

**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA**



O.A.No. 351/00610/AN/2019

Date of order : 14.06.2019

Coram : Hon'ble Mr. Justice L. Narasimha Reddy, Chairman**Hon'ble Dr. Nandita Chatterjee, Administrative Member**

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**Shri. Pradeep Chanda, son of Late S.C. Chanda,
Residing at Bhathu Basti Garacharama P.O. South
Andaman District Port Blair – 744105 A & N
Islands Presently posted as Head Clerk Under
Directorate of Shipping Services A & N
Administration Port Blair**

..... **Applicant**

For the Applicant : Mr. J.R. Das, Counsel

- Versus -**1. The Union of India**

Through its Secretary Ministry of Home Affairs
New Delhi – 110001.

2. The Director

Central Vigilance Commission Satarkta Bhawan,
G.P.O. Complex Block A, INA New Delhi – 110023

3. The Lt. Governor

A & N Islands Raj Niwas, Port Blair – 744101

4. The Chief Secretary (Disciplinary Authority)

A & N Administration Secretariat, Port Blair –
744101

5. The Chief Vigilance Officer (Chief Secretary)

A & N Administration Secretariat, Port Blair –
744101

6. The Secretary (IP & T) (Inquiry Officer)

A & N Administration Secretariat, Port Blair –
744101

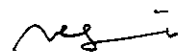
..... **Respondents**

For the Respondents : Mr. R. Halder, Counsel

ORDER (ORAL)**Justice L.Narasimha Reddy, Chairman:**

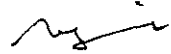
The applicant is working as Head Clerk in A&N Administration. Disciplinary proceedings were initiated against him by issuing a charge memo dated 31.10.2015 on the allegation of misappropriation of government funds. Simultaneously, proceedings before Criminal Court were also initiated. Earlier, the applicant filed O.A. No. 1948/2018 before this Tribunal claiming the relief of the stay of disciplinary proceedings in view of the pendency of the criminal case. The OA was disposed of on 07.01.2019 leaving it open to the applicant to make representation and requiring the respondents to pass orders. In the meanwhile, the departmental inquiry was proceeded with and even the Inquiry Officer submitted report. Informing this and other developments, the respondents passed an order dated 21.02.2019. This O.A. is filed challenging the said communication. A prayer is also made to direct the respondents to drop the proceeding initiated against the applicant citing the circular issued by CVC, in the context of conclusion of disciplinary proceedings. Other ancillary reliefs are also prayed for.

2. We heard Mr. J.R.Das, learned counsel for the applicant, and Mr. R.Halder, learned counsel for the respondents, at the stage of admission itself.



3. As mentioned above, disciplinary proceedings, on the one hand, and criminal case, on the other hand, were initiated against the applicant on the allegations of misappropriation of public funds. The applicant made an effort to get disciplinary proceedings stalled, on the ground that the criminal case is pending. O.A.1948/2018, filed by him was disposed of, leaving it open to the respondents to pass an order in this behalf. It so happened that the departmental inquiry was conducted and even the report was submitted therein. Now the stage is that the Disciplinary Authority has to consider the report of the Inquiry Officer and make a copy thereof, available to the applicant for his comments.

4. Once the report of the Inquiry Officer is submitted, the question of stalling further proceedings on the ground that the criminal case is pending, does not arise. The apprehension of the applicant is that, if the order of punishment is passed in the disciplinary proceedings, the respondents may cite the same in the criminal case. The apprehension of the applicant is totally misplaced. The Criminal Court has to decide the case on the basis of evidence before it and not on the basis of subsequent developments such as punishment, if any, imposed against the applicant in the disciplinary proceedings.



5. We, therefore, dispose of the O.A. leaving it open to the Disciplinary Authority to take further steps in accordance with law. We make it clear that in the event of any punishment being imposed against the applicant, the same shall not be cited as a piece of evidence in the criminal case. There shall be no order as to cost.

(Dr.NanditaChatterjee)
Administrative Member

(Justice L.Narasimha Reddy)
Chairman

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