

(2003) 03 J&K CK 0002
In the Jammu And Kashmir High Court
Case No : LPA (SWP) No. 8 of 2003

Inder Mohan Dhar

APPELLANT

Vs

State Bank of India

RESPONDENT

Date of Decision : 20-03-2003

Acts Referred:

Citation : (2003) 2 JKJ 785

Hon'ble Judges : V.K. Jhanji, Acting C.J.;Sudesh Kumar Gupta, J

Bench : Division Bench

Advocate : Sunil Sethi, for the Appellant; Gagan Basotra, for the Respondent

Final Decision : Dismissed

Judgement

S.K. Gupta, J.—We have heard Mr. Sunil Sethi, learned counsel for the appellant, as well as Mr. Gagan Basotra, learned counsel for the respondents, in extenso.

2. This appeal is directed against the order dated 30.12.2002 drawn by learned Single Judge in SWP No. 1345/2002, whereby the Order dated 30.5.2002 has been vacated.

3. For facility of reference, order impugned in appeal is reproduced below:

Respondents have filed the objections. Counsel for the petitioner seeks adjournment. Because of the adjournment, case could not be considered.

However, Mr. Gagan Basotra, learned counsel for the respondents submitted that learned counsel for the petitioner seeks vacation of order dt.

30.5.2002. This order is vacated. However, petitioner is at liberty to move the Court again if there is any cause.

4. Mr. Sethi learned counsel appearing for the appellant, submitted at the threshold that no request was ever made before the learned Single Judge

for the vacation of the order, which was operating in his favour. On going through the aforesaid order, the intention of the learned Single Judge is

manifestly discernible that order dated 30.5.2002 was vacated on the submission of respondent's advocate, though on account of typographical

error, the word ""counsel for the petitioner"" is recorded. This is further evident and spelt out from the penultimate lines of the said order, where the

scope has been left for the appellant/writ petitioner to approach the Court again, if there arises any cause.

5. It was next contended by Mr Sethi, learned appellant's counsel, that during the continuance of criminal trial before the Designated Court, the

respondents simultaneously initiated departmental enquiry. It is also submitted that the criminal trial as well as departmental enquiry cannot run

parallel so as to obviate the possibility of arriving at two different conclusions. This plea, in our opinion, has no substance whatsoever and does not

merit a detailed consideration. The proceedings in a criminal case and the departmental proceedings operate in distinct and different jurisdictional

areas. The level of proof in both the proceedings is different and the purpose with which departmental proceedings are conducted is also not

identical with the purpose with which criminal case is prosecuted, is usually the distinction, which is drawn. The Apex Court in catena of cases

handed down the law on this point of simultaneous continuance of departmental enquiry with criminal proceedings and restated that scope of these

two proceedings is different and they can be continued independently.

6. For the reasons stated above, we do not find any merit in this appeal. It is, however, made clear that what we have said should not be

understood to have bearing on the merits of either party's case and is confined to the question at issue pertaining to the staying of disciplinary

proceedings pending the criminal proceedings against the appellant/writ petitioner. The appeal is accordingly dismissed. Interim order, if any, shall

also stand vacated.

7. The writ record is remitted back to the Registry to be placed before the learned Single Judge in due course.