

CENTRAL ADMINISTRATIVE TRIBUNAL
 CALCUTTA BENCH, KOLKATA
 (CIRCUIT BENCH AT PORT BLAIR)

No. OA.351/00402/2017

Date of order: 18.06.2018

OA.351/00487/2017

Present : Hon'ble Mr. S.K. Pattnaik, Judicial Member
 Hon'ble Dr. Nandita Chatterjee, Administrative Member

Shri Bhagirath Das,
 Aged about 30 years,
 S/o Banshi Das,
 Working as Police Constable,
 PC/1623,
 A&N Police Department.

... Applicant.

Versus

1. Police Union of India,
 Through the Secretary,
 Ministry of Home Affairs,
 Jaisalmer House, 26,
 Mansingh Road,
 New Delhi – 111 001.
2. The Lt. Governor,
 Raj Niwas, Kamraj Road,
 A & N Islands,
 Port Blair.
3. The Director General Police (PHQ),
 A & N Police, A & N Islands,
 Atlanta Point, Port Blair.
4. The Superintendent of Police,
 South Andaman District,
 Port Blair.

... Respondents.

For the Applicants : Mr. P.C. Das, Counsel
 - Ms. S. Mondal, Counsel

For the Respondents : Mr. S.C. Misra, Counsel

SAF Chatterjee
 18.6.18

ORDER (Oral)

Per Mr. S.K. Pattnaik, Judicial Member:

Heard on M.A. wherein applicant has prayed to transfer the O.A. to CAT, Kolkata Bench.

2. Ld. Counsel for the official respondents submitted that the Original Application 402 of 2017 has been filed to stay the disciplinary proceedings till conclusion of the criminal case, but since enquiry in the disciplinary proceeding has already been concluded and is at the final stage it cannot be stalled in the midway.

3. Since disciplinary proceeding and criminal case are going on simultaneously the O.A. the MA itself not maintainable and liable to be dismissed.

4. Ld. Counsel for the applicant has placed reliance on several judgments cited below:

1. [1999] 3 SCC 679 – Capt. M. Paul Anthony Vs Bharat Gold Mines Ltd., & Anr.
2. [1996] 6 SCC 417 – State of Rajasthan Vs B.K. Meeha & Ors.
3. [2004] 7 SCC 442 – Kendriya Vidyalaya Sangathan & Ors. Vs. T. Srinivasa
4. AIR 2004 SC 4144 – State Bank of India & Ors. Vs R.B. Sharma
5. [2005] 10 SCC 471 – Hindustan Petroleum Corporation Ltd. & Ors. Vs. Sarvesh Berry
6. [2007] 10 SCC 385 – Noida Entrepreneurs Association Vs. Noida and others
7. [2012] 1 SCC 442 – Divisional Controller, Karnataka State Road Transport Corporation Vs. M.G. Vittal Rao
8. 2014 (1) CHN (Cal 399 – Firoz Ahmed Vs. UOI & Ors.

Contra

9. M/s. Stanzen Toyetsu India P. Ltd. Vs. Girish V & Ors. In Civil Appeal No. of 2014 arising out of SLP (C) Nos. 30371-30376 of 2012."

5. But Law on this point has been well settled by the Hon'ble Supreme Court in the case of **Kendriya Vidyalaya Sangathan Vs. T. Srinivasa 2004 SCC (L & S) 1011** wherein Their Lordships have emphatically observed that staying of disciplinary proceedings till conclusion of the criminal trial not sustainable as both proceed on two different parameters. Accordingly to Their Lordships stay of Departmental Proceeding is not a must in every case where there is criminal trial on the very same charge.

6. In the case of **State of Rajasthan Vs. B.K. Meena & Ors. 1996 SCC (L & S) 1455** Their Lordship further observed that the Tribunal fell in error in staying the disciplinary proceeding.

7. There is substantial force in the submission of Ld. Counsel for the official respondents that since inquiry has already been concluded any interference by this Tribunal in the midway is not legally permissible as it is within the administrative domain of the official respondents.

8. To conclude since the prayer sought by the applicant is misconceived and not legally tenable at the stage, the O.A. and M.A. both are dismissed. No costs.

(Nandita Chatterjee)
Member (A)

(S.K. Pattnaik)
Member (J)

drh