

(2004) 11 DEL CK 0115
In the Delhi High Court
Case No : WP (C) 3220 of 2004

Narender Kumar	Vs	APPELLANT
North Delhi Power Limited and Another		RESPONDENT

Date of Decision : 02-11-2004

Acts Referred:

Prevention of Corruption Act, 1988 — Section 13, 7

Citation : (2004) 115 DLT 273 : (2005) 105 FLR 484

Hon'ble Judges : Manmohan Sarin, J

Bench : Single Bench

Advocate : Sandeep Sethi and Ali Mirza, for the Appellant; Raj Birbal Raavi Birbal and Amit Kataria, for the Respondent

Final Decision : Dismissed

Judgement

Manmohan Sarin, J.—Petitioner, an Assistant Engineer with erstwhile Delhi Vidyut Board, now Assistant Manager with respondent has filed the present petition seeking quashing of the order dated 8.1.2004, by which inquiry officer was appointed to act as an inquiring authority in the disciplinary proceedings for major penalty initiated against the petitioner vide Memorandum No.VC-266/2001/SPC/16 dated 10th October, 2003. Petitioner in the alternative seeks a stay of departmental inquiry proceedings till the decision of the criminal case against the petitioner.

2. A complaint had been received against the petitioner for demanding bribe of Rs.10,000/-. The complainant's grievance was that he had completed all the formalities for 11 KV transformer and connection. It had been sanctioned but was not being energized. The petitioner demanded a bribe of Rs.10,000/- for energizing the connection. FIR No.64/2001 u/s 7/13 of Prevention of Corruption Act was registered on 13th November, 2001. There is hardly any progress in the criminal trial and the case has been fixed for arguments on the charges to be framed and the matter is pending before the court of Special/Sessions Judge.

3. The case of the petitioner is that charges on which departmental inquiry is initiated are the same on which criminal case has been registered against the petitioner. Witnesses are also common. Petitioner made a submission on 15th December, 2003 setting out number of grounds and relying on past precedents and decisions praying for withholding of departmental inquiry till the conclusion of criminal trial. The respondents vide the impugned order decided to initiate the departmental inquiry stating that Explanation to the show cause had not been received till date. The plea of the petitioner is that if the departmental inquiry is proceeded by the respondents simultaneously with the criminal case, based on the same set of facts, the defense to be taken by the petitioner in the criminal case will be disclosed. If the respondents continue with the departmental proceedings before the criminal case is finally decided then he will be forced to cross-examine the witnesses in departmental proceedings also and this will cause immense prejudice to the petitioner inasmuch as his defense will be known to all.

4. Mr.Sethi submits that charges of corruption are a grave offence. Prevention of Corruption Act was enacted and several provisions of the Indian Penal Code were omitted to be incorporated in the Prevention of Corruption Act. Special Designated Courts have been created to take cognizance of corruption cases. The legislature itself has thus recognized that charges under the Prevention of Corruption Act are grave charges. Moreover conclusions or decisions arrived in the criminal trial almost seals the fate of the individual concerned in departmental inquiry. It is, Therefore, necessary that departmental proceedings are stayed till conclusion of criminal trial. In the aforesaid background, Mr.Sethi further submitted that court ought to give a liberal interpretation as to what would constitute complicated questions of facts and law and offences under the Prevention of Corruption Act should fall in the said category.

5. Writ petition is opposed by the respondent. It is averred in the counter-affidavit that although offence under the Prevention of Corruption Act as well as charges of misconduct in the departmental inquiry are on the same set of facts but all the witnesses and documents relied on are not common. Mr. Raj Birbal, learned senior counsel for respondent submits that criminal trial is usually delayed and for maintaining probity and discipline in service, departmental inquiry should be allowed to be proceeded with.

6. This question is no longer rest integra. The matter is squarely covered by the dictum of the Supreme Court commencing from Capt. M. Paul Anthony Vs. Bharat Gold Mines Ltd. and Another, of the said judgment the principles underlying were reproduced. They are once again reproduced for facility of reference.

"22. The conclusions which are deducible from various decisions of this Court referred to above are:-

(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 charge 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 the 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, administration may get rid of him at the earliest."

7. The Supreme Court also had occasion to consider the subject matter in a recent judgment in *Kendriya Vidyalaya Sangathan and Ors Vs. T.Srinivas* 2004 III CLR 4 as also in *State Bank of India and Ors Vs. R.B.Sharma* 2004 L.L.R 950. This Bench had occasion to consider a similar matter in *Jainder Singh Tomar Vs Municipal Corporation of Delhi* 2004 VI AD (Delhi) 479.

In view of the legal propositions enunciated in the judgments above, it would be seen that present case is one where the petitioner is alleged to have demanded and accepted bribe of Rs.10,000/- for energizing the sanctioned connection. It is a simple allegation of demanding and receiving illegal gratification. In my view, this is not a case where any complicated question of fact and law is involved, which should result in deferment of departmental proceedings. Rather the considerations of maintaining probity, discipline and efficiency in service require that departmental proceedings are concluded as expeditiously as possible. There are no special circumstances or factors, which require deferment of criminal trial. The fact that legislature has enacted special statute for dealing with cases of corruption and made provisions of special courts only gives recognition to the goal that corruption cases should be expeditiously dealt with. However, experience has shown that despite all earnest intentions, criminal trial gets prolonged. The existence of special courts or special statutes would not convert every case of corruption into one involving complicated question of law and fact. The departmental proceedings and criminal trial can go on simultaneously. As it would be seen a period of two years has already lapsed, without alleged

misconduct having been dealt with in departmental proceedings.

In view of the foregoing discussion, writ petition has no merit and is liable to be dismissed and is dismissed. The stay against continuance of departmental proceedings stands vacated.