



IN THE HIGH COURT OF ORISSA, CUTTACK

W.P.(C) No. 7349 of 2025

An application under Articles 226 and 227 of the Constitution of India.

Deepak Kumar Petitioner

-Versus-

Union of India and
others Opp. Parties

For Petitioner - Mr. Parsuram Mohapatra
Advocate

For Opp. Parties - Ms. Sulochana Patra, CGC
along with Mr. P.K. Parhi,
D.S.G.I.

P R E S E N T:

THE HONOURABLE MR. JUSTICE S.K. SAHOO

AND

THE HONOURABLE MS. JUSTICE SAVITRI RATHO

Date of Hearing & Order: 19.03.2025

By the Bench: This writ petition has been filed by the petitioner Deepak Kumar, who is now working as Executive Engineer (Civil) in the Office of the Superintending Engineer, Yogayog Bhawan,



Kolkata, challenging the order dated 26.02.2025 passed by the learned Central Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No.59 of 2025 under Annexure-1 in rejecting the interim relief sought for by the petitioner for staying the inquiry in the disciplinary proceedings initiated against him vide Memorandum No.8-14/2024-Vig.II dated 28.10.2024 till conclusion of the criminal case instituted against him vide T.R. Case No.14 of 2023 pending in the Court of learned Special Judge (C.B.I), Court No.1, Bhubaneswar.

2. The petitioner filed the aforesaid O.A. Case No.59 of 2025 before the learned Central Administrative Tribunal, Cuttack Bench, Cuttack seeking following reliefs:

“(i) To admit Original Application, and issue notice to the Respondents.

(ii) To call for the relevant records and after hearing from the both sides allow the original application to the extent that.

(iii) The order/File No.10/Kol/2025 dated 29.01.2025 of Respondent No.3 (Annexure-A/7) be quashed.

(iv) And pass such other order/ orders, direction/ directions as deem fit and proper to the facts and circumstances of the case to give complete relief in favour of the applicant.

(v) Further, as a measure of interim relief, it has been prayed that no inquiry be held in the departmental proceeding initiated vide Memorandum (File No.8-14/2024-Vig.II)



dated 28.10.2024 of Respondent No.2 (Annexure-A/2) till the criminal case bearing T.R. Case No.14 of 2023 (Annexure-A/3) is finalized by staying the operation of Order at Annexure-A/7."

3. From the Article of Charge framed against the petitioner, it appears that while he was working as Executive Engineer (Civil), Postal Civil Division, Patna and holding additional charge of Executive Engineer (Civil), Postal Civil Division, Bhubaneswar during the period from 02.06.2022 to 14.04.2023, he issued a work order No.1531 dated 23.12.2021 to one Prasanna Manika for the work of repair and maintenance of postal staff Quarters block PTN 134-145 at new P&T Colony, Sector-6, Rourkela. It further appears from the Article of Charge framed that he entered into conspiracy with Shri Suvasish Pal, Assistant Engineer (Civil), Postal Civil sub-Division, Sambalpur and withheld amount of Shri Prasanna Manika, Contractor from 1st and 2nd RA Bill to obtain undue advantage from the contractor for releasing the withheld amount and thus, the petitioner tarnished the image of the Department, committed gross misconduct and failed to maintain devotion to duty and thus acted in a manner unbecoming of Government servant and misused his official position thereby violating Rule 3(1) (i), (ii), (iii) and (xv) of Central Civil Services (Conduct) Rules, 1964. The



Article of Charge was served on the petitioner by way of a Memorandum dated 28.10.2024 along with a statement of imputation of misconduct and misbehaviour in support of Article of Charge and a list of documents and a list of witnesses, by whom the Article of Charge was proposed to be sustained and the petitioner was directed to submit a written statement of his defence and further to state whether he desires to be heard in person within fifteen days and it was informed to the petitioner that an enquiry would be held only in respect of those Article of Charge, which is not admitted and therefore, he should specifically admit or deny the Article of Charge.

