



CWP-6629 of 2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-6629 of 2023

Date of Decision:14.08.2024

Hawa Singh

....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Ms. Jasleen Kaur Chhibber, Advocate, for
Mr. Ankur Lal, Advocate,
for the petitioner.

Mr. Dushyant Saharan, AAG, Haryana

AMAN CHAUDHARY, J. (Oral)

1. Prayer made in the present writ petition is to quash the memo dated 24.02.2023, Annexure P-1, to initiate departmental enquiry against the petitioner while there is one FIR No. 006 dated 08.02.2023 also registered on same set of allegations for commission of offences punishable under Sections 7 of the Prevention of Corruption Act (subsequently added Sections 13(1)(B), 13(2) of the Prevention of Corruption Act at Police Station State Vigilance Bureau, Gurugram, Annexure P-2.

2. Learned State counsel submits that the issue as involved in the present case already stands decided against the petitioner in **Mustaq vs. State of Haryana and others**, CWP-5111-2024, on 10.04.2024, the LPA



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challenging which was also dismissed on 23.05.2024. Relevant paras of the judgment passed by the Co-ordinate Bench read thus:-

“xxx xxx xxx

From the above said judgments, the following principles/conclusions emerge:-

1. Departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar in their being conducted simultaneously though separately. (Specific reference in this regard can be made to the judgment in case of **Capt. M. Paul Anthony (supra)** (relevant portion of which is reproduced in Para 5 of the present order) and **State Bank of India and Ors. (supra)** (relevant portion of which is reproduced in Para 8 of the present order)
2. The approach and objective in the criminal proceedings and the disciplinary proceedings is altogether distinct and different inasmuch as in the disciplinary proceedings, the question is as to whether the employee is guilty of such conduct as would merit his removal from service or imposition of lesser punishment whereas in the criminal proceedings, the question is as to whether the offences registered against him are established and if established, what sentence is to be imposed upon him. (Specific reference in this regard can be made to the judgment in **Kendriya Vidyalaya Sangathan & Ors (supra)** (relevant portion of which is reproduced in Para 7 of the present order) and to **Shashi Bhusan Prasad vs. Inspector General, Central Industrial Security Force and others, reported as 2019(7) SCC 797** and also **LPA-470-2024** (relevant portion of which is reproduced in Para 10 of the present order).
3. The mode of the enquiry, the rules governing the enquiry and trial as well as the standard of proof in criminal proceedings and in departmental proceedings are distinct and different and in a criminal case, charge has to be established beyond reasonable doubt whereas in the departmental proceedings, the charge of misconduct has to be established on the principle of “preponderance of probabilities”. (Specific reference in this regard can be made to the judgment of the Hon'ble Supreme Court of India in “**State of Karnataka and others vs. Umesh**”, reported as **2022 SCC Online SC 345** and **LPA-470-2024** (relevant portion of which is reproduced in Para 10 of the present order).



4. There should be early conclusion of departmental proceedings so as to weed out any employee whose integrity/character has been put in doubt and to maintain discipline in service and efficiency of public service and also in case the employee is not guilty of any wrong doing, then his honour is required to be vindicated at the earliest. [Specific reference in this regard can be made to the judgment in the case **Dr.Balwinder Kumar Sharma's (supra)** (relevant portion of which is reproduced in Para 14 of the present order) and **Capt. M. Paul Anthony (supra)** (relevant portion of which is reproduced in Para 5 of the present order).

5. All the ingredients i.e., the departmental proceedings and the criminal case being based on identical and similar set of facts, charge in the criminal case being of grave nature involving complicated questions of law and facts are required to be met before the Court could consider the case of the employee for grant of stay of departmental proceedings during the pendency of the criminal case. (Specific reference in this regard can be made to the case of **Capt. M. Paul Anthony (supra)**; **Indian Overseas Bank, Anna Salai and Anr (supra)** (relevant portion of which is reproduced in Para 6 of the present order); **State Bank of India and Ors. (supra)** (relevant portion of which is reproduced in Para 8 of the present order).

6. 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. [Specific reference can be made to the judgment of **Capt. M. Paul Anthony (supra)**]. Even the question as to whether the case involves identical and similar set of facts would also have to be considered after taking into consideration the FIR, the report under Section 173 Cr.P.C. and the charges framed. [Reference in this regard can be made to the judgment of **Paramjit Kaur's (supra)**] (relevant portion of which is reproduced in Para 16 of the present order)

7. The fact that the departmental proceedings and the criminal case are based on identical and similar set of facts and the charges in the criminal case against the delinquent employee are of grave nature which involve complicated questions of law and facts also cannot be considered in isolation to stay the departmental



proceedings and due regard must be given to the fact that the departmental proceedings cannot be unduly delayed. [Specific reference in this regard can be made to the case of **Capt. M. Paul Anthony (supra)** (relevant portion of which is reproduced in para 5 of the present order) and **State Bank of India and Ors. (supra).**] (relevant portion of which is reproduced in Para 8 of the present order)

8. Before granting stay of the departmental proceedings, special facts of the case are required to be mentioned, warranting stay of departmental proceedings. (Specific reference in this regard can be made to the judgment of **Kendriya Vidyalaya Sangathan & Ors (supra)** (relevant portion of which is reproduced in Para 7 of the present order).

9. In case all the above parameters are met and the stay of the departmental proceedings has been granted, then also in case, the criminal case is being unduly delayed, the departmental proceedings can be resumed and proceeded with so as to conclude them at an early date. (Specific reference in this regard can be made to the judgment of **Capt. M. Paul Anthony’s case (supra)** (relevant portion of which is reproduced in Para 5 of the present order).”

3. Learned counsel for the petitioner has not been able to controvert the above and draw out any distinctive aspects in the aforementioned judgment or cite any contrary law.
4. In view of the above, the present petition is hereby dismissed.

(AMAN CHAUDHARY)
JUDGE

August 14, 2024
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No