

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No. 1975 of 2012**

K. N. Yadav Son of late Ram Sundar Ram Yadav, aged about 57 years, R/o Qtr. No. 42/4, Railway Colony, Durg, District Durg (CG)

---- Petitioner**Versus**

1. Union of India through the Secretary, Home Department, Vallabh Bhawan, New Delhi
2. Senior Divisional Security Commissioner/RPF, SEC, Railway, Raipur (CG)
3. ASC/RPF/R-cum-Enquiry Officer, Office of Assistant S. Commandant, RPF, Raipur (CG)

---- Respondents

For Petitioner	:	None
For Respondents 2 & 3	:	Shri Abhishek Sinha, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****25/07/2018**

Counsel appearing for respondents 2 & 3 submits that it is a case where the departmental enquiry initiated against the petitioner has been under challenge and this Court vide order dated 08.11.2012 had passed interim order to the extent that the enquiry may go on but the petitioner shall not be compelled to disclose his defence. Though this Court had made it clear that it would not operate as a stay against the continuance or conclusion of enquiry in the charge sheet under challenge.

2. The writ petition is pending before this Court for almost 6 years now. The petitioner by efflux of time has also crossed the age of superannuation and retired from service in the year 2015.

3. Today, counsel appearing for respondents 2 & 3, on instruction, submits that the criminal case which was initiated against the petitioner has been concluded and perhaps the criminal Court has discharged the petitioner from the charges. He submits that now the Criminal case having been concluded, irrespective of its outcome, the respondents have liberty to proceed further with the departmental enquiry and the interim order passed by this Court should no longer come in his way in as much as the petitioner should participate in the enquiry and prove his innocence.

4. Considering the fact that there is no representation on behalf of the petitioner and the writ petition being more than 6 years old and the petitioner also in between having crossed the age of superannuation in the year 2015, this Court does not intend to keep the writ petition pending any further. Accordingly, the writ petition stands disposed of with a direction to the respondents to proceed further with the departmental enquiry after giving due opportunity of hearing to the petitioner to adduce evidence and defence if any and thereafter to pass appropriate order.

5. However, the respondents, before proceeding further with the departmental enquiry, should ensure that the criminal case which was lodged against the petitioner stands concluded at the Trial Court stage. This Court is disposing of this writ petition keeping in view the observations of the Supreme Court made in the case of **Stanzen Toyotetsu India Private Limited Vs. Girish V. and others** reported in **(2014) 3 SCC 636** where in paragraphs- 13, 14 & 19 the Supreme Court has held as under:

“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 Capt. M. Paul Anthony v. Bharat Gold Mines Ltd. (1999) 3 SCC 679 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.

19. In the circumstances and taking into consideration all aspects mentioned above as also keeping in view the fact that all the three Courts below have exercised their discretion in favour of staying the on-going disciplinary proceedings, we do not consider it fit to vacate the said order straightaway. Interests of justice would, in our opinion, be sufficiently served if we direct the Court dealing with the criminal charges against the respondents to conclude the proceedings as expeditiously as possible but in any case within a period of one year from the date of this order. We hope and trust that the Trial Court will take effective steps to ensure that the witnesses are served, appear and are examined. The Court may for that purpose adjourn the case for no more than a fortnight every time an adjournment is necessary. We also expect the accused in the criminal case to co-operate with the trial Court for an early completion of the proceedings. We say so because experience has shown that trials often linger on for a long time on account of non-availability of the defense lawyers to cross-examine the witnesses or on account of adjournments sought by them on the flimsiest of the grounds. All that needs to be avoided. In case, however, the trial is not completed within the period of one year from the date of this order, despite the steps which the Trial Court has been directed to take the disciplinary proceedings initiated against the respondents shall be resumed and concluded by the Inquiry Officer concerned. The impugned orders shall in that case stand vacated upon expiry of the period of one year from the date of the order.

6. The writ petition accordingly stands disposed of.

Sd/-
(P. Sam Koshy)
JUDGE