

(2016) 09 JH CK 0004

In the Jharkhand High Court

Case No : Writ Petition No. 1414 of 2011 (In the matter of an application under Article 226 of the Constitution of India).

Council for Scientific and Industrial Research through the Director General, Professor Samir K. Brahmachari, son of Sri Amrita Lal Brahmachari having the Office at Anusandhan Bhawan, 2 Rafi Marg, New Delhi-110001 P.O. and P.S.Rafi Marg, New Delhi - Petiti

Date of Decision : 01-09-2016

Acts Referred:

Constitution of India, 1950 — Article 226, Article 311

Citation : (2016) 4 JBCJ 490

Hon'ble Judges : Pradip Kumar Mohanty and Ananda Sen, JJ.

Bench : Division Bench

Advocate : M/s. Rajesh Shankar and Abhay Prakash, Advocates, for the Petitioner; M/s. Ranjeet Kumar Singh and Pratyush Lala, Advocates, for the Respondent

Final Decision : Disposed Off

Judgement

1. Heard Mr. Rajesh Shankar, learned counsel appearing for the petitioners and Mr. Ranjeet Kumar Singh, learned counsel appearing for the respondent.
2. This application has been filed for quashing the order dated 24.11.2010 passed in Miscellaneous Application No.11 of 2010 whereby Central Administrative Tribunal, Patna Bench, Patna, circuit court at Ranchi dismissed the said Miscellaneous Application where-under O.A.No. 211 of 2009 filed by the respondent whereby petitioners sought for direction upon CSIR, to pass final order in the departmental proceeding initiated against the respondent within a period of three months from the date of receipt of a copy of the order.
3. The case, in brief, is that the petitioner no. 1 is represented through the Director General of Council of Scientific and Industrial Research (CSIR), and the petitioner no. 2 is represented through the Director of Central Institute of Mining & Fuel Research, Dhanbad. The respondent is an employee of Central Institute of Mining & Fuel Research. He was appointed in Central Institute of Mining & Fuel

Research in the year 1983 as Junior Research Fellow and he has been promoted on the post of Scientist Grade IV (3). In the year 2002, a memorandum of charge has been issued and by virtue of the same, a departmental proceeding has been initiated against him under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965. It has been alleged in the memorandum of charge that during the year 1999 onwards, the respondent has committed misconduct inasmuch as he, as an Indenting Officer, has recommended for sending of enquiries limited to select firms for purchase of some items instead of going for open tenders and thereby led to cause their procurement at exorbitantly high rates to the detriment and loss of CMRI/CSIR.

4. Learned counsel appearing for the petitioner submitted that there is no dispute that the charge sheet was filed against the respondent under Section 120(B) read with Sections 468, 471 of the Indian Penal Code and under Section 13(2) read with Sections 13(1)(d) of the Prevention of Corruption Act, 1988. The counsel for the respondent submits that charge was framed only on 18.8.2016 in the criminal case. It is alleged that the Enquiry Officer, after concluding departmental enquiry, submitted its report to the disciplinary authority on 20.1.2005 and no decision has been taken by the disciplinary authority in this regard till date. He further submitted that the matter was kept in abeyance by the authority of the CSIR, awaiting the outcome of the criminal case.

5. It is pertinent to mention here that the Hon'ble Supreme Court in the judgment reported in the case of Stanzen Toyotetsu India (P) Ltd. v. Giish V. and ors (2014) 3 SCC page 636 had ordered that if criminal case is not concluded within a period of one year, the disciplinary proceeding initiated against the delinquent employee shall be resumed and concluded by the enquiry officer concerned. This clearly suggests that departmental proceeding cannot be kept in abeyance for an unlimited period on the ground of pendency of a departmental proceeding.

6. In the instant case, as indicated above, the report of the enquiry officer was submitted before the disciplinary authority on 20.1.2005, whereas, very recently on 8.8.2016 only, charge was framed in the criminal case. This suggests that it will take substantial period for the criminal case to conclude.

7. Thus, there is no reason to keep the final order in the departmental proceeding in abeyance, till disposal of the criminal case.

8. In view of the submission made above and also relying upon the judgment as aforesaid and in the facts and circumstances of this case, we direct the petitioner to conclude the departmental proceeding initiated against the respondent, and take final decision in this regard within a period of three months from today and communicate the same to the respondent at the earliest.

9. With the aforesaid direction, this writ application is disposed of.