4. On receipt of such Memorandum which consist of Article of Charge and the statement of imputation in support of Article of Charge, list of documents and list of witnesses, the petitioner submitted a representation before the Under Secretary to Government of India, Ministry of Communication, Department of Telecommunications, Vigilance Wing, Sanchar Bhawan, New Delhi on 02.12.2024, wherein he indicated that since on the self-same ground, a criminal case under sections 7 & 12 of the Prevention of Corruption Act read with section 120-B of the Indian Penal Code (hereinafter 'I.P.C.') vide C.B.I Case No.RC-05(A) of 2023 which corresponds to T.R Case No.14 of 2023 is



subjudice before the learned Special Judge (C.B.I), Court No.1, Bhubaneswar and the charge sheet/Article of Charge of the disciplinary proceeding and the criminal case are based on identical and similar set of fact and the witnesses in both the cases are same and the documents relying on for the charges in the criminal case are also relied on in the charge sheet of the Departmental Proceeding, in case he files the written statement of defence, his defence would be exposed and he will be highly prejudiced in the criminal case and therefore, a prayer was made to keep the Departmental Proceeding in abeyance till the conclusion of the criminal case in T.R. Case No.14 of 2023.

5. On receipt of such representation, though the Authority did not pass any order, however the petitioner approached the learned Central Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No.59 of 2025 in which the prayer was made to quash the order/File No.10/Kol/2025 dated 29.01.2025 of respondent no.3 i.e. Shubhranil Das, the Inquiring Authority and an interim prayer was made to stay the Departmental Proceeding initiated against the petitioner till the conclusion of T.R. Case No.14 of 2023.

6. The learned Central Administrative Tribunal vide impugned order dated 26.02.2025 has been pleased to hold that



the charge sheet in the T.R. Case is yet to be filed. However, the criminal case is for demand and acceptance of bribe, which is in violation of section 7 of the Prevention of Corruption Act, whereas in the Departmental Proceedings, the allegation is for violation of Departmental Rules for withholding the RA bills of the Contractor to get undue advantage. The learned Tribunal relied upon the ratio laid down by the Hon'ble Supreme Court in the case of **State of Rajasthan -Vrs.- Shri B.K. Meena and others reported in AIR 1997 SC 13** as well as **Kendriya Vidyalaya Sangathan and others -Vrs.- T. Srinivas reported in AIR 2004 SC 4127** and came to hold that the extent of proof of criminal charge would be beyond any reasonable doubt while, in the Departmental Proceedings, a person can be found guilty even on reasonable probability and it would be travesty of justice, if the respondents are not permitted to complete the departmental enquiry and await the final decision of the criminal trial. The learned Tribunal further held that if the petitioner is not guilty of the Article of Charge, the departmental enquiry would be dropped and there is no uniform principle that wherever a departmental enquiry and the criminal trial is based on somewhat similar facts, the departmental enquiry should essentially be stayed till conclusion of the criminal



trial. Mere similarity of facts per se is not a ground for staying any of the two proceedings. Their scope, ambit and consequences in fact and law are distinct and different and accordingly, the interim relief which was claimed by the petitioner for staying the inquiry in the Disciplinary Proceedings was rejected.

7. Mr. Parsuram Mohapatra, learned counsel appearing for the petitioner challenging the impugned order argued that from the statements of the witnesses, which have been supplied to the petitioner with the Memorandum consisting of Article of Charge, it would appear that the allegations in both the cases are almost identical and if at this stage, the petitioner would file his written statement of defence in the Departmental Proceeding, he will be seriously prejudice as he is likely disclose his defence and the same would have adverse effect in the criminal trial. Learned counsel further urged that the observation of the learned Central Administrative Tribunal that charge sheet in T.R. Case is yet to be filed, is an error of record. In fact, the charge sheet in the said case has already been filed on 30.09.2023 before the learned Special Judge (C.B.I), Court No.1, Bhubaneswar in T.R. Case No.14 of 2023 and the case is now posted for supply the police papers to the petitioner. Learned



counsel placed reliance in the case of **State Bank of India and others -Vrs.- Neelam Nag and another reported in (2016) 9 Supreme Court Cases 491**, wherein the Hon'ble Supreme Court took into account that the charge in the criminal case is for offence under section 409/34 of the I.P.C. and further held that the pendency of the criminal case against the respondent Neelam Nag cannot be the sole basis to suspend the disciplinary proceedings initiated against the respondent for an indefinite period and in larger public interest, the order as passed in the case of **Stanzen Toyotetsu -Vrs.- Girish V. and others reported in (2014) 3 Supreme Court Cases 636** be followed even in the fact situation of the case, to balance the equities. The Hon'ble Supreme Court considered Clause-IV of the Memorandum of settlement and held that it is to be kept in mind the larger public interests (at least in cases of involvement of the employees of the Public Sector Banks in offence of breach of trust and embezzlement), the arrangement predicated in the case of **Stanzen** (supra) would meet the ends of justice. The Disciplinary Proceedings instituted against the respondent cannot brook any further delay which was already pending for more than ten years and accordingly, the Hon'ble Court exercised the discretion in favour of the respondent in staying the ongoing



