

11. In light of the above, this Court is of the considered view that mere acquittal in the criminal case will not diminish, reduce and extinguish the punishment granted in a disciplinary proceedings and accordingly no benefit of the acquittal order can be given to the petitioner in the disciplinary proceedings specially after they have been concluded with award of punishment.

12. In light of the above, this Court does not find any merits in the submissions made by learned counsel for the petitioner. The writ petition is bereft of merits and is accordingly **dismissed**.

(2024) 11 ILRA 31

ORIGINAL JURISDICTION

CIVIL SIDE

DATED: LUCKNOW 20.11.2024

BEFORE

THE HON'BLE ALOK MATHUR, J.

Writ A No. 10700 of 2024

Amit Yadav Head Constable 112622578
...Petitioner
Versus
State of U.P. & Ors. ...Respondents

Counsel for the Petitioner:

Syed Anzar Husain, Ashutosh Kumar
Srivastava, Ram Krishan Sharma

Counsel for the Respondents:

C.S.C.

A. Civil Law - Departmental Disciplinary Proceedings - Uttar Pradesh Police Officer of Subordinate Ranks, (Punishment and Appeal) Rules, 1991 - Rule 14 - Whether during the pendency of the criminal proceedings, the departmental proceedings should be stayed ? - Departmental as well as criminal, both the proceedings can go simultaneously as

there is no bar. The question as to whether during the pendency of the criminal proceedings, the departmental proceedings should be stayed depends upon the facts and circumstances of the case. One of the main consideration for staying of the departmental proceedings during the pendency of the criminal trial is to see that the defence of the delinquent Government Servant is not prejudiced in the criminal trial. Court must record a finding that non grant of stay on a departmental proceedings would not only prejudice the delinquent officer, that the matter also involves complicated question of law (Para 15, 16)

B. Civil Law - Departmental Disciplinary Proceedings simultaneously with the criminal trial - In the instant case charges levelled in departmental inquiry and criminal case, emanate from the common incident but the charges in both the proceedings are different. Charges in departmental proceedings relate to violation of the conduct rules and the departmental rules while in the criminal case charge relates to the offence under various sections of the I.P.C. and of the Arms Act. Though the evidence may be common but the legal principles under charges are entirely different. Also petitioner submitted his reply on merits he would be deemed to have subjugated himself to the disciplinary authority. It cannot be said that his defence can be prejudiced during the criminal trial. No infirmity in the departmental disciplinary proceedings simultaneously with the criminal trial. (Para 13, 16)

Dismissed. (E-5)

List of Cases cited:

1. Uttar Pradesh & ors. VsBabu Ram Upadhya, AIR 1961 SC 751
2. Uttar Pradesh & ors. VsBabu Ram Upadhya, AIR 1961 SC 751
3. Ajeet Kumar Nag Vs G.M. (P.J.) Indian Oil Corporation, (2005) 8 JT 425

4. Chairman-cum-Managing Director, T.N.C.S. Corporation Ltd. & ors. Vs K. Meerabai, JT 2006 (1) SC 444

5. Suresh Pathrella Vs Oriental Bank of Commerce, AIR 2007 SC 199

6. Union of India & ors. Vs Naman Singh Shekhawat, (2008) 4 SCC 1

7. Indian Overseas Bank Vs P. Ganasen & ors., AIR 2008 SC 553

(Delivered by Hon'ble Alok Mathur, J.)

1. Heard Sri Ashutosh Kumar Srivastava, learned counsel on behalf of the petitioner as well as learned Standing Counsel on behalf of the respondents.

2. By means of present writ petition, the petitioner has assailed the charge-sheet dated 19.10.2023 issued by Presiding Officer/Circle Officer, Sadar, District-Gonda and also seeks certiorari to quash the impugned departmental disciplinary proceedings inasmuch as against the petitioner under Rule 14 (1) of the Uttar Pradesh Police Officer of Subordinate Ranks, (Punishment and Appeal) Rules, 1991.

3. It has been submitted that the learned counsel for the petitioner that the petitioner is working on the post of Head Constable in Gonda at the relevant time where a First Information Report was lodged on 04.04.2023 by one Prince Yadav, the brother-in-law of the petitioner under Section 307 I.P.C. the said FIR was lodged against Surendra Yadav, the brother-in-law of the petitioner who is alleged to have assaulted and injured the petitioner due to a family dispute. Investigation into the said occurrence was conducted and it was found that the petitioner's brother-in-law has lodged false First Information Report

against Surendra Yadav and the petitioner was also involved in falsely implicating his brother-in-law which fact was established during the investigation. That the petitioner had deliberately got himself injured in order to lodge the First Information Report against the brother-in-law, Surendra Yadav. During the investigations no material was found on which a charge-sheet would be filed against the accused therein namely Surendra Yadav the brother-in-law of the petitioner but Section 195/203/211/109 of the I.P.C. and 3/25/5/27 of the Arms Act was lodged against the petitioner and his brother Prince Yadav and other co-accused who were found to have falsely implicated the brother-in-law of the petitioner. On the conclusion of the investigation a charge-sheet has been filed in the Court of competent jurisdiction on 24.06.2023 where the petitioner is facing the trial.

