

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

107

CWP-10616-2020

Date of Decision: 27.07.2020

ASI Sunita

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Aditya Yadav, Advocate
for the petitioner

Ms. Palika Monga, DAG Haryana

Amol Rattan Singh, J. (Oral)

All the cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

By this petition the petitioner prays for issuance of a direction restraining the respondents from continuing with the departmental enquiry 'order dated 01.06.2020', as well as the charge sheet dated 05.06.2020.

Learned counsel for the petitioner submits that the departmental proceedings should not be allowed to continue till the trial in the criminal proceedings against the petitioner are over, because that would mean that the petitioner would be required to examine witnesses in the departmental proceedings whom he also wishes to produce in the trial and consequently, if they are first examined in the departmental proceedings, it would amount to revealing his defence in the trial.

Having considered the matter, without making any comment

on the actual merits of the case of the petitioner, this petition is disposed of with a direction that all witness as have been cited by the petitioner in the criminal proceedings in the trial Court, be not examined in the departmental proceedings till they are examined by the trial Court.

At this stage, Ms.Palika Monga, DAG Haryana, appears, she having received advance notice of the petition, and submits that in that case the trial Court may be directed to examine common witnesses at the outset. Ms. Monga relies upon the decision of the Supreme Court in ***Capt.M Paul Anthony vs. Bharat Gold Mines Ltd. (1999) 3 SCC 679*** and refers to the following paragraph:

- (i) Departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar in their being conducted simultaneously, though separately.*
- (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.*
- (iii) Whether the nature of a charge in a criminal case is grave and whether complicated questions of fact and law are involved in that case, will depend upon the nature of offence, the nature of the case launched against the employee on the basis of evidence and material collected against him during investigation or as reflected in the charge sheet.*
- (iv) The factors mentioned at (ii) and (iii) above cannot be considered in isolation to stay the Departmental proceedings but due regard has to be given to the fact that the departmental proceedings cannot be unduly delayed.*
- (v) If the criminal case does not proceed or its disposal is being unduly delayed, the departmental proceedings, even if*

they were stayed on account of the pendency of the criminal case, can be resumed and proceeded with so as to conclude them at an early date, so that if the employee is found not guilty his honour may be vindicated and in case he is found guilty, administration may get rid of him at the earliest.

The request made is found to be very fair and consequently, a direction is issued to the trial Court that all witnesses that the petitioner shows to be common to the departmental proceedings and the criminal proceedings, shall be examined by that Court at the outset, so that thereafter they can be examined in the departmental proceedings and therefore, those proceedings are not unnecessarily delayed.

Though Ms. Monga further submits that the departmental proceedings and criminal proceedings can go on simultaneously, however, learned counsel for the petitioner reiterates to submit that the trial is not being unnecessarily delayed though in the current situation of an pandemic, some delay obviously would be expected.

Even having considered the above, with learned counsel for the petitioner also relying upon various judgments in respect of what has been ordered above, the above order passed by this Court is considered to be appropriate in my opinion, and the petition is disposed of as such.

27.07.2020

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(AMOL RATTAN SINGH)
JUDGE

Whether reasoned/speaking: Yes

Whether reportable: Yes