

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH.

Letters Patent Appeal No.1771 of 2015  
Date of Decision: 24.2.2016

Punjab State Civil Supplies Corporation ..Appellant

versus

Daljit Singh and others ..Respondents

CORAM: HON'BLE MR JUSTICE RAJIVE BHALLA  
HON'BLE MRS. JUSTICE LISA GILL

Present:- Mr. Anil Sharma, Advocate, for the appellant

Mr. V.P.Mahajan, Advocate, for respondent no.1

Ms. Munisha Gandhi, Addl. A.G., Punjab  
for respondent no.3.

RAJIVE BHALLA, J. (ORAL)

CM No.3808-LPA of 2015

The prayer in this application is to condone delay of 28  
days in filing the appeal.

Notice of the application to counsel for the non-applicant-  
respondents.

We have heard counsel for the parties and as sufficient  
cause has been shown, allow the application and condone the delay  
of 28 days in filing the appeal.

Letters Patent Appeal No.1771 of 2015

The issue involved, in the present appeal, is whether  
pending decision of a criminal case, departmental proceedings  
should be stayed?

Counsel for the appellant submits that as a criminal trial and departmental proceedings are based upon different principles of appreciation of evidence, the former on proof beyond a shadow of doubt and the latter upon preponderance of probabilities, even if respondent no.1 were to disclose his defence, it would be irrelevant as a departmental enquiry may still arrive at a different conclusion from a criminal court. The order passed by the learned Single Bench staying departmental proceedings may, therefore, be set aside.

Counsel for the respondent-State supports assertions put forth by counsel for the appellant and in fact, urges that only if complicated questions of law, arise from the rights of an accused/delinquent, may departmental proceedings be stayed pending decision of the criminal trial.

Counsel for respondent no.1 submits that evidence in a criminal trial as well as in the departmental pleadings are identical. If departmental proceedings are allowed to continue, respondent no.1 would be prejudiced before the criminal trial as he would be required to disclose his defence.

The status report, filed on behalf of respondent no.3, disclosing the stage of the trial, is taken on record.

We have heard counsel for the parties, perused the impugned order but are not inclined to hold that in the facts and circumstances of the present case, departmental proceedings should have been stayed. The plea raised by respondent no.1 that he would have to disclose his defence, rings hollow. The defence, in a criminal trial, more often than not, is put to witnesses appearing for

the prosecution, during their cross-examination. Admittedly, the cross-examination of all, but one witness, is over. The appellant having cross-examined witnesses on the basis of his defence which he would crystallise in his statement under section 313 of the Code of Criminal procedure, in our considered opinion, cannot take a plea that his defence would be compromised or that he would have to disclose his defence. This apart, a fundamental principle that dissuades us from affirming the impugned order, is that, a criminal trial is based upon the principle of guilt of an accused being proved beyond a shadow of doubt, whereas departmental proceedings are based upon preponderance of probabilities, thereby envisaging a situation, where a criminal court may acquit or convict an accused but departmental proceedings may indict or exonerate a delinquent employee.

Consequently, we allow the appeal, set aside the impugned order and direct the prosecution to positively conclude its evidence, within one month from the next date of hearing and the Additional Sessions Judge, Moga, to after granting respondent no.1 a period of one month to lead his defence from the date of recording of his statement under section 313 Cr.P.C conclude the trial and decide the matter within a month thereafter.

( RAJIVE BHALLA )  
JUDGE

( LISA GILL )  
JUDGE

24.2.2016

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