Disciplinary Proceedings until the closure of recording of evidence of prosecution witnesses cited in the criminal trial with a further direction that the criminal case, which was pending against the respondent is to be decided expeditiously but not later than one year from the date of order and the trial Court shall take effective steps to ensure that the witnesses are served, appear and are examined on day-to-day basis. It was further held that if the trial is not completed within one year from the date of order, despite the steps which the trial Court was directed to take, the disciplinary proceeding against the respondent shall be resumed by the enquiry officer concerned and the protection given to the respondent of keeping the disciplinary proceeding in abeyance shall stand vacated forthwith upon expiring of the period of one year from the date of order.

8. Ms. Sulochana Patra, learned Central Government Counsel with Mr. P.K. Parhi, learned Deputy Solicitor General of India, on the other hand, supported the impugned order and placed reliance on the ratio laid down in the case of **State Bank of India and others -Vrs.- R.B. Sharma reported in (2004) 7 Supreme Court Cases 27.**

9. Adverting to the contentions raised by the learned counsel for the respective parties, we find that the contention



that has been made by the learned counsel for the petitioner that the learned Central Administrative Tribunal has committed error of record in observing that the charge sheet in the T.R. Case is yet to be filed, is correct. In fact, the charge sheet was filed on 30.09.2023 under sections 7 and 12 of the Prevention of Corruption Act (as amended in 2018), 1988 read with section 120-B of the I.P.C. against Suvasish Pal, Debendra Kumar Puan and the petitioner Deepak Kumar. As per the charge sheet, Suvasish Pal, Assistant Engineer (Civil), Postal Civil Sub-Division, Sambalpur demanded bribe of Rs.1.5 lakhs from the complainant Prasanna Manika, Contractor, Bhubaneswar on 04.04.2023 to release his withheld bill amount of Rs.3,77,585/-. Due to compulsion, the complainant gave Rs.25,000/- at the first instance and for the remaining bribe amount of Rs.1.25 lakhs and further instruction to pay the bribe of Rs.18,500/- to the petitioner for releasing withheld bill amount, the complaint was lodged before the C.B.I. Authorities, trap was laid and the trap became successful and after investigation of the case, the Investigating Officer came to the conclusion that from the oral evidence, documentary evidence and the material exhibits, it appeared that the accused Suvasish Pal while functioning as a public servant demanded and accepted the bribe/undue



advantage of Rs.1,22,500/- for himself and Rs.18,500/- for the petitioner and further he arranged another contractor Debendra Kumar Puhan (co-accused) for depositing the bribe amount of the petitioner in the bank account of the said co-accused and the said Suvasish Pal entered into criminal conspiracy with the petitioner and thus, it was found out that they have demanded and obtained the bribe amount of Rs.1.41 lakhs (Rs.1,22,500/- for himself and Rs.18,500/- for petitioner Deepak Kumar) from the complainant.

10. From the Article of Charge, which was placed by the learned counsel for the petitioner, it appears that the charge is very specific that the petitioner entered into criminal conspiracy with Shri Suvasish Pal and withheld the amount of Shri Prasanna Manika, Contractor from 1st and 2nd RA Bill to obtain undue advantage from the contractor for releasing the withheld amount. There is obviously nothing in the Article of Charge that Suvasish Pal demanded any bribe from the contractor and he accepted the bribe amount, which is obviously the subject matter of the criminal case subjudice in the Court of learned Special Judge (C.B.I), Court No.1, Bhubaneswar in T.R. Case No.14 of 2023.



In the case of **Capt. M. Paul Anthony -Vrs.- Bharat Gold Miner Ltd. and another reported in (1999) 3 Supreme Court Cases 679**, the Hon'ble Supreme Court held as follows:-

"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 employees is of a grave nature, which involved 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, the administration may get rid of him at the earliest.

