

Court No. - 1

Case :- SPECIAL APPEAL DEFECTIVE No. - 142 of 2025

Appellant :- Manoj Kumar Rai

Respondent :- Union Of India Thru. General Manager Northern Railway Baroda House New Delhi And 2 Others

Counsel for Appellant :- Anand Shanker Asthana

Counsel for Respondent :- A.S.G.I.

Hon'ble Attau Rahman Masoodi,J.

Hon'ble Ajai Kumar Srivastava-I,J.

C.M.Application No.1 of 2025

There is a delay of 90 days in filing the special appeal, however, since there is no objection and the cause shown appears to be sufficient, the delay in filing the appeal is condoned and the application for condonation of delay is allowed.

Order on Appeal

Heard Sri Surya Bhan Pandey, learned Deputy Solicitor General of India assisted by Sri Vinay Tripathi learned counsel appearing for Union of India.

By means of this intra-court appeal, the appellant has assailed the judgement and order dated 28.11.2024 passed by the writ court in Writ-A No.10951 of 2024. The operative part of the impugned judgement reads as under:-

However, it is open for the petitioner to approach appropriate authority as and when the charges are framed by the criminal court and in case the charges are identical to the disciplinary proceedings and that such a departmental proceeding is pending, he may move an appropriate application before disciplinary authority for stay of the departmental proceedings in light of the observation made by Hon'ble Supreme Court in the case of Capt. M. Paul Anthony (Supra) in para 22(ii).

Admittedly, the departmental proceedings have progressed considerably and on submission of inquiry report, show cause notice has come to be issued to the delinquent employee.

Since criminal and departmental proceedings can go on simultaneously, therefore, the Court as an abundant caution had left the appellant at liberty to make an application at an appropriate stage.

In the present case, however, once the trial has not begun and the criminal court has not framed charges as yet, the departmental proceedings have thus progressed independently without any other proceeding coming in the way.

The appellant is expected to co-operate with the proceedings and file a reply to the show cause notice issued, if any. The disciplinary authority is at liberty to conclude the proceedings in accordance with law.

The argument put-forth by learned counsel for the appellant that the departmental proceeding may be deferred till the framing of charges by the criminal court which, in our humble consideration is misconceived and does not stand in conformity with law. Parallel proceeding being permissible, therefore, do not preclude the competent authority to conclude the disciplinary proceedings.

The appeal bereft of any merit is accordingly rejected.

(Ajai Kumar Srivastava-I,J.) (Attai Rahman Masoodi,J.)

Order Date :- 7.4.2025

Shahnaz