

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P(S) No. 4055 of 2022

Yogendra Paswan

..... Petitioner(s).

Versus

1. Union of India
2. Directorate General, Central Reserve Police Force (CRPF), New Delhi
3. Inspector General of Police, Jharkhand Sector, CRPF, Tiril Ashram Dhurwa
4. Commandant, 134 BN, CRPF, Palamu
5. Commandant, 114 BN, Rapid Action Force, CRPF, Palamu Respondent(s)

CORAM : HON'BLE MR. JUSTICE ANANDA SEN.

For the Petitioner(s) : Mr. Pankaj Kumar Dubey, Advocate

For the Respondents : Mr. Anil Kumar, ASGI
Mr. Shiv Kumar Sharma, Advocate

3/08.09.2022

Heard the parties.

Petitioner prays for quashing the office order dated 15.7.2022 whereby a departmental proceeding has been initiated against the petitioner.

Counsel for the petitioner submits that charge in the departmental proceeding is same to that of the criminal proceeding which has been initiated against the petitioner and further no preliminary inquiry was conducted before issuing charge-sheet. As per the petitioner, this is a case where the allegation against the petitioner is that he has committed rape upon a lady for which a police case has already been registered as Palamu (Town) P.S Case No.20/2021 under Section 376 IPC, 66(E)/67(A) of the Information Technology Act, of 2000. He submits that the departmental charge-sheet has also been issued on the same facts, thus in view of the judgment passed by the Hon'ble Supreme Court in the case of *Capt. M. Paul Anthony Vrs. Bharat Gold Mines Ltd.* reported in (1999) 3 SCC 679, the departmental proceeding either needs to be quashed or be stayed till disposal of the criminal proceeding.

Learned Senior counsel Mr. Anil Kumar, ASGI opposes the prayer and submits that charge against the petitioner is not exactly the same as that in the criminal case. He submits that there is an additional charge in the departmental proceeding to the effect that, without disclosing about the pendency of this criminal proceeding, this petitioner has joined the transfer post at Jalandhar by suppressing the entire fact. He submits as he was an absconder but when he was arrested by the police, then only it came to light that he was wanted in the aforesaid criminal case

as an accused. He further submits that in fact the petitioner had obtained bail from the court and thereafter joined the transfer post without giving any information to the authorities about the pendency of the criminal case.

After hearing the parties, I find that petitioner has suppressed the fact of this criminal proceeding which was against him. The fact that he was taken in custody is a ground to initiate a departmental proceeding against him. This charge cannot be adjudicated in a criminal trial. This latches on his part can be a misconduct under the service rules which governs the petitioner and can only be adjudicated in a departmental proceeding. Thus, I find no ground to stay or quash the departmental proceedings.

Accordingly, the instant writ application stands dismissed.

(ANANDA SEN , J)