In the case of **Secretary, Ministry of Home Affairs and others -Vrs.- Tahir Ali Khan Tyagi reported in 2003**

(2) SCT 227 (SC) : MANU/SC/0540/2002, it is held that the Departmental Proceeding and criminal proceeding can run simultaneously and departmental proceeding can also be initiated even after acquittal in a criminal proceeding particularly when the standard of proof in a criminal proceeding is completely different from the standard of proof that is required to prove the delinquency of a government servant in a departmental proceeding, the former being one of proof beyond reasonable doubt, whereas the latter being one of preponderance of probability.

In the case of **R.B. Sharma** (supra), the Hon'ble Supreme Court also relied upon the case of **Capt. M. Paul Anthony** (supra) and held as follows:-



"8. The purpose of departmental enquiry and of prosecution are two different and distinct aspects. Criminal prosecution is launched for an offence for violation of a duty the offender owes to the society, or for breach of which law has provided that the offender shall make satisfaction to the public. So crime is an act of commission in violation of law or of omission of public duty. The departmental enquiry is to maintain discipline in the service and efficiency of public service. It would, therefore, be expedient that the disciplinary proceedings are conducted and completed as expeditiously as possible. It is not, therefore, desirable to lay down any guidelines as inflexible rules in which the departmental proceedings may or may not be stayed pending trial in criminal case against the delinquent officer. Each case requires to be considered in the backdrop of its own facts and circumstances. There would be no bar to proceed simultaneously with departmental enquiry and trial of a criminal case unless the charge in the criminal trial is of grave nature involving complicated questions of fact and law. Offence generally implies infringement of public duty, as distinguished from mere private rights punishable under criminal law. When trial for criminal offence is conducted it should be in accordance with proof of the



offence as per the evidence defined under the provisions of the Indian Evidence Act, 1872 (in short "the Evidence Act"). Converse is the case of departmental enquiry. The enquiry in a departmental proceeding relates to conduct or breach of duty of the delinquent officer, to punish him for his misconduct defined under the relevant statutory rules or law. That the strict standard of proof or applicability of the Evidence Act stands excluded is a settled legal position. Under these circumstances, what is required to be seen is whether the departmental enquiry would seriously prejudice the delinquent in his defence at the trial in a criminal case. It is always a question of fact to be considered in each case depending on its own facts and circumstances.

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11. There can be no straitjacket formula as to in which case the departmental proceedings are to be stayed. There may be cases where the trial of the case gets prolonged by the dilatory method adopted by the delinquent official. He cannot be permitted to, on one hand, prolong criminal case and at the same time contend that the departmental proceedings should be stayed on the ground that the criminal case is pending."



In the case of ***R. Subba Rao -Vrs.- Chief Vigilance Officer reported in 2022 LiveLaw (AP) 121***, the Hon'ble Court in paragraphs-23 and 34 held as follows:-

"23. In view of the settled law, the Court has to draw a balance between the need for a fair trial to the accused on the one hand and an expeditious conclusion of the ongoing disciplinary proceedings on the other hand as it is always in the interest of the employee and the employer both that the departmental proceedings be brought to an expeditious conclusion at an early date in as much as if the employee is not guilty, his honour should be vindicated at the earliest possible and if he is guilty he should be dealt with properly according to law.

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34. In view of the settled legal position that if a criminal case is unduly delayed that may itself be a good ground for going ahead with the disciplinary proceedings; as also that the delinquent official cannot be permitted to prolong the criminal case on the one hand and at the other hand to contend that the disciplinary proceedings be stayed on the ground that the criminal case is pending, this Court does not find it a case for stay on disciplinary proceedings on the ground of



pendency of the criminal proceedings, which are pending since 2010 without making any progress in view of the fact that in Cr.R.C. No.2345 of 2018 filed by the petitioner's wife, who is Accused No.2, with the petitioner in criminal case, there is stay of those proceedings, may be with respect to Accused No.2, but because of that, the entire criminal proceedings have come to stand still, to the benefit of the petitioner as well. The criminal trial under the circumstances would take long time and the disciplinary proceedings cannot be stayed indefinitely awaiting decision in criminal proceedings."

