

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11527 OF 2019

Saleem Naseem Ahmed. ... Petitioner.
V/s.
Union of India and another. ... Respondents.

Mr.Ajeet Manwani with Ms.Anushka Nagpal i/b. A & Legal
for the Petitioner.
Mr.Shrishailya Deshmukh for Respondent No.2.

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CORAM : NITIN JAMDAR AND
M.S. KARNIK, JJ.

DATE : 6 February 2020.

P.C. :

By this petition, the Petitioner has challenged the order passed by the Central Administrative Tribunal dated 9 August 2019 rejecting the Original Application No.210/00511/2018 filed by the Petitioner for quashing and setting aside the memorandum of charges issued to the Petitioner and in the alternative staying the disciplinary proceedings initiated against him.

2. The Petitioner was working as a Assistant Director of Transport at Daman. On the basis of a complaint dated 6

December 2012, a case was registered against the Petitioner and others by the Central Bureau of Investigation, Anti Corruption Bureau, Mumbai under section 120-B of the Indian Penal Code and sections 7 and 8 of the Prevention of Corruption Act, 1988. A disciplinary enquiry was initiated against the Petitioner by the Respondent- Authorities by issuing a memorandum on 13 August 2014. The Petitioner approached the Tribunal for the above-mentioned reliefs which have been refused by the Tribunal.

3. After hearing the learned counsel for the parties, we do not find that the view taken by the Tribunal is perverse or illegal. Though in a given case, the Court can stay the departmental proceedings if a prejudice is made out or if the case is complicated, however, at the same time, it has to be taken note that the right of the State Government to proceed against the government servant is different than the prosecution on a criminal charge. It is the contention of the Petitioner that in this case, the Petitioner was not caught red-handed and the assertion is incorrect and that various complicated questions arise in this case. It is also the contention of the Petitioner that his defence will be disclosed.

4. The Tribunal has taken note of these contentions and found that since the case is already delayed substantially which was initiated in the year 2012, it will not be proper to stay the departmental enquiry. The Tribunal has also found that the case did

not contain any complicated questions but it was a clear case of raid and as per the charge the Petitioner was caught red-handed. The memorandum issued to the Petitioner states that the departmental proceedings are for a manner of unbecoming of government servant. This is right of the employer is an independent right to proceed.

5. There is no merit in this writ petition. Writ petition is rejected.

(M.S. KARNIK, J.)

(NITIN JAMDAR, J.)