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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Judgment: 08th March, 2017

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W.P. (C) 6147/2002 & C.M. No.10475/2002

UNION OF INDIA & ANR

..... Petitioners

Through Mr.Ripu Daman Bhardwaj, CGSC
with Mr.T.P. Singh and Mr.Sahaj
Garg, Advs.

versus

CENTRAL ADMINISTRATIVE TRIBUNAL AND ANRRespondents

Through None

CORAM:

**HON'BLE MR. JUSTICE G.S.SISTANI
HON'BLE MR. JUSTICE VINOD GOEL**

G.S.SISTANI, J. (ORAL)

1. Challenge in this writ petition is to the order dated 05th October, 2001 passed by the Central Administrative Tribunal (hereinafter referred to as the 'Tribunal').
2. Rule DB was issued in this matter on 25th September, 2002.
3. The necessary facts to be noticed for disposal of this writ petition are that respondent No.2 (applicant before the Tribunal) had approached the Tribunal assailing the orders dated 27th July, 2000 and 7th December, 1999. By the former order, the subsistence allowance, which was being paid to respondent no.2, had been reduced by 50% of

the initial amount and the latter was an order of the petitioners refusing to revoke the suspension of the respondent no.2. Respondent No.2 had urged before the Tribunal that the departmental proceedings and the criminal proceedings having been arisen from the same set of facts, identical evidence was to be led and thus, the departmental proceedings should be stayed till the finalisation of the criminal proceedings.

4. The petitioners (respondents before the Tribunal) had strongly urged before the Tribunal that the applicant/respondent No.2 had committed an unbecoming conduct by indulging in fraudulent payment of bogus money-orders thereby causing a loss of public money. On the basis of a preliminary inquiry and on being found involved in the fraudulent action, respondent No.2 was proceeded against under Rule 14 of the CCS (CCA) Rules. Additionally, criminal proceedings were also initiated against him. Besides, respondent No.2 was suspended and was being granted subsistence allowance. The petitioners had also urged before the Tribunal that there was no bar on initiating departmental proceedings on the same set of charges in which criminal proceedings were pending.
5. The Tribunal while relying on ***Capt. M. Paul Anthony v. Bharat Gold Mines Ltd. and Anr.***, (1999) 3 SCC 679 partially allowed the OA and stayed the departmental proceedings till the conclusion of the criminal case. Para 22 of the said judgment reads as under: -

“22. The conclusion which are deducible from various decisions of this Court referred to above are: -

(i) x x x

(ii) *If the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in the criminal case against the delinquent employee 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 the criminal case.*

x x x''

6. As far as the order dated 27.07.2000 passed by the petitioners reducing thereby the subsistence allowance of respondent No.2 by 50% of the initial subsistence allowance is concerned, the Tribunal had set-aside the said order and the petitioners were directed to consider afresh the issue of revocation of respondent No.2's suspension and restoration of his initial subsistence allowance.
7. Today, the learned counsel for the petitioners submits that the present writ petition has now become infructuous, for the reason that the criminal proceedings have culminated into an order of acquittal in favour of respondent No.2. However, the counsel submits that since the acquittal is not honourable, the department is contemplating initiation of department proceedings or taking such action as available in accordance with law.
8. In view of the statement made by the learned counsel for the petitioners, the present writ petition is dismissed as having become infructuous.

9. Pending application also stands disposed of.

G. S. SISTANI, J.

VINOD GOEL, J.

MARCH 08, 2017
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