

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

**Original Application No.21/136/2018 &
MA21/203/2019**

Date of Order: 03.06.2019

Between:

K.L. Meena, S/o. Chandulal Meena,
Aged about 42 years, Occ: Sr. Divisional Safety Officer, Gr.A,
South Central Railway, Secunderabad Division,
Sanchalan Bhavan, Secunderabad.

... Applicant

And

1. Union of India,
Rep. by the Secretary,
Railway Board, Rail Bhavan,
New Delhi.
2. The General Manager,
South Central Railway,
Rail Nilayam, Secunderabad.
3. The Chief Personnel Officer,
South Central Railway,
Rail Nilayam, Secunderabad.
4. V. Pitchai Raju, Enquiry Officer,
27, Maheswari Homes, Devi Nagar,
Thirumullaivoyal, Chennai – 600 109.

... Respondents

Counsel for the Applicant ... Mr. M.C. Jacob

Counsel for the Respondents ... Mr. S.M. Patniak, SC for Rlys

CORAM:

***Hon'ble Mr. Justice L Narasimha Reddy, Chairman
Hon'ble Mr. B.V. Sudhakar, Member (Admn.)***

ORAL ORDER

{As per Hon'ble Mr. Justice L Narasimha Reddy, Chairman}

The applicant is working as Sr. Divisional Safety Officer in the South Central Railway, Respondent No.2. He was issued a charge memo dt. 01.02.2017 in connection with his acts of omission when he was working as Senior Divisional Electrical Engineer/ Power, Mumbai Central, Western Railway. It was alleged that he demanded and accepted a sum of Rs.1,00,000/- from Sri Sarvesh Pandey for award of two contracts under his signature and impending award of a third contract. The details of the trap laid by the CBI are mentioned in the statement of article of charges. The CBI also registered a case and it is pending trial in the concerned court. The applicant submitted his explanation to the charge memo. Not satisfied with that, the respondents wanted to proceed with the matter.

2. The applicant submitted a representation dt. 03.08.2017 with prayer to defer the disciplinary proceedings till the criminal case is finalized. That request was rejected through the order dt. 24.11.2017. The disciplinary authority passed order dt. 10.01.2018 appointing an Inquiry Officer. This OA is filed challenging the order dt. 24.11.2017 and the one dt. 10.01.2018. The applicant contends that it would result in serious prejudice to him if the disciplinary inquiry is carried out even while the criminal case is pending. His plea is that the allegations in the

criminal case on one hand and the disciplinary case on the other hand, are one and the same.

3. The respondents filed a reply opposing the OA. It is stated that there is no bar in law for carrying out the disciplinary proceedings even where a criminal case is also pending against the employee. According to the respondents, the purport of the charges in both the proceedings is different.

4. We heard Mrs. G. Manjula, learned Advocate for Mrs. M.C. Jacob, learned counsel for the applicant and Mr. S.M. Patnaik, learned Standing Counsel for the respondents.

5. The basis for initiation of criminal case on one hand and the disciplinary proceedings on the other hand against the applicant is the trap laid against him. He is said to have demanded and accepted a sum of Rs.1.0 lakh as illegal gratification from a contractor. It is no doubt true that the parameters of determination in disciplinary proceedings on one hand and the criminal case on the other hand are substantially different. Not only the standard of proof, but also the nature of outcome of such proceedings, are different. Where, however, the purport of charges and nature of evidence to be adduced is similar, if not identical, it is always advisable to defer the departmental proceedings till the conclusion of the criminal case. The reason is that the employee should

not be compelled to disclose his defence, even while criminal case is pending.

6. In case there exists even slight difference between the purport of the charges in both the proceedings, the department can certainly proceed with the inquiry. In the instant case, we do not find much of difference as to the contents of the charges in both the cases. It is brought to our notice that out of 16 witnesses cited by the CBI, 14 have already been examined in the court. The respondents can wait for some more time till the recording of evidence of the remaining witnesses is concluded.

7. We, therefore, dispose of the OA directing that the disciplinary proceedings initiated against the applicant shall be deferred till the witnesses in the criminal case are examined and it shall be open to the respondents to resume the disciplinary proceedings soon thereafter, without waiting for the final disposal of the criminal case. MA 203/2019 stands closed. There shall be no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

(Dictated in open court)
Dated, the 3rd day of June, 2019

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