4. That on the ground of the same facts the departmental proceedings was initiated against the petitioner under Rule 14 (1) of the Uttar Pradesh Police Officer of Subordinate Ranks, (Punishment and Appeal) Rules, 1991. A charge-sheet was issued to the petitioner on 19.10.2023 levelling the allegation of lodging a false First Information Report against the brother-in-law, he has brought disrepute to the name of the entire Police Department. The petitioner denied the allegations levelled against him by submitting his reply on 14.11.2023 and the Inquiry Officer has concluded the inquiry and submitted the inquiry report to the disciplinary authority on 07.08.2024. On submission of the inquiry report the disciplinary authority has issued a show cause notice dated 25.09.2024 asking the petitioner to submit his explanation. It is at this stage that the petitioner has sought to file a present writ petition challenging the entire disciplinary

proceedings as well as the show cause notice dated 25.09.2024 apart from the charge-sheet issued to him.

5. In support of submissions, learned counsel for the petitioner relied upon paragraph 492 of the Uttar Pradesh Police Officer of Subordinate Ranks, (Punishment and Appeal) Rules, 1991, according to which the result of the judicial trial of the Police Officer should be awaited before initiating disciplinary proceeding against him. He has submitted that on the same set of facts, a criminal trial is underway and accordingly the respondents should not have initiated disciplinary proceedings prior to conclusion of the said trial and hence the entire proceedings are illegal and arbitrary and deserves to be quashed. In support of his submissions he relies upon the judgment of the Hon'ble Supreme Court in the case of **State of Uttar Pradesh and others versus Babu Ram Upadhya** reported in **AIR 1961 Supreme Court 751**.

6. On the other hand, learned Standing Counsel has vehemently opposed the writ petition. He submits that the petitioner has submitted himself to the jurisdiction of the disciplinary proceedings inasmuch as he has submitted his reply to the charge-sheet supplied to him and the inquiry is nearly concluded and it is only at the stage of issuance of a show cause notice, the petitioner has approached this Court for filing the present writ petition.

7. The second ground raised by the learned Standing Counsel is that as per the charge levelled against the petitioner is of giving false evidence and filing a false First Information Report against his brother-in-law which is not the allegation in the disciplinary proceedings, which is limited only to bring him by sullyng name and

reputation of the Police Department because of his actions and submits that both the charges are separate at this stage and according, it cannot be said that for same set of charges, the petitioner is being tried in a criminal record and also departmentally in the disciplinary proceedings.

8. He further submits that there is no such embargo in the Uttar Pradesh Police Officer of Subordinate Ranks, (Punishment and Appeal) Rules, 1991 for simultaneous proceeding with the disciplinary proceedings during pendency of criminal trial, and therefore he submits that there is no reason for this Court to interfere if the sudden proceedings and prayed for dismissed the writ petition.

9. I have heard rival contention of the parties and also perused the record. The entire proceedings have been initiated from lodging of First Information Report by the brother of the petitioner against his brother-in-law under Section 307 of the I.P.C. in FIR No. 299 of 2023 lodged by Police Station- Khalilabad, District- Sant Kabir Nagar. It is when the investigation was carried out by the Investigating Officer, it has found that the allegations levelled in the said First Information Report were patently false and the facts which emanated were rather surprising that a false case was made out with regard to the injury on the petitioner and his brother-in-law was sought to be falsely implicated in the said criminal case.

10. It is further for the aforesaid reason that the Investigating Officer did not find any charge-sheet against the accused named in the said FIR rather he has filed the charge-sheet against the petitioner and his brother under Section 195/203/211/109

of the I.P.C. and 3/25/5/27 of the Arms Act against the petitioner, his brother and the other co-accused who were found to be complicit in lodging of the First Information report. When the facts were brought to the knowledge of the superior authorities of the petitioner, the disciplinary proceedings were initiated and accordingly to the charge-sheet the charge levelled against the petitioner is that he being a Police Officer has indulged in filing of a false criminal case against his brother in law and accordingly has brought disrepute to the name of the Police Department.

11. Accordingly, considering the arguments raised by the petitioner assailing the departmental proceedings it is noticed that the petitioner himself has voluntarily subjected himself to the departmental proceedings inasmuch as he has submitted his reply to the charge-sheet without any demur though reply submitted by the petitioner further indicates that he has stated that the allegations levelled against him or false and he has taken all the defence available to him to show that the charges levelled against him are false and are not made out.

