

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

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2024:PHHC:037938-DB

**LPA No.1942 of 2023
Date of Decision: 15.03.2024**

Sahab Singh

.....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: Dr. Pankaj Nanhera, Advocate,
and Mr. Rahul Gautam, Advocate,
and Mr. Paramvir, 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 17.11.2023 passed by the learned Single Judge in CWP-25797-2023, Sahab Singh vs. State of Haryana and others, whereby the said writ petition was dismissed.

2. The learned Single Judge declined to interfere in the order under challenge in the writ petition dated 03.03.2023 (Annexure P-2) wherein the writ-petitioner, who was an employee of the Police Department, was placed under suspension and regular departmental inquiry was ordered against him on account of demanding a bribe from the complainant for the smooth running of the hotel. FIR No.5 dated 01.03.2023 had been lodged against him under Section 7 of the Prevention of Corruption Act, 1988 at Police Station ACB, Ambala, Haryana which is the primary plank and argument as such that the appellant would be prejudiced in case the witnesses are examined in the departmental proceedings including the Investigating Officer. The substance of allegations as such (Annexure P-3) would go on to show that the departmental proceedings are based

the image of the department and, therefore, departmental proceedings had been initiated. The learned Single Judge as such, while examining in detail and by relying upon the law which is prevailing regarding the said proposition as such, came to the conclusion that three witnesses including the complainant had already been examined.

3. Counsel for the State has submitted that another witness has also been examined.

4. The learned Single Judge noticed that the challan had not been presented and, therefore, no complicated questions of law were involved and it could not be expected that the departmental proceedings and criminal trial were the same and which were neither substantiated nor established as report under Section 173 Cr.P.C. had not been submitted and charges had not been framed. It is in such circumstances, the writ petition has been dismissed. 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***. 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.

5. We are in sync with the view taken by the learned Single Judge. 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 wherein we had noticed that the learned Single Judge had misdirected himself and lost sight of the fact that the difference in the standard of proof which is to be relied upon by the Criminal Court and the departmental proceedings are on two separate footings. It was noticed that there was an acquittal in the said case and the hands also had turned pink and accordingly it was held that it was wrongly interfered by quashing the charge sheet and the investigation report on account of over lapping and on account of the acquittal. Reliance was placed upon the judgment of the Apex Court in **State of Karnataka and another vs. Umesh, 2022 SCC online SC 345** wherein it was held that the principles which govern a disciplinary enquiry are distinct from those which apply to a criminal trial and the charge of misconduct has to be established on preponderance of probabilities. The rules of evidence which apply to a criminal trial are totally different and does not debar the employer from proceeding in the exercise of disciplinary jurisdiction. The SLP filed against **LPA-565-2020** 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.

6. The Apex Court in **M/s. Stanzen Toyotetsu India P. Ltd. vs. Girish V and others, (2014) 3 SCC 636** has held that the stay of proceedings cannot be a matter of course. The Apex Court, keeping in view that all the three Courts had exercised their discretion in favour of staying the ongoing departmental

conclude proceedings expeditiously and also with a condition that if the trial is not concluded within a period of one year, the stay would be deemed to be vacated.

7. Similarly, in *Kendriya Vidyalaya Sangathan's case (supra)*, the Apex Court held that the stay of disciplinary proceedings is not must in every case and the seriousness of the charge pertaining to the acceptance of illegal gratification and the desirability of continuing the employee in service when he is guilty of such conduct is to be kept in mind once the mode of inquiry and the Rules governing the inquiry and the trial in both the cases are distinct and, therefore, came to the conclusion that there was no justification for stay of proceedings. A three Judge Bench of the Apex Court in ***Depot Manager, Andhra Pradesh State Road Transport Corporation vs. Mohd Yousuf Miya & others AIR 1997 SC 2232***, has also rejected the said plea, wherein it was held that the inquiry in departmental proceedings would relate the conduct of the delinquent officer and has to be conducted expeditiously to effectuate efficiency in public administration. Keeping in mind the said principles, the stay granted by the High Court was vacated.

8. In ***The State of Rajasthan and others vs. Phool Singh, 2022 AIR (Supreme Court) 4176***, while allowing the appeal, the orders of the Courts below were set aside whereby the dismissal from service of a police constable had been quashed on the ground that he had been acquitted of the charge. The Apex Court, keeping in view the law laid down in ***Ajit Kumar Nag vs. General Manager (PJ), Indian Oil Corporation Ltd, (2005) 7 SCC 764*** and *Capt. M. Paul Anthony's case (supra)*, came to the conclusion that it is the disciplinary authority which is best equipped to reach a finding whether a misconduct has been committed and which is the scope of the departmental proceedings which is entirely different from the criminal trial.

9. Keeping in view the settled law and the argument raised that the Investigation Officer, if examined in departmental proceedings, would prejudice the case is without any basis as both the proceedings operate in a different field altogether.

10. 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.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

15.03.2024
shivani

(MANISHA BATRA)
JUDGE

Whether reasoned/speaking	Yes
Whether reportable	No