In the case of **B.K. Meena and Ors.** (supra), it is held as follows:-

"17.....The approach and the objective in the criminal proceedings and the disciplinary proceedings is altogether distinct and different. In the disciplinary proceedings, the question is whether the respondent is guilty of such conduct as would merit his removal from service or a lesser punishment, as the case may be, whereas in the criminal proceedings, the question is whether the offences registered against him under the Prevention of Corruption Act (and the Penal Code, 1860, if any) are established and, if established, what sentence should be imposed upon him. The



standard of proof, the mode of enquiry and the Rules governing the enquiry and trial in both the cases are entirely distinct and different. Staying of disciplinary proceedings pending criminal proceedings, to repeat, should not be a matter of course but a considered decision. Even if stayed at one stage, the decision may require reconsideration if the criminal case gets unduly delayed.”

Thus, it is well settled in law that the disciplinary proceedings and criminal proceedings can continue simultaneously and pendency of the criminal proceedings is no legal bar in conducting the departmental proceedings, unless there is a statutory provision barring the continuation of the disciplinary proceedings in such circumstances. A crime is an act of commission, in violation of law or misconduct of public duty. The departmental enquiry is to maintain discipline in service and officials of the public service. In criminal cases, strict rules of evidence are applicable. In departmental proceedings, the rules of evidence do not strictly apply. The delinquent employee is liable to be punished on proof of misconduct. The disciplinary authority is under a statutory obligation to ensure that the delinquent employee does not get any undue benefit because of long pendency of criminal proceedings. It is, expedient that the



disciplinary proceedings are conducted and completed as expeditiously as possible and the authority needs not to await the outcome of the decision of the investigating/prosecuting agency or Court trial. There are no inflexible rules, in which the departmental proceedings may be stayed pending trial in criminal case against the Delinquent Officer, but, mainly what is required to be seen is whether the departmental enquiry would definitely prejudice the defence of the delinquent employee at a time in a criminal case, if the charge in the criminal trial is of grave nature involving complicated questions of fact and law. If it is so, the stay of the disciplinary proceedings may be a possible course. However, the gravity of the charge is not by itself enough to determine the question, unless the charge involves complicated question of law and fact. Even when the charge is found to be serious involving complicated questions of fact and law as also the likelihood of the prejudice to be caused to the delinquent in criminal proceedings, the Court has to keep in consideration that the criminal trials get prolonged indefinitely, and the departmental proceedings cannot be suspended indefinitely or delayed unduly and has to draw a balance between the need for a fair trial to the accused delinquent on the one hand and an expeditious conclusion of the on-going



disciplinary proceedings on the other as it is always in the interest of the employee and the employer both because if the employee is not guilty, his honour should be vindicated at the earliest possible and if he is guilty, he should be dealt with properly according to law as it would not be in the interest of the administration to continue with such employee awaiting the result of the criminal proceedings. Each case requires to be considered in the back drop of its own facts and circumstances.

11. In the case in hand, so far as the institution of criminal case is concerned, even though the complaint was lodged on 10.04.2023 and charge sheet was submitted on 30.09.2023, but the police papers are yet to be supplied to the petitioner so also to the two co-accused persons. The charge sheet indicates that as many as thirty six documents are to be proved so also thirty witnesses are yet to be examined. Obviously, it would take a long time for the prosecution to conclude the trial. So far as the Departmental Proceeding is concerned, the learned Central Administrative Tribunal is quite justify in holding that the Departmental Proceeding has been initiated for violation of departmental rules for withholding the RA bills of the contractor to get undue advantage. Obviously, in the Departmental Proceeding, it is not to be enquired into



whether the petitioner or any one at his instance demanded or accepted any bribe amount, which is the subject matter of the criminal trial. In view of the settled position of law and particularly when the scope of the two proceedings are different in nature, staling the Departmental Proceeding till the conclusion of the criminal trial would not be proper and justified particularly when their scope, ambit and consequences in the fact and law are distinct and different.

12. For the above reasons, we are of the humble view that the learned Tribunal was quite justified in not staying the disciplinary proceeding pending the criminal proceeding against the petitioner. The order of the learned Tribunal needs no interference.

Accordingly, the writ petition being devoid of merits, stands dismissed.

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(S. K. Sahoo, J.)

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(Savitri Ratho, J.)

Orissa High Court, Cuttack
The 19th March 2025/RKMishra
Signature Not Verified
Digitally Signed
Signed by: RABINDRA KUMAR MISHRA
Reason: Authentication
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 21-Mar-2025 17:07:16