

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

**OA No. 282/2019  
with  
MA No. 347/2019**

**This the 18<sup>th</sup> day of September, 2019**

**Hon'ble Sh. Pradeep Kumar, Member (A)  
Hon'ble Sh. Ashish Kalia, Member (J)**

Gurbachan Singh  
S/o Sh. Ajayab Singh  
R/o N – 23, Type I<sup>st</sup>, New Police Line,  
Kingsway Camp, Delhi-110009  
Aged about 48 years  
(Group 'C')  
(Assistant Sub Inspector (Min.) in Delhi Police)  
... Applicant

(By Advocate: Sh. Ajesh Luthra)

**VERSUS**

1. Commissioner of Police,  
PHQ, MSO Building,  
IP Estate, New Delhi
2. Deputy Commissioner of Police  
3<sup>rd</sup> Bn. DAP, Administrative Block,  
Vikas Puri Police Complex,  
New Delhi – 110018
3. The Inquiry Officer (Inspector, 3<sup>rd</sup> Bn. DAP, Delhi)  
3<sup>rd</sup> Bn. DAP, Administrative Block,  
Vikas Puri Police Complex,  
New Delhi – 110018

...Respondents

(By Advocates: Ms. Esha Mazumdar)

**ORDER (ORAL)****Hon'ble Sh. Ashish Kalia, Member (J):**

Heard the parties.

2. In the present OA, the contention made by the learned counsel for applicant is that the applicant was subjected to four departmental proceedings initiated against him. Out of those four, three departmental proceedings have already been stayed in OA No. 845/2018 passed by the Division Bench of this Tribunal on 18.04.2018. He is pressing for the same relief in instant OA also.

3. Brief facts of the case are that the applicant was issued a charge sheet against the criminal case u/s 420/406/34 IPC. In order to convince this Tribunal, learned counsel for applicant has placed a reliance on the observations laid down by District Session Judge, who dealt with the FIR of the applicant, reads as under:-

*"On behalf of the applicant, it has been submitted that the applicant has been falsely implicated in the instant case and that the averments made in the FIR are wholly vague without specifying any date and are incomplete and though there is a stated receipt for a sum of Rs. 6 Lacs given allegedly by the applicant in order to get job for the complainant in the DDA, qua the payment made by the father of the complainant who is ASI with the Delhi Police, stated to be there in the existence, the same too is unbelievable and on the same there are finger prints of all the five fingers of the applicant which apparently is an indication that the said finger prints were taken forcibly and*

*the said finger prints were taken on the said fabricated receipt while the applicant was in the police custody during the investigation of FIR No. 406/13 PS Ranholia.*

*Inter alia, on behalf of the applicant, it is stated that the father of the complainant himself being a personnel of the police could not have been so gullible to make a payment of Rs. 6 Lacs to get an employment for his daughter and though it is stated that a sum of Rs. 5 Lacs was withdrawn from the GPF account of the father of the complainant, there is no explanation for the remaining sum of Rs. One Lakh.”*

4. While citing this, learned counsel for applicant submitted at the bar that in case disciplinary proceeding conducted and finalised against him, the defence so revealed can be used against him in the criminal case. He also cited the judgment in the matter of **Capt. M. Paul Anthony vs. Bharat Gold Mines Ltd. & Anr.**, which was decided by Hon'ble Apex Court on 30.03.1999. By plain reading of this judgement, it is concluded as under:-

*“(i) Departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar in their being conducted simultaneously, though separately.*

*(ii) If the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in the criminal case against the delinquent employee is of a grave nature which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case.*

*(iii) Whether the nature of a charge in a criminal case is grave and whether complicated questions of fact and law are involved in that case, will depend upon the nature of offence, the nature of the case launched*

*against the employee on the basis of evidence and material collected against him during investigation or as reflected in the charge sheet.*

*(iv) The factors mentioned at (ii) and (iii) above cannot be considered in isolation to stay the Departmental proceedings but due regard has to be given to the fact that the departmental proceedings cannot be unduly delayed.*

*(v) If the criminal case does not proceed or its disposal is being unduly delayed, the departmental proceedings, even if they were stayed on account of the pendency of the criminal case, can be resumed and proceeded with so as to conclude them at an early date, so that if the employee is found not guilty his honour may be vindicated and in case he is found guilty, administration may get rid of him at the earliest.”*

On the contrary, learned counsel for respondents submitted at the bar that the charge sheet was issued to the applicant in four different cases where the image of the police has been maligned by the applicant by indulging in such criminal acts.

5. Learned counsel for respondents also cited the judgement delivered by Hon'ble High Court in the matter of ***Rakesh Kumar vs. Union of India*** in W.P. (C) No. 3203/2012 and tried to convince this Tribunal that they may be allowed to continue with the disciplinary proceedings. In the aforesaid judgment, the following paragraph is read as under:-

*“We are of the view that in the case before us, no complicated question of law or fact is involved. In view of decision of the Supreme Court in B.K. Meena (supra),*

*the disciplinary proceedings cannot be stayed merely because the charges are grave. The twin requirement of charges being grave and complicated questions of law or fact arising in the matter needs to be fulfilled, before such proceedings can be stayed. Through, considering the nature of the charges against the petitioner, it will not be appropriate for us to analyse the charges against the petitioner in detail lest it prejudices the disciplinary proceedings or the criminal trial, we are of the view that no complicated questions of fact or law is likely to arise for consideration of the Inquiry Officer/ Disciplinary Authority.”*

6. After hearing the parties, we are of the view that respondents may proceed ahead with the Departmental Proceedings but shall not pass any order in disciplinary proceedings till next six months or till the criminal case is finalised, whichever is earlier. In case, criminal case is not decided in six months time, they shall be at liberty to proceed with the passing of order and follow up action.

7. In view of above, OA disposed of along with MA. No order as to costs.

**(Ashish Kalia)**  
**Member (J)**

**(Pradeep Kumar)**  
**Member (A)**

/akshaya/