

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

JAIPUR BENCH, JAIPUR

ORDER

SB Civil Writ Petition No.11208/2011

Narpat Singh versus The Chairman cum Managing Director,
RSRTC, Jaipur & ors

30.4.2012

HON'BLE MR. JUSTICE MN BHANDARI

Mr Kunal Rawat – for petitioner

BY THE COURT:

The grievance of the petitioner is that proceedings in the criminal case so as in the department enquiry for one and the same charges are going on simultaneously thus respondents may proceed with the departmental enquiry but final order may not be passed till conclusion of criminal case. Reference of the judgment of this court in the case of “Bahadur Ram versus State of Rajasthan & ors” reported in 2008 LAB.IC 577 has been given, wherein, similar issue was considered and pending criminal case, order of dismissal was set aside.

I have considered submissions of learned counsel for petitioner and perused the record.

It is now settled law that two proceedings can be undertaken simultaneously even if one and same charge/s exist. The issue aforesaid was dealt with by the Hon'ble Supreme Court in the case of “Capt. M. Paul Anthony v. Bharat Gold Mines Ltd.”, reported in 1999 (3) SCC 679). The Apex Court indicated some of the fact situations which would govern the question whether departmental proceedings should be kept in abeyance during pendency of a criminal case. In paragraph 22 conclusions which are deducible from various decisions were summarised. They are as follows:

- (i) Departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar in their being conducted simultaneously, though separately.
- (ii) If the departmental proceedings and the criminal case are based on identical and similar set of facts and the large in the criminal case against the delinquent employee is of a grave nature which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case.
- (iii) 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.

(iv) The factors mentioned at (ii) and (iii) above cannot be considered in isolation to stay the departmental proceedings but due regard has to be given to the fact that the departmental proceedings cannot be unduly delayed.

(v) If the criminal case does not proceed or its disposal is being unduly delayed, the departmental proceedings, even if they were stayed on account of the pendency of criminal case, can be resumed and proceeded with so as to conclude them at an early date, so that if the employee is found not guilty his honour may be vindicated and in case he is found guilty, the administration may get rid of him at the earliest.”

The standard of proof required in departmental proceedings is not the same as required to prove a criminal charge and even if there is an acquittal in the criminal proceedings the same does not bar departmental proceedings. Perusal of the law laid down by the Hon'ble Apex Court reveals that disciplinary enquiry can proceed simultaneously with the criminal case. The only bar is in the cases which contain serious allegations and involved complicated question of law and facts. If the present case is looked into, there exist no averment of the nature indicated above. Reference of the recent judgment of the Hon'ble Supreme Court in the case of “State Bank of India versus RB Sharma”, reported in (2004) 7 SCC 27 is also given wherein same view has

been reiterated.

In the light of the law propounded by the Hon'ble Apex Court, the disciplinary proceedings cannot be stayed in all the cases where same charge is tried in criminal case.

Accordingly, I do not find any merit in this writ petition. Hence, writ petition so as the stay application are dismissed.

(MN BHANDARI), J.

bnsharma

All corrections made in the judgment/ order have been incorporated in the judgment/ order being emailed.

(BN Sharma)
PS-cum-JW