

(2010) 08 GUJ CK 0128

In the Gujarat High Court

Case No : Special Civil Application No. 6127 of 2005

Ajit A. Patel

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 06-08-2010

Acts Referred:

Citation : (2010) 08 GUJ CK 0128

Hon'ble Judges : S.R. Brahmbhatt, J; Bhagwati Prasad, J

Bench : Division Bench

Advocate : M.S. Trivedi, for the Appellant; Niral R. Mehta, for the Respondent

Final Decision : Dismissed

Judgement

Bhagwati Prasad, J.—Heard learned Counsels for the parties.

2. It is the case of the petitioner in the petition that the petitioner was working as Section Supervisor and CBI had caught him red-handed while demanding and accepting illegal gratification for settlement of PF dues of certain employees. The petitioner has been chargesheeted in the above case and also issued a charge sheet dated 18.1.2001. Petitioner approached the Central Administrative Tribunal, Ahmedabad bench by filing OA/357/04 and the Tribunal by impugned order dated 19.1.2005 dismissed the OA filed by petitioner.

3. Learned Counsel for the petitioner emphatically urged that defence of the petitioner in criminal trial and departmental proceedings would be same because the criminal case and departmental proceedings are having the same evidence and witnesses.

4. Learned Counsel appearing for respondent has relied on judgment reported in case of Capt. M. Paul Anthony Vs. Bharat Gold Mines Ltd. and Another, and State of Rajasthan v. B.K. Meena and Ors. reported in (1996) SCC 417 and submitted that as the criminal case is not proceeded or is not disposed within the stipulated time given by the Tribunal, departmental proceedings should not be stayed till

indefinite period.

5. We have considered the arguments of learned Counsel for the petitioner at length. The Supreme Court in case of Capt. M. Paul Anthony (*supra*) in para-22 held that 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 the early date, so that if the employee is found not guilty, his honour may be vindicated and in case he is found guilty, administration may get rid of him at the earliest. In another case in case of State of Rajasthan (*supra*), the Supreme Court has observed that stay of disciplinary proceedings by the CAT till the conclusion of criminal trial cannot be as a matter of course and it should be based on all the relevant factors and by keeping in view the principles laid down by the Supreme Court and it is in the interest of administration and the delinquent that proceedings be concluded expeditiously. From the record, it transpires that in the present case, criminal trial is not concluded till date and in view of the aforesaid facts and circumstances of the case and principles laid down by the Supreme Court, it cannot be ordered that the departmental proceedings are required to be stayed for indefinite period. Accordingly, the stay order granted by this Court is vacated and the department will be at liberty to proceed against the petitioner departmentally. The Department will follow the requisites of law. The petition is dismissed. Rule discharged.