

GAHC010085052024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/2248/2024

SURYA KANTA MORANG
S/O LATE LALIDHAR MORANG, RESIDENT OF BAMUN DOLONI,
LAKHIMPUR, P.S. AND DIST. LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, HOME AND POLITICAL DEPARTMENT, DISPUR,
GUWAHATI-781006

2:THE SECRETARY

HOME AND POLITICAL DEPARTMENT
DISPUR
GOVERNMENT OF ASSAM
DISPUR
GUWAHATI-6.

3:THE DIRECTOR GENERAL OF POLICE

ASSAM
ULUBARI
GUWAHATI- 781007

4:THE INSPECTOR GENERAL OF POLICE (ADMN.)

ASSAM
ULUBARI
GUWAHATI-78100

Advocate for the Petitioner : MR. R MAZUMDAR, MS. M K SHARMA

Advocate for the Respondent : GA, ASSAM,

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

JUDGMENT

02.08.2024.

Heard Shri R Mazumdar, learned counsel for the petitioner. Also heard Shri A Chakraborty, learned State Counsel, Assam.

2. Considering the subject matter and as agreed to by the learned counsel for the parties, this writ petition is taken up for disposal at the admission stage.

3. Briefly stated, it has been averred that the petitioner, who was working as a Deputy Superintendent of Police, is implicated in a criminal case pertaining to Harangajao PS Case No. 03/2020 under Sections 120-B/365/302/304(A)/201/34 of the IPC. The said case is at the stage of trial before the Court of the learned Sessions Judge, Dima Hasao. The petitioner was thereafter proceeded departmentally and a show cause notice was issued on 27.09.2022.

4. In the said departmental proceeding, the stage has reached to cross-examination of departmental witnesses and also to adduce evidence by the petitioner. The petitioner has contended that such an action would be highly prejudicial to him as his defence would be exposed in the criminal case.

5. Shri Mazumdar, learned counsel for the petitioner has submitted that though there is no absolute bar for a parallel proceeding of a departmental proceeding *vis-a-vis* the criminal case, a balance has to be made so that no prejudice is suffered by the delinquent. It is submitted that there are catena of decisions on this issue and in the

case of ***Stanzen Toyotetsu India Pvt. Ltd. Vs. Girish V. & Ors.***, reported in **(2014) 3 SCC 636**, the Hon'ble Supreme Court has also devised a mechanism to put the Departmental Proceeding on hold for a period of 1 year to enable criminal case to be completed.

6. Shri Chakraborty, learned State Counsel has fairly conceded to the aforesaid submission based on the principles laid down by the Hon'ble Supreme Court in the case of ***Stanzen Toyotetsu India Pvt. Ltd. (supra)***.

7. In the aforesaid case, the following observations have been made:

“16. Suffice it to say that while there is no legal bar to the holding of the disciplinary proceedings and the criminal trial simultaneously, stay of disciplinary proceedings may be an advisable course in cases where the criminal charge against the employee is grave and continuance of the disciplinary proceedings is likely to prejudice their defense before the criminal Court. Gravity of the charge is, however, not by itself enough to determine the question unless the charge involves complicated question of law and fact. The Court examining the question must also keep in mind that criminal trials get prolonged indefinitely especially where the number of accused arraigned for trial is large as is the case at hand and so are the number of witnesses cited by the prosecution. The Court, therefore, has to draw a balance between the need for a fair trial to the accused on the one hand and the competing demand for an expeditious conclusion of the on-going disciplinary proceedings on the other. An early conclusion of the disciplinary proceedings has itself been seen by this Court to be in the interest of the employees.

...

19. In the circumstances and taking into consideration all aspects mentioned above as also keeping in view the fact that all the three courts below have exercised their discretion in favour of staying the ongoing disciplinary proceedings, we do not consider it fit to vacate the said order straightaway.

Interests of justice would, in our opinion, be sufficiently served if we direct the court dealing with the criminal charges against the respondents to conclude the proceedings as expeditiously as possible but in any case within a period of one year from the date of this order. We hope and trust that the trial court will take effective steps to ensure that the witnesses are served, appear and are examined. The court may for that purpose adjourn the case for no more than a fortnight every time an adjournment is necessary. We also expect the accused in the criminal case to cooperate with the trial court for an early completion of the proceedings. We say so because experience has shown that the trials often linger on for a long time on account of non-availability of the defence lawyers to cross-examine the witnesses or on account of adjournments sought by them on the flimsiest of the grounds. All that needs to be avoided. In case, however, the trial is not completed within the period of one year from the date of this order, despite the steps which the trial court has been directed to take the disciplinary proceedings initiated against the respondents shall be resumed and concluded by the inquiry officer concerned. The impugned orders shall in that case stand vacated upon expiry of the period of one year from the date of the order.”

8. Following the principles laid down, the instant writ petition is disposed of by directing that the departmental proceeding initiated against the petitioner be kept on hold for a period of 1 year so as to enable the criminal case to proceed and be completed in accordance with law.

9. The writ petition accordingly stands disposed of.

JUDGE

Comparing Assistant