

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

Date of decision: 22.10.2016

CWP No.22082 of 2016

Charan Singh

...Petitioner

Vs.

State of Haryana & others

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Brijender Kaushik, Advocate, for the petitioner.

RAJIV NARAIN RAINA, J. (ORAL)

No ground for interference is made out at this stage in the departmental proceedings in the face of pending criminal trial where the prosecution evidence has been recorded, but not in the departmental proceedings, in the corruption case against the petitioner. It cannot be said with any certainty that prejudice will be caused to the petitioner in the departmental proceedings when the prosecution witnesses in the criminal trial under the provisions of the Prevention of Corruption Act, 1988 have deposed to their testimonies in the criminal trial. Merely because those witnesses for the prosecution whose testimonies have been recorded in the criminal trial are to be produced in the inquiry proceedings does not ipso facto mean that prejudice will be caused to the petitioner if the same is allowed to be recorded. The petitioner would have a right to defend himself and to have ample opportunity to cross-examine the witnesses to dislodge them in cross-examination. This may be a golden opportunity for the petitioner to use all the skills of cross-examination at his command to bring out the truth and establish that he was innocent of the misconduct. As far as

the criminal case is concerned, the law will take its course and therefore no comment is made either on the trial or on the domestic inquiry which might prejudice the parties.

For these reasons, any interference at this stage is premature and the petition is accordingly liable to be dismissed on that account, without expressing any opinion on any of the points raised in the petition or in the trial or in the departmental proceedings in the present proceeding which are kept open. The dismissal of this petition *in limine* will not be taken as a circumstance against the petitioner in either of the proceedings since this Court only examined the relief claimed by the petitioner from a narrow angle of jurisdiction in the writ court and whether it is grantable with a view to halt the departmental enquiry to await the result of the criminal case, which is the *de facto* prayer. There are no special circumstances discernible either to intervene in the matter or to interdict the departmental proceedings. It is trite to say that both the proceedings can run parallel at the option of the disciplinary authority. The test of “same set of facts” and “prejudice against disclosure of defence” will not come into play where substantial oral evidence of the prosecution stands already recorded in the criminal trial subjected to cross examination. Moreover, the degree of standard of proof is different in the two settings. The law does not inhibit an employer to wait endlessly for the conclusion of trial for it not to embark on a domestic enquiry to find out the truth on a preponderance of probability from the stand point of retention in service of a delinquent who can still prove his innocence in a fair enquiry. One cannot assume that the enquiry will not be fair and if it is so, the petitioner would have the remedy to challenge the same.

Accordingly, the petition is dismissed. However, the dismissal of the petition will not influence the course of the domestic proceedings which suffice to say will be taken to their logical conclusion harnessed by the rule of law and principles of natural justice and fairness-in-action expected of the disciplinary authority, in which it must not fail.

22.10.2016
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*