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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No2909 OF 2003

New Delhi, this the 15th day of January, 2004

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

1. Const. Surender Pal Singh
No.798/T (Under Suspension),
S/o Sh.Ram Phal Singh,
R/o H. No.D/79, Sector-12,
Vijay Nagar,
Presently posted in Main Line/Traffic
Teen Murti, New Delhi.
2. Const. Ram Pal
No.3377/T (Under Suspension)
S/o Shri Rameshwar
R/o Village Joniawas, P.O. Jataula,
Distt. Gurgaon, Haryana.
Presently posted in Main Line/Traffic
Teen Murti, New Delhi.

....Applicants

(By Advocate : Shri Arvind Singh)

Versus

1. Union of India
Through its Home Secretary (Police)
Ministry of Home Affairs,
North Block, New Delhi.
2. Joint Commissioner of Police/Traffic,
Police Headquarters, I.P. Estate,
M.S.O. Building, New Delhi.
3. Dy. Commissioner of Police/Traffic,
at Police Station R.K. Puram,
New Delhi.
4. Sh. V.P. Gupta,
Asstt. Commissioner of Police/Traffic,
North District Through D.C.P./H.Qtr.,
Police Station, I.P. Estate,
New Delhi.

.....Respondents

(By Advocate : Shri Ajesh Luthra)

ORDER (ORAL)

SHRI JUSTICE V.S. AGGARWAL:-

Learned counsel for the applicants gives up
para 8 (ii) of the relief clause in the Original
Application. Quâ that the Original Application is
dismissed.

2. Both the applicants are serving in Delhi Police. By virtue of the present Original Application, after deleting the above said relief, the controversy is as to whether during the pendency of the criminal case, the departmental proceedings against the applicants should continue or not.

3. The criminal case punishable under Section 7 read with Section 13 of the Prevention of Corruption Act has been registered against the applicants. Facts arising out of the same controversy ~~has~~₂ prompted the respondents to initiate departmental proceedings and summary of allegations have been served on the applicants arising basically out of the same facts.

1. Learned counsel of the applicants contends that since the criminal case is pertaining to the same controversy, they should not be dealt with departmentally because it will cause prejudice to their defence or otherwise also, according to the learned counsel, it would be improper for them to disclose the same before the criminal case makes a headway.

5. The respondents have opposed the said request. According to the respondents' learned counsel, an inquiry had been conducted and besides the accused persons, some other persons are also named in the departmental proceedings. It is also asserted that no complicated questions of law, in fact, are involved.

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Resultantly, there is no ground to stay the proceedings. He also urged that pendency of the criminal case is not a ground to stay the departmental action.

6. In this regard principle is not much in controversy. Criminal case is initiated always to punish the concerned person(s) with respect to the offence alleged to have committed against the law of the land. Departmental proceedings are initiated to maintain discipline in the department.

7. Reverting back to the main controversy, we are not dwelling in detail into the various precedents on the subject, but refer to the decision of the Supreme Court in the case of Capt. M. Paul Anthony Vs. Bharat Gold Mines Ltd. and another, 1999 Supreme Court Cases (L&S) 810. The Supreme Court has after scanning through various precedents drawn the following conclusion:-

"(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

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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, the administration may get rid of him at the earliest."

8. From the aforesaid, it is clear that when complicated questions are involved, the proceedings will be stayed. If there is undue delay in the criminal proceedings, the department ^{could} ~~should~~ revive those proceedings.

9. At this stage, on appraisal of the first information report and the summary of allegations, it cannot be stated that no complicated questions of law or facts are likely to be involved.

10. Merely because some other persons are also being added in the departmental proceedings will not be a ground to hold in terms that so far as the applicants are concerned, they must face departmental action without the criminal case being decided. Thus this particular plea must fail.

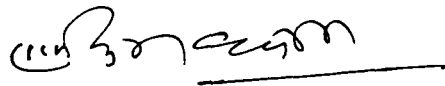
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11. As at present, we are informed that report under Section 173 of Code of Criminal Procedure has not been submitted before the Sub Judge. We have no doubt that it shall be so filed at the earliest.

12. Taking stock of the ratio deci dendi of the decision of the Supreme Court in Capt. M. Paul Anthony's case (supra), we dispose of the present Original Application holding : (a) that the depatmental proceedings shall remain stayed; and (b) they shall remain stayed only for a period of nine months from today. If during this period, criminal case is not decided, the respondents will be well within their right to revive the departmental proceedings.



(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER



(V.S. AGGARWAL)
CHAIRMAN

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