

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

LPA No.660 of 2015 (O&M)
Date of decision: **May 01, 2015**

ASI Mahavir Singh

...Appellant

Versus

State of Haryana and others

...Respondents

**Coram: Hon'ble Mr. Justice Satish Kumar Mittal
Hon'ble Mr. Justice Harinder Singh Sidhu**

Present: Mr.Sat Narain Yadav, Advocate
for the appellant.

HARINDER SINGH SIDHU, J.

This intra-Court appeal under Clause X of the Letters Patent has been filed against the judgment dated 22.4.2015 passed by the Learned Single Judge, whereby, CWP No.7253 of 2015 filed by the appellant seeking to restrain the respondents to continue with the departmental enquiry during the pendency of the criminal trial in case FIR No.16 dated 20.05.2014 u/s 7/13 of Prevention of Corruption Act, 1988 (Annexure P-1), registered at Police Station, SVB Rohtak has been dismissed.

The appellant was appointed as Constable on 20.03.1988 and earned promotion to the rank of Assistant Sub Inspector in the year 2010. One FIR dated 20.05.2014 under Sections 7 and 13 of Prevention of Corruption Act, 1988 was registered against him at Police Station, SVB Rohtak on the application of one Balram alleging that the appellant had demanded

bribe from him (Annexure P-1). The appellant was suspended and transferred to Police Line, Rohtak. Thereafter, respondent No.3 initiated departmental inquiry against the appellant. Respondent No.4 was appointed as Inquiry Officer to conduct regular departmental inquiry (Annexure P-3). During the course of the departmental inquiry, the complainant Balram submitted an affidavit (Annexure P-4) stating that the appellant neither demanded the money nor did he give the money to the appellant as bribe. It was stated that the money was given to the other party for their settlement in the presence of the appellant. On 05.03.2015, the appellant was held guilty in the departmental inquiry without waiting for the findings by the criminal trial and punishment of dismissal was recommended. He was issued a show cause notice on 04.04.2015 (Annexure-P-7).

The appellant filed the writ petition seeking directions to restrain the respondents from continuing with the departmental proceedings till the conclusion of the criminal trial. It was argued that otherwise the appellant would be forced to disclose his defence in the departmental inquiry.

To a pointed question of the Ld. Single Judge as to whether his defence was based on the affidavit of the complainant, Ld. Counsel for the appellant replied in the affirmative. Thereby, the Ld. Single Judge concluded that in the light of this answer, there was no justification in the claim of the appellant that continuance of the departmental proceedings would prejudice his defence in the criminal

trial as the decision would eventually depend upon the credibility of the complainant before the inquiry officer/criminal court.

Further, the Ld. Single Judge referring to the decision of the Hon'ble Supreme Court in **Indian Overseas Bank, Anna Salai and another vs. P.Ganesan and others, 2008(1) SCT 37,** concluded that this judgment clearly lays down that the stay of departmental proceedings is an exception. It was held in this case that before staying disciplinary proceedings, it was obligatory on the part of the High Court to arrive at a finding that the non-staying the disciplinary proceedings shall not only prejudice the delinquent officer, but the matter also involves a complicated questions of law. As there were no complicated questions of fact or law involved in the present case the prayer in the writ petition to stay the departmental proceedings was rejected.

Ld. Counsel for the appellant has not been able to distinguish the aforesaid decision and spell out the exceptional circumstances for the departmental proceedings to be stayed pending the decision of the criminal trial. The judgment relied on by the Ld. Single Judge completely concludes the case against the appellant.

Accordingly, there is no merit in the appeal and the same is dismissed.

(SATISH KUMAR MITTAL) (HARINDER SINGH SIDHU)
JUDGE JUDGE

May 01, 2015

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