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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 5376/2024 & CRL.M.A. 20602/2024,**
CRL.M.A. 25025/2024

ISHWAR SINGHPetitioner
Through: Mr. Tarun Chandok, Mr.
Aman Yadav and Mr.
Mohit Yadav, Advs.

versus

STATE GOVT OF NCT OF DELHIRespondent
Through: Mr. Ajay Vikram Singh,
APP for the State with
Insp. Anand Prakash, PS
ACB, GNCTD.

+ **CRL.M.C. 5405/2024 & CRL.M.A. 20696/2024,**
CRL.M.A. 25024/2024

ISHWAR SINGHPetitioner
Through: Mr. Tarun Chandok, Mr.
Aman Yadav and Mr.
Mohit Yadav, Advs.

versus

THE STATE GOVT OF NCT OF DELHIRespondent
Through: Mr. Ajay Vikram Singh,
APP for the State with
Insp. Anand Prakash, PS
ACB, GNCTD.

+ **CRL.M.C. 6564/2024 & CRL.M.A. 25085/2024**

ISHWAR SINGHPetitioner
Through: Mr. Tarun Chandok, Mr.
Aman Yadav and Mr.
Mohit Yadav, Advs.

versus



THE STATE GOVT OF NCT OF DELHIRespondent
Through: Mr. Ajay Vikram Singh,
APP for the State with
Insp. Anand Prakash, PS
ACB, GNCTD.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
03.09.2024

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1. By the present petitions, the petitioner essentially seeks termination of the proceedings in FIR No. 7/2014 dated 11.01.2014, registered at Police Station AC Branch, for offences under Sections 7/13 of the Prevention of Corruption Act, 1988 and Section 34 of the Indian Penal Code, 1860. The FIR was registered against the petitioner and three other persons.

2. A departmental enquiry was initiated against the petitioner and three other persons under the provisions of Delhi Police (Punishment & Appeal) Rules, 1980 on the allegation that the beat staff of Police Station Janak Puri were allegedly demanding monthly bribe of ₹3,000/- for parking of EECO van for selling woollen sweaters at BSES office. On 11.01.2014, a raid was conducted near BSES office, Janak Puri, and the petitioner, and one other constable were apprehended for accepting a bribe of ₹3,000/-. Consequently, the subject FIR was also registered.

3. It is stated that thereafter the petitioner, along with one other constable were placed under suspension *vide* formal order No. 372-400/HAP(P-I) West, dated 13.01.2014. It is stated that the petitioner was reinstated from suspension *vide* order No. 16940-980/HAP/P-1/W dated 16.11.2016 without prejudice to the Departmental Enquiry pending against him.



4. The disciplinary authority *vide* order dated 11.02.2019 had awarded a punishment of forfeiture of 5 years of approved service permanently entailing proportionate reduction in pay of the petitioner.
5. On an appeal filed by the petitioner, the Additional Commissioner of Police, being the Appellate Authority, exonerated the petitioner and the punishment awarded by the disciplinary authority was set aside.
6. Chargesheet in the present case was filed in the year 2022.
7. It is undisputed that apart from the registration of FIR, the respondent department had also passed an order of punishment of forfeiture of five years of service against the petitioner.
8. The Appellate Authority considered the statements of the witnesses and held that no evidence has been produced, which corroborates the allegation of acceptance / demand of bribe by the petitioner. It was also held that neither the name of the petitioner was mentioned in the complaint filed with the Anti-Corruption Branch (ACB) nor the complainant was acquainted with the petitioner.
9. The Investigating Officer of the case, that is, PW-3 has himself accepted that the petitioner had not taken any money at the spot. No conversation between the complainant and the petitioner was recorded in regard to the transaction of any money. No evidence was produced to substantiate the alleged act of bribery.
10. The Appellate Authority found that the petitioner seems to have been mired in the case merely because of his presence at the spot.
11. It is not disputed that the order passed by the Disciplinary



Authority has attained finality.

12. The learned counsel for the petitioner submits that once the petitioner has been exonerated in parallel proceedings, the proceedings in the present FIR cannot continue. He submits that the same would amount to double jeopardy.

13. The learned Additional Public Prosecutor for the State submits that civil and criminal proceedings can continue together.

14. He submits that the exoneration of departmental proceedings *ipso facto* would not lead to exoneration or acquittal in criminal proceedings and has to be decided on its own merits on the basis of evidence collected by the prosecution.

15. It is not in doubt that the adjudication or any other proceeding in regard to the same set of allegations, can continue along with the criminal proceedings and exoneration in one may not *ipso facto* result in the other proceedings being declared as nullity in every circumstance.

16. However, when two proceedings are initiated on the same set of allegations and are also dependent on the identical evidence, the finding in any one will definitely have a bearing on the other.

17. It is not disputed that the departmental proceedings as well as the criminal proceedings in the present case have been initiated by the same department, that is, Delhi Police.

18. It is not disputed that the department has accepted the finding in the departmental proceedings.

19. Nothing has been brought on record to show that the evidence collected during the course of investigation in the FIR, was not the same as sought to be relied upon by the department



in the departmental proceedings.

20. The standard of proof in departmental proceedings is undeniably on preponderance of probability whereas in the criminal proceedings, the case has to be proved beyond reasonable doubt. The Hon'ble Apex Court in ***Ashoo Surendranath Tewari v. The Deputy Superintendent of Police, EOW, CBI & Anr. : Criminal Appeal No. 575/2020*** has held as under:

“7. A number of judgments have held that the standard of proof in a departmental proceeding, being based on preponderance of probability is somewhat lower than the standard of proof in a criminal proceeding where the case has to be proved beyond reasonable doubt.....

8. Applying the aforesaid judgments to the facts of this case, it is clear that in view of the detailed CVC order dated 22.12.2011, the chances of conviction in a criminal trial involving the same facts appear to be bleak. We, therefore, set aside the judgment of the High Court and that of the Special Judge and discharge the appellant from the offences under the Penal Code.”

21. In view of the above, the petitioner having being exonerated in the departmental proceedings, is entitled for seeking quashing of the charges in the FIR which was registered on the same allegations and was investigated by the same department.

22. In view of the above, the present petition is allowed and the petitioner is discharged in FIR No. 7/2014.

23. A copy of this order be placed in all the matters.

AMIT MAHAJAN, J

SEPTEMBER 3, 2024 / 'KDK'

CRL.M.C. 5376/2024 & connected matters

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