

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

**Original Application No. 461/2019
Date of Order : 06.06.2019**

Between :

N.Raja Rao, S/o Late N.Appa Rao,
aged about 60 yrs., Occ : Retd. Supdt.
Central Tax and Customs
R/o 45-45-6/4, Sai Swaroop enclave,
Akkayapalem, Visakhapatnam.

... Applicant

And

1. The Union of India,
Ministry of Finance, Department of Revenue,
North Block, New Delhi,
Represented by its Secretary.
2. Chief Commissioner, Customs,
Central Tax and Customs,
Visakhapatnam Zone,
Customs House, Visakhapatnam.
3. The Principal Commissioner,
Visakhapatnam Central GST
Commissionerate Port Area,
Visakhapatnam.

... Respondents

Counsel for the Applicant	...	Mr.N.Vijay, Advocate
Counsel for the Respondents	...	Mrs.K.Rajitha, Sr.CGSC

CORAM:

Hon'ble Mr.Justice L.Narasimha Reddy	...	Chairman
Hon'ble Mrs.Naini Jayaseelan	...	Member (Administrative)

ORAL ORDER

[As per Hon'ble Mr. Justice L. Narasimha Reddy, Chairman]

The applicant is working as a Superintendent in Visakhapatnam GST Commissionerate. He worked as Inspector of Police in CBI on deputation between 03.06.2002 and 31.10.2008. As regards his functioning during that period, the CBI registered an FIR No.RC11(A)/2017/CBI/VSP dated 27.07.2017 alleging inter alia that he failed to remit a sum of Rs.1,20,000/- that was seized by him on 25/26.01.2006. Another allegation was that he suppressed the seizure of Rs.1,49,545/-. The case filed by the CBI is pending trial.

2. The Disciplinary Authority of the applicant issued a Charge Memorandum dated 27.03.2018 making same allegations. This OA is filed with a prayer to defer the disciplinary proceedings till the criminal case is concluded.

3. Heard Mr.N.Vijay, learned counsel for the applicant and Mrs.K.Rajitha, Sr.CGSC for the respondents.

4. It is permissible under law, to continue the departmental proceedings even while a criminal case is pending, despite the fact that same set of allegations made in both the proceedings. However, if the contents of charges in both the cases are similar, it is advisable to defer the departmental proceedings till the evidence in the criminal case is recorded. The reason is that if the employee is required to disclose his defence in the departmental proceedings even while the criminal case is pending, serious prejudice will be caused to him. The judgement of the Hon'ble Supreme Court in the case of ***Capt. M. Paul Anthony vs. Bharat Gold Mines Ltd. & Another***, reported in ***1999 SCC (L&S) 810*** is relevant on this aspect.

5. We perused the article of charge contained in the impugned order and the content of the charge in the criminal case. Both of them relate to same set of events and incidents.

6. We, therefore, dispose of the OA by directing that the departmental proceedings of the impugned charge memorandum dated 27.03.2018 shall be deferred till the recording of the evidence in the pending criminal case is

concluded. It shall be open to the respondents to resume the departmental proceedings, once the recording of the evidence is concluded in the criminal case.

7. There shall be no order as to costs.

(NAINI JAYASEELAN)
MEMBER(ADMN.)

(JUSTICE L.NARASIMHA REDDY)
CHAIRMAN

sd