

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

114/2

2024:PHHC:037905-DB

LPA No.470 of 2024 (O & M)
Date of Decision: 15.03.2024

Ravi Kumar

.....Appellant(s)

Versus

State of Haryana and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Mr. Ashish Naik, Advocate,
for the appellant.

Mr. Deepak Balyan, Addl. A.G., Haryana.

G.S.SANDHAWALIA, ACTING CHIEF JUSTICE (Oral)

1. Challenge in the present letters patent appeal is to the order dated 16.01.2024 passed by the learned Single Judge in CWP-975-2024, Ravi Kumar vs. State of Haryana and others. The learned Single Judge dismissed the writ petition wherein, the order dated 21.08.2023 (Annexure P-3) was subject matter of challenge wherein the departmental proceedings had been initiated against the employee who is a police official and the employee had been placed under suspension and summary of allegations (Annexure P-4) and charge sheet had been served upon him on account of the fact that he was involved in criminal case in FIR No. 20 dated 20.08.2023 under Section 7 of the Prevention of Corruption Act, 1988 lodge at Police Station ACB, Ambala in which he was arrested by the team of Anti Corruption Bureau.

2. The prayer made in the writ petition was to keep the departmental proceedings in abeyance till the final decision of the criminal case. The learned Single Judge has placed reliance upon the observations of the Apex Court in ***Capt.***

M. Paul Anthony vs. Bharat Gold Mines Ltd., 1999 (3) SCC 679 to observe that

common witnesses had been left to be examined or not and there was no complicated question of law involved. Reliance has also been placed upon the judgments of the Apex Court rendered in ***Indian Overseas Bank, Anna Salai and another vs. P. Ganesan and others, (2008) 1 SCC 650; Kendriya Vidyalaya Sangathan and others vs. T. Srinivas, (2004) 7 SCC 442; State Bank of India and others vs. Neelam Nag and another, (2016) 9 SCC 491*** and ***Karnataka SRTC vs. M.G. Vittal Rao, (2012) 1 SCC 442***. A Division Bench judgment of this Court rendered in ***CWP-7539-2021, Dr. Balwinder Kumar Sharma vs. Hon'ble Punjab and Haryana High Court through Registrar General***, decided on 28.05.2021 was also referred to. Reliance was further placed upon the Division Bench judgment of this Court in ***LPA-239-2022, Paramjit Kaur vs. Punjab and Sind Bank and others***, decided on 24.03.2022 and the fact that the charge sheet was not placed before the Court and, therefore, the contention that the departmental proceedings and criminal trial were the same could not have been substantiated nor established. The investigation being not complete, the report under Section 173 Cr.P.C. being not submitted and the charges not being framed weighed with the learned Single Judge to dismiss the petition.

3. We have perused the FIR in question which talks about the demand of bribe as such for release of dumper vehicle of the complainant on *superdari* impounded in FIR No. 330 under Section 279, 304-A IPC, P.S. Ladwa, District Kurukhetra (Annexure P-5). The departmental proceedings as such are of the charges are of indiscipline and bringing a bad name to the image of the police on which the proceedings as such had been initiated. Thus, the ambit of the departmental proceedings is in a totally different frame and it would be governed by the fact that the departmental proceedings are to be decided on 'preponderance of probabilities' whereas on the criminal side, the charge has to be proved beyond a shadow of doubt. Even otherwise, keeping in view the law laid down in *Capt.*

M. Paul Anthony's case (supra), as noticed by the learned Single Judge, the departmental proceedings cannot be delayed for times to come. The charge, as noticed, not being framed in the criminal proceedings weighed with the learned Single Judge to come to the conclusion that the appellant could be proceeded in any manner in the departmental proceedings and the charge has not been framed in criminal proceedings which would necessarily take a long time to conclude.

4. In ***LPA-565-2020, State of Haryana and others vs. Satish Kumar*** decided by Division Bench of this Court on 30.05.2022, authored by one of us G.S. Sandhawalia, J., we allowed the appeal of the State and dismissed the writ petition by keeping in mind the scope of both set of proceedings and the SLP filed against the same i.e. ***Special Leave to Appeal (C) No. 15243 of 2022*** was also dismissed on 10.11.2022. Similar view was also taken in ***LPA-2096-2017, State of Haryana and others vs. Suresh Punia***, decided on 09.09.2022 by Division Bench of this Court in which one of us i.e. G.S. Sandhawalia, J. was Member. ***SLP (Civil) bearing Diary No.22 of 2023*** filed against the same also stands dismissed on 16.01.2023.

5. In ***State of Karnataka and others vs. Umesh, 2022 SCC Online SC 345***, the employee had been proceeded against under the provisions of Prevention of Corruption Act, 1988 and had been acquitted after giving him the benefit of doubt. Resultantly, the Apex Court had gone on to hold that the principles which govern a disciplinary inquiry are distinct from those which apply to a criminal trial and in the former, the charge has to be established beyond reasonable doubt whereas in the later, the charge of misconduct has to be established on the principle of 'preponderance of probabilities'. It is also held that the rules of evidence which apply to both the procedures are distinct.

6. A three-Judge Bench of the Apex Court in ***Shashi Bhusan Prasad vs. Inspector General, Central Industrial Security Force and others, (2019) 7***

SCC 797 held that the two proceedings i.e. criminal and departmental operate in different fields and have different objectives. The objective of criminal trial is to inflict appropriate punishment on an offender whereas the purpose of inquiry proceedings is to deal with the employee departmentally and to impose penalty in accordance with the Service Rules.

7. In such circumstances, we do not find any reason to interfere in the judgment passed by the learned Single Judge. Accordingly, finding no merit in the present appeal, the same stands dismissed. All pending applications also stand disposed of accordingly.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

15.03.2024
shivani

(MANISHA BATRA)
JUDGE

Whether reasoned/speaking	Yes
Whether reportable	No