

Court No. - 6

Case :- WRIT - A No. - 11497 of 2024

Petitioner :- Balwan Singh Yadav

Respondent :- State Of U.P. Thru. Prin. Secy. Revenue Lko.
And Another

Counsel for Petitioner :- Satendra Jaiswal, Ashwini Kumar
Singh

Counsel for Respondent :- C.S.C.

Hon'ble Alok Mathur, J.

1. Heard Sri Satendra Jaiswal, learned counsel for petitioner as well as learned Standing Counsel for respondents.
2. By means of present writ petition, the petitioner has challenged the order dated 17.10.2024 wherein the petitioner has been placed under suspension in the pending departmental proceedings. The said impugned order has been passed by Director (Land Acquisition), Board of Revenue, Lucknow.
3. It has been submitted by learned counsel for petitioner that the petitioner was initially appointed on the post of Chainman on ad hoc basis by the Director, (Land Acquisition), Board of Revenue, Lucknow and subsequently his services were regularized in 2002 and he was further confirmed in 2019. He has submitted that in 2023, the petitioner has submitted bills for medical re-reimbursement for his wife which was found to be forged and accordingly a first information report was lodged under Section 420 IPC at P.S. Wazirganj, Lucknow on 19.08.2023. It is for the same reason that the departmental proceedings were also initiated against the petitioner and he was placed under suspension by order dated 10.08.2023.
4. The petitioner had preferred a writ petition before this Court assailing the charge-sheet by filing a Writ Petition No. 6536 of 2024 which has been allowed by judgment and order dated 20.08.2024 and the charge-sheet has been quashed.
5. Subsequent impugned order of suspension has been passed on 17.10.2024. It has been submitted by learned counsel for petitioner that respondents are only harassing the petitioner where previously the charge-sheet has been quashed by judgment and order of this Court dated 20.08.2024 and for the same ground yet again the petitioner has been placed under suspension in contemplation of departmental proceedings.

6. The second ground raised by the petitioner is that for the same reason, the first information report has been lodged and consequently criminal proceedings as well as departmental proceedings cannot continue simultaneously. In support of his submissions, he has relied upon the Government Order dated 19.07.2022, specially para 9 of the said Government Order.

7. Per contra, learned Standing Counsel has vehemently opposed the writ petition. He has submitted that previous proceedings were quashed merely on the ground that the impugned orders have not been passed by the competent authority and not on merits of the case. He submits that once the proceedings have been set aside merely on technical grounds, there is no embargo on the respondents to re-initiate the proceedings after removing the infirmity as pointed out by this Court in the previous judgement. Further, he submits that the law with regard to the simultaneous proceedings of the criminal case and departmental proceedings is clear from the judgment of **Capt. M. Paul Anthony Vs. Bharat Gold Mines Ltd. and another (1999) 3 SCC 679**, where in has clearly been held in para 22(i) that there is no bar in conduct of the disciplinary proceedings and criminal proceedings simultaneously unless and until there is a complicated set of fact and law involved in the case.

8. He further submits that in the present case it is merely a case of submitting forged document for medical reimbursement and the said facts do not involve any complicated set of fact and law for determination.

9. I have heard learned counsel for parties and perused the record. It is noticed that on the previous occasion, the petitioner was placed under suspension and a charge-sheet was issued on 24.07.2023 and 15.09.2023. The said charge-sheet was issued by the Dy. Land Reforms Commissioner, who was also the Inquiry Officer after obtaining of the approval of the Commissioner-cum-Secretary, Board of Revenue, U.P., Lucknow. It is merely on consideration of the grounds raised by the petitioner that the Dy. Land Reform Commissioner was not the competent authority to initiate inquiry against the petitioner inasmuch as he is not a disciplinary authority of the petitioner. This Court was persuaded to accept the contention of the petitioner and quash the charge-sheet issued to the petitioner and the writ petition was allowed by means of judgment dated 20.08.2024.

10. While quashing the charge-sheet, this Court has clearly observed that it is always open for the competent authority to take appropriate decision to conduct departmental inquiry

against the petitioner if it is so required strictly in accordance with law by affording opportunity of hearing to the petitioner. Therefore, clearly the writ court on the previous occasion had also kept it open for the respondents to proceed with the departmental proceeding against the petitioner in accordance with law and therefore by means of impugned order dated 17.10.2024 the petitioner has again been placed under suspension by order passed by the Director, Land Acquisition who as per the petitioner's own contention is his appointing authority. Accordingly, this Court does not find that the impugned order of suspension suffers from any jurisdictional error inasmuch as the same has been passed by the competent authority who is the appointing authority of the petitioner.

11. With regard to the second contention raised by the petitioner that the disciplinary proceedings and the criminal trial cannot proceed simultaneously, it is relevant to quote the provisions of law laid by Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony** :

"22. The conclusions which are deducible from the various decisions of this Court referred to above are:

(i) Departmental proceedings and proceedings in 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 charge in criminal case against delinquent employees 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 criminal case.

(iii) Whether the nature of a charge in a criminal case is grave and complicated questions of fact and law are involved in that case will depend upon the nature of the offence, the nature of case launched against the employee on the basis of evidence and material collected against him during the 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 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 pendency of 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, administration may get rid of him at the earliest."

12. From the aforesaid, it is clear that there is no bar in conduct of the disciplinary proceedings and criminal proceedings simultaneously and in the present case only a first information

report has been lodged and there is no averment that even the charge-sheet has been filed before the Court of competent jurisdiction. Accordingly, at this stage, it cannot be said that the petitioner is facing a criminal trial, accordingly, this Court also finds that there is no averment that there are complicated set of facts and law involved in the said case nor is there any proceedings in this regard in the entire writ petition. Accordingly, no ground is made out for interference on the ground that both the proceedings cannot go simultaneously.

13. This Court does not find any ground to interfere in the impugned order, the writ petition is bereft of merits and is accordingly dismissed. However, it is provided that the inquiry be conducted expeditiously in accordance with law.

(Alok Mathur, J.)

Order Date :- 3.12.2024

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