12. Apart from the above, he is also stated that the criminal case is pending in the Court of competent jurisdiction and he is further prayed that the proceeding he stated till conclusion of the criminal trial.

13. From the above, It is clear that once the petitioner has submitted his reply on merits he would be deemed to have subjugated himself to the disciplinary authority. The only step remaining in the disciplinary proceeding is the reply to be submitted by the petitioner to the show cause notice and the disciplinary authority thereafter is required to take a decision with

regard to the guilt or otherwise of the petitioner in the said inquiry. From a bare perusal of the charges levelled in departmental inquiry and criminal case, it is evident that the facts in both emanate from the common incident but the charges in both the proceedings are entirely different. The departmental proceedings of charges are relate to violation of the conduct rules and the departmental rules in the present case pertaining to the bringing down of the reputation of the department while the criminal case but relates to the offence under Section 195/203/211/109 of the I.P.C. and 3/25/5/27 of the Arms Act and though the evidence may be common but the legal principles under charges are entirely different.

14. Considering the case of the petitioner in the light of the judgment of the Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony Vs. Bharat Gold Mines Ltd. & Another** reported in (1999) 3 SCC 679 where it has been clearly held that the departmental as well as criminal, both the proceedings can go simultaneously as there is no bar and there is being conducted simultaneously. The question as to whether during the pendency of the criminal proceedings, the departmental proceedings should be stayed depends upon the facts and circumstances of the case. In the case of **Ajeet Kumar Nag versus G.M. (P.J.) Indian Oil Corporation** reported in (2005) 8 JT 425 the Hon'ble Supreme Court has held that the procedure followed as both the case as well as subject matter of departmental inquiry and criminal proceedings are different and it cannot be said that when criminal proceedings are going on a particular criminal charge in that regard, the departmental proceedings cannot be allowed to proceed.

15. Subsequently, the similar views were expressed in the case of **Chairman-cum-Managing Director, T.N.C.S. Corporation Limited and others versus K. Meerabai reported in JT 2006 (1) SC 444, Suresh Pathrela versus Oriental Bank of Commerce**, reported in AIR 2007 SC 199 and **Union of India and others versus Naman Singh Shekhawat** reported in 2008 (4) SCC 1 with regard to the issue as to whether the departmental proceeding should be kept in abeyance till the conclusion of criminal trial was also considered by the Supreme Court in the case of **Indian Overseas Bank versus P. Ganasen and others** reported in AIR 2008 SC 553 where the Supreme Court held that where prayer is made that so long as criminal proceedings are going on, departmental proceedings may not be proceeded, the Court must record a finding that non grant of stay on a departmental proceedings would not only prejudice the delinquent officer, that the matter also involves complicated question of law.

16. In the present case, once the petitioner has already submitted himself to the jurisdiction of the disciplinary proceedings, he has submitted his reply that it cannot be said that his defence can be prejudiced during the criminal trial. One of the main consideration for staying of the departmental proceedings during the pendency of the criminal trial is to see that the defence of the delinquent Government Servant is not prejudiced in the criminal trial. This plea is not applicable in the present case inasmuch as the petitioner has already tendered his response to the charge-sheet in the disciplinary proceedings.

17. In the aforesaid circumstances, this Court has no hesitation in holding that it is not a case for interference where the

departmental proceedings are being held on the same charges of the criminal trial.

18. Accordingly, I do not find any infirmity in the criminal trial proceedings simultaneously with the criminal trial. The writ petition is being devoid of merit is, accordingly, **dismissed**.

(2024) 11 ILRA 35
ORIGINAL JURISDICTION
CIVIL SIDE
DATED: ALLAHABAD 12.11.2024

BEFORE

THE HON'BLE AJAY BHANOT, J.

Writ A No. 12642 of 2020

Smt. Krishnawati ...Petitioner
Versus
State of U.P. & Ors. ...Respondents

Counsel for the Petitioner:
 Bramh Narayan Singh

Counsel for the Respondents:
 C.S.C., Manu Singh

A. Service Law -Constitution of India,1950-Article 226-entitlement to interest on delayed payment of retiral dues, including family pension and provident fund, to the legal heir of a deceased government employee-The petitioner is the widow of govt. employee who died in service-despite receiving a "No Dues Certificate" the retiral dues were not disbursed in a timely manner-After prolonged delays the dues were finally disbursed-The court relied on Yogendra Singh Case and Sanjay Upadhyay Case which establish that delayed payment of pension and retiral dues entitles the beneficiary to interest-The court directed the respondents to pay simple interest at 8% per annum for the delayed period.(Para 1 to 9)