
(2004) 09 JH CK 0096

In the Jharkhand High Court

Case No : Writ Petition (S) No. 4871 of 2004

Rupinder Singh Nagpal

APPELLANT

Vs

Bank of India and Others

RESPONDENT

Date of Decision : 22-09-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2005) 2 JCR 72

Hon'ble Judges : S.J. Mukhopadhaya, Acting C.J.

Bench : Single Bench

Advocate : Sumit Prasad, for the Appellant; A. Allam, for the Respondent

Final Decision : Dismissed

Judgement

S.J. Mukhopadhaya, A.C.J.

1. This application has been preferred by petitioner against the charge-sheet contained in Reference No. 68-69 both dated 24.6.2004. The main grievance of the petitioner is that a criminal case is pending for same set of charge leveled in the departmental proceeding with an alternate prayer to stay the departmental proceeding till the final disposal of the criminal proceeding for the same set of charge.

2. Counsel appearing on behalf of the Bank opposed the prayer and submitted that the departmental proceeding cannot be closed on the ground that a criminal case has been filed against the charged employee. This Court accepts this submission, there being no bar of continuance of two proceedings simultaneously. The counsel further submitted that no charge has been framed in the criminal case and thereby the petitioner cannot claim that the charges in the departmental proceeding are same and similar to those in the Criminal proceeding.

3. The question whether a departmental proceeding for same set of charge be stayed during the pendency of a criminal proceeding fell for consideration before

Supreme Court in the case of Capt. M. Paul Anthony Vs. Bharat Gold Mines Ltd. and Another, At paragraph 22 of the case the following observations were made by the Supreme Court :

"220. 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 department 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."

4. From a bare perusal of the charge-sheet dated 24.6.2004 and the First Information Report as enclosed by the petitioner, it would be evident that the charges are different in nature though based on same set of fact. Some of the charges are also different e.g. there is a charge leveled against the petitioner for some fixed deposit issued in favour of one person stated to be the adopted son of the petitioner which is not the charge in the criminal proceeding. In the departmental proceeding on the basis of allegation made by the wife "misconduct" has been alleged against the petitioner which cannot be determined by the Court of criminal jurisdiction.

5. In the circumstances, the departmental proceeding and the criminal case though based on identical and similar set of facts but charges being different, this Court is not inclined to stay the departmental proceeding.

6. There being no merit this writ petition is dismissed.