghu Kumar, learned counsel appearing for the Applicant and Mr.P.Krishna, learned standing counsel appearing for the Respondents.

2. Since common questions of law and fact arise for consideration in both these OAs, we dispose of the same by a common order.

3. O.A.No.1018/2017 is filed seeking to quash the charge memorandum dated 9.3.2017 on the ground that in respect of the very same set of charges, the applicant was acquitted by the Principal Special Judge for CBI cases, Hyderabad, in C.C.No.6/2014 after full fledged trial. Whereas, O.A.No.60/2018 is filed to quash and set aside the suspension order dated 22.12.2017, which was extended from 18.01.2013 to 27.12.2016, and consequently to direct the respondents to revoke the suspension and reinstate the applicant into service with all consequential benefits.

4. The brief facts required for considering the issues involved in the present OAs are as follows:

The applicant in OA.No.1018/2017 was working as Deputy Director, Air Force Station, Hakimpet, Secunderabad. The applicant while working as such, was trapped by the CBI on receiving information that he was

demanding bribe of Rs.1 lakh from one Mr.Bhaskar, who is a Contractor. After the trap, a charge sheet was filed by the CBI under Sections 7 and 13 (2) r/w 13 91) (d) of Prevention of Corruption Act, 1988, against the applicant on the allegation that he demanded and accepted bribe for doing an official favour i.e., for passing the dues pending with him. The case was registered as C.C.No.6/2014 on the file of the Principal Special Judge for CBI cases, Hyderabad, and went on trial. On the conclusion of the trial and upon hearing of the counsel on either side, the Principal Special Judge for CBI Cases, Hyderabad, acquitted the applicant of the charges. In this context, it requires to be noticed that from the alleged date of trap till date the applicant has been under suspension pursuant to the aforementioned orders passed by the respondents, while the criminal case was pending before the Principal Special Judge for CBI cases, Hyderabad, in C.C.No.6/2014, the department did not take any steps to initiate departmental inquiry against the applicant. It is only after the acquittal of the criminal case i.e., on 31.01.2017 that the department issued a charge sheet on 09.03.2017 against the applicant on the very same set of charges and the charge sheet has been sought to be quashed by the applicant in OA.No.1018/2017.

5. From the reply statement filed by the respondents in both the OAs, the contention of the respondents appears to be that even though the applicant was acquitted of the criminal case, the department can proceed with initiation of departmental proceedings as there is no bar as such for

initiation of departmental proceedings. They submitted in the reply statement that as the standard of proof in departmental proceedings and criminal case are different, they can proceed with the departmental inquiry notwithstanding the order of acquittal passed in the criminal case by the CBI Court. Citing the said contention, the respondents have sought to dismiss both the OAs.

6. It is submitted by Dr.A.Raghu Kumar, the learned counsel appearing for the Applicant , that since the acquittal recorded by the Principal Special Judge for CBI cases, Hyderabad, against the applicant in C.C.No.6/2014, is on merits, the department is barred from initiating departmental proceedings.

7. On the other hand, Mr.P.Krishna, the learned standing counsel appearing for the Respondents, contended that under law acquittal in the Criminal Case is not a bar for initiation of departmental proceedings and therefore, the prayer sought for by the applicant in both the OAs cannot be granted.

8. It is true that mere acquittal does not debar the department from initiation of departmental proceedings against the employee, who is tried in the criminal case. If the acquittal is on technical grounds or by simply giving

beyond of doubt, the department can initiate departmental proceedings despite the acquittal. The reason being the standard of proof required in a departmental proceedings is altogether different to that of the criminal case. Therefore, when this kind of situation arises, the Tribunal is under a duty to examine the judgment passed in the Criminal Case. On going through the judgment, if the Tribunal finds that the acquittal is on merits, it can take a view that the department is estopped from proceeding with departmental proceedings against the applicant on the very same set of charges. The learned Principal Special Judge for CBI cases, Hyderabad, recorded his findings in Para 79 of the judgment, which reads as follows:

“79. Therefore, on a careful analysis and scrutiny of the evidence on record, an inference possible in this case is that PW-1 – Sri M.Bhasker is a wholly unreliable witness who nurtured grudge against the accused for the reasons stated supra in relation to execution of this contract work. It is further to be inferred that there is no proof of subsisting official favour with the accused towards PW-1 – Sri M.Bhasker by the date of trap. Further, it has to be inferred that the attempt of the prosecution to prove the trap against the accused through its evidence is not successful and in fact found to be fringing on falsity. Therefore, for these reasons, it has to be held that neither the prosecution established a charge under Section 7 of PC Act against the accused or his alleged criminal misconduct in terms of Section 13 (1) (d) of PC Act punishable under Section 13 (2) of PC Act. Therefore, presumption under Section 20 of PC Act has paled to insignificance. The material on record, including the defence evidence has effectively rebutted its effect, to the extent of making it extinct.”

Therefore, this is a case where the Criminal Court not only was of the view that the prosecution failed to prove the case against the applicant beyond reasonable doubt, but recorded a positive finding that there was no proof of subsisting official favour on the date of the trap. Furthermore, the Court observed that the prosecution, which is not successful, in fact, found to be fringing on falsity.

9. While dealing with the OAs, the Tribunal is not supposed to substitute its views to the findings recorded in the Criminal Case in Para 79. Since the acquittal is on merits and as per the settled law, the department is precluded from initiating departmental proceedings against the applicant. It is further seen that as per the proceedings dated 19.09.2017, annexed as Annexure.A-XVII, it was informed by the Deputy Director, CE R& D Secunderabad, that the CBI is not preferring any appeal against the acquittal passed by the Principal Special Judgment for CBI cases, Hyderabad.

10. In view of the above, both the OAs succeed and they deserve to be allowed. Accordingly, they are allowed. Consequently, the charge memorandum dated 09.03.2017 challenged in OA.No.1018/2017, is quashed and set aside. The applicant in OA.No.60/2018 was kept under suspension from 22.12.2017 till 22.06.2018. Keeping the applicant under suspension beyond 90 days is not in accordance with law. The applicant

was acquitted in a Criminal Case and the OA No.1018/2017 is allowed today quashing the charge memo issued against the applicant. Therefore, the respondents are directed to reinstate the applicant within a period of four weeks from the date of receipt of a copy of this order.

11. Both the OAs are accordingly allowed. There shall be no order as to costs.

(NAINI JAYASEELAN)
MEMBER (ADMN.)

(JUSTICE R.KANTHA RAO)
MEMBER (JUDL.)

Dated: this the 19th day of September, 2018
Dictated in the Open Court

Dsn.