

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-18978-2020(O&M)

Date of decision: 12.11.2020

Sandeep Kumar

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Sandeep Lather, Advocate for the petitioner

Mr.Samarth Sagar, Addl. AG, Haryana

ANIL KSHETARPAL, J. (ORAL)

Through this petition filed under Article 226/227 of the Constitution of India, the petitioner prays for quashing of impugned summary of allegations, dated 26.9.2017.

Learned counsel for the petitioner has contended that the disciplinary proceedings should be stayed during the pendency of criminal trial arising from FIR no.442, dated 17.8.2017 under Section 498-A, 304-B IPC. The petitioner is an accused in the aforesaid criminal case.

The petitioner was appointed as Constable in Haryana Police, in the year 2007 he was placed under suspension in the year 2017. The wife of the petitioner is alleged to have died in a suspicious manner. The brother of the deceased wife had lodged a criminal case.

Learned counsel for the petitioner relies upon the judgment passed by the Supreme Court in **Captain M Paul Anthony vs. Bharat Gold Mines Limited (1999) 3 SCC 679**. At the outset it must be noticed

that the petitioner has not filed any application, either before the inquiry officer or before the employer, for keeping the disciplinary proceedings on hold.

On careful examination of the case law, it is apparent that there cannot be any automatic stay of disciplinary proceedings when a criminal case is pending. In such matters, the Courts are also expected to answer, whether the denial of stay of disciplinary proceedings shall not only prejudice the delinquent official but whether it also involves a complicated question of law. If the Court comes to a conclusion that the defence of an employee, in a criminal case, shall be prejudiced, then the Court may, in appropriate cases, direct for keeping the disciplinary proceedings on hold. Otherwise, the Courts have been using the words advisability, desirability and propriety, while deciding the cases on facts of each case. Reference in this regard can be made to a judgment passed in **State of Rajasthan vs. B.K.Meena 1996 (6) SCC 417.**

Keeping in view the facts of the case, it is considered appropriate to direct the petitioner to first file an application before the inquiry officer or the competent authority which would be required to be decided by them by giving reasons, in accordance with law.

With these observations, the writ petition is disposed of.

12.11.2020
rekha

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No