

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

124

2024.PHHC:072719-DB



LPA-1255-2024 (O & M)  
Date of Decision: 22.05.2024

Tulsi Dass

.....Appellant(s)

Versus

State of Haryana and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA,  
ACTING CHIEF JUSTICE  
HON'BLE MS. JUSTICE LAPITA BANERJI**

Present: Ms. Shweta Bawa, Advocate,  
for the appellant.

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

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

1. Consideration in the present appeal is to the judgment dated 01.05.2024 passed by the learned Single Judge in a bunch of three writ petitions, lead case of which was CWP-15845-2023. Vide the said common judgment, the writ petitions were dismissed.

2. The question which was before the learned Single Judge was whether departmental proceedings are liable to be stayed during the pendency of the criminal proceedings keeping in view the law laid down in ***Capt. M. Paul Anthony vs. Bharat Gold Mines Ltd., (1999) 3 SCC 679***. The learned Single Judge also relied upon the earlier decision rendered in a bunch of writ petitions i.e. ***CWP-5111-2024, Mustaq vs. State of Haryana and others*** decided on 10.04.2024 to come to the conclusion that the department cannot be expected to wait endlessly for the trial to conclude and there was no legal bar as such for both the proceedings to go on simultaneously. The delay in departmental proceedings

could not be permitted as the interest of both the parties including the employer had to be kept in mind. It was noticed that even the charges framed before the criminal court as such had not been produced before him and, therefore, it could not be held that the departmental proceedings and the criminal proceedings are going to be held on the same set of facts and whether there could be any prejudice caused in the criminal case could not be deciphered.

3. Apparently, ***LPA-1146-2024, ASI Pawan Kumar vs. State of Haryana and others***, decided on 08.05.2024, filed against the decision rendered in a bunch of 35 cases, lead case of which was *Mustaq's case (supra)*, has also been dismissed by the co-ordinate Bench on 08.05.2024. The view, thus, has been upheld. Even otherwise, ***LPA-470-2024, Ravi Kumar vs. State of Haryana and others*** has been dismissed on 15.03.2024 by Division Bench headed by one of us i.e. G.S. Sandhawalia, J. We had also come to the conclusion that the two proceedings, criminal and departmental, operate in different fields and have different objectives and therefore, we dismissed a similar appeal. The relevant portion reads thus:-

*“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.”*

4. A perusal of the present case would go on to show that the challenge as such was to the departmental proceedings initiated whereby the charge as such was of indiscipline, misconduct, lack of duty and lack of responsibility and tarnishing of the image of the police in view of the involvement in FIR No.13 dated 13.05.2023 under Sections 7/13 (1) (B) of the Prevention of Corruption Act, 1988 (in short 'P.C. Act') registered at P.S. Anti Corruption Bureau, Faridabad. Apparently, the appellant as such was investigating FIR No.212 dated 04.05.2023 under Sections 147, 148, 149, 323, 506 IPC registered at P.S. Dabua whereby, certain demands as such had been made being the Head Constable from the relatives of the accused, on the basis of which, he got involved in the FIR No.13. The factum of the involvement in criminal trial and whether he is liable to be acquitted are different aspects altogether since in the departmental proceedings, the misconduct aspect and tarnishing of the image of the police on account of being involved in P.C. Act proceedings is a subject matter of consideration.

5. In such circumstances, the above principles as such observed by us would come into play and, therefore, we do not find any reasonable ground to interfere in the judgment passed by the learned Single Judge. Accordingly, the

present appeal stands dismissed. Pending application, if any, also stands disposed of accordingly.

(G.S. SANDHAWALIA)  
ACTING CHIEF JUSTICE

22.05.2024  
shivani

(LAPITA BANERJI)  
JUDGE

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|---------------------------|-----|
| Whether reasoned/speaking | Yes |
| Whether reportable        | No  |