

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3630 of 2015

- Shri Trinath Goud S/o Late Mangla Goud, Aged About 61 Years Clerk (Grade I), Office Of Sub Area Manager, S.E.C.L. Doman Hill Colliery, Chirimiri, District Korea (Chhattisgarh), R/o Old Miners Quarter, Near Oriya School, Post Gudri Para, District Korea, (Chhattisgarh)

---- Petitioner

Versus

1. South Eastern Coalfields Limited Through Chairman-Cum-Managing Director, South Eastern Coalfields Limited, Seepat Road, P.S. Sarkanda, District Bilaspur, (Chhattisgarh) 495006
2. Chairman-Cum-Managing Director, (Disciplinary Authority), South Eastern Coalfields Limited, Throuth Chairman- Cum- Managing Director, South Eastern Coalfields Limited, Seepat Road, P.S. Sarkanda, District Bilaspur, (Chhattisgarh) 495006
3. Inquiring Authority, Inquiry Room, Vigilance Department, South Eastern Coalfields Limited, Head Quarter, Seepat Road, P.S. Sarkanda, District Bilaspur, (Chhattisgarh) 495006

---- Respondents

For Petitioner
For Respondents

Shri Maneesh Sharma, Advocate
Shri V.R. Tiwari, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board By

07/10/2015

1. The petitioner has assailed the order dated 07.02.2013 and also the charge-sheet dated 07.02.2013. The petitioner has also prayed for the quashment of the departmental enquiry and to direct the respondent SECL to withhold the departmental enquiry till the decision of the Special Criminal Case No.3/2013 pending before the Special Judge, CBI Cases, Raipur.
2. It is argued on behalf of the petitioner that departmental enquiry and the criminal case is based on same set of facts and allegation,

therefore, departmental enquiry deserves to be quashed or at-least the same deserves to be withheld during the pendency of the criminal case.

3. It appears, the petitioner has allegedly demanded and accepted illegal gratification of Rs.10,000/- from complainant to expedite the payment of his contractual bills. While in the criminal case the petitioner would be tried for offence under the Provision of Corruption Act, however, in the departmental enquiry, he has been charged with violation of Conduct, Discipline and Appeal Rules, 1978.
4. In **Secretary, Ministry of Defence and others Vs. Prabhash Chandra Mirdha** {(2012) 11 SCC 565}, the Supreme Court has held thus in para-12:-

“12. Thus, the law on the issue can be summarised to the effect that the charge-sheet cannot generally be a subject-matter of challenge as it does not adversely affect the rights of the delinquent unless it is established that the same has been issued by an authority not competent to initiate the disciplinary proceedings. Neither the disciplinary proceedings nor the charge-sheet be quashed at an initial stage as it would be a premature stage to deal with the issues. Proceedings are not liable to be quashed on the grounds that proceedings had been initiated at a belated stage or could not be concluded in a reasonable period unless the delay creates prejudice to the delinquent employee. Gravity of alleged misconduct is a relevant factor to be taken into consideration while quashing the proceedings.”

5. In the matter of Stanzen Toyotetsu India Private Limited vs. Girish V. and others, (2014) 3 SCC 636, the Supreme Court, after referring to its earlier decisions in the matters of A.P. SRTC v. Mohd. Yousuf Miya¹, Karnataka SRTC v. M.G. Vittal Rao², M. Paul Anthony v. Bharat Gold Mines Ltd³ and Hindustan Petroleum Corpn. Ltd. v. Sarvesh Berry⁴, has held thus in para 13, 14 & 16 :

13. It is unnecessary to multiply decisions on the subject for the legal position as emerging from the above pronouncements and the earlier pronouncements of this Court in a large number of similar cases is well settled that disciplinary proceedings and

proceedings in a criminal case can proceed simultaneously in the absence of any legal bar to such simultaneity. It is also evident that while seriousness of the charge levelled against the employees is a consideration, the same is not by itself sufficient unless the case also involves complicated questions of law and fact. Even when the charge is found to be serious and complicated questions of fact and law that arise for consideration, the court will have to keep in mind the fact that departmental proceedings cannot be suspended indefinitely or delayed unduly.

14. In Paul Anthony (supra) this Court went a step further to hold that departmental proceedings can be resumed and proceeded even when they may have been stayed earlier in cases where the criminal trial does not make any headway.

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 defence 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 ongoing 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.”

6. In the case at hand, the charges do not involve such complicated question of law and fact, which would require initiation of departmental proceeding after the criminal case is over.
7. For the foregoing, the writ petition being devoid of any substance deserves to be and is hereby dismissed.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA