Subhash Chander Chhabra vs Food Corporation Of India And Ors. on 4 September, 1995

Equivalent citations: 1995IIIAD(DELHI)1090, 60(1995)DLT147

Author: J.B. Goel

Bench: J.B. Goel

JUDGMENT

P.K. Bahari, J.

(1) In this writ petition, the petitioner has sought quashment of departmental enquiry initiated against the petitioner vide memo dt. June 2, 1994 and also for quashing the adverse remarks recorded in his A.C.R. for the year 1986 and a writ of mandamus requiring the respondents to grant promotion to the petitioner to the post of Assistant Manager from which date his juniors had been promoted and also for regularising the period of his service from 19th August 1987 to 31st August 1990 and to pay his salary and other allowances for that period and also for placing the petitioner in Selection Grade with effect from 1st December 1987 with consequential reliefs.

(2) Facts leading to the filing of the present petition, in brief, are that the petitioner joined the Food Department of Government as Watchman in 1964 and was promoted to the post of AC-III (Depot) in 1968 and to the post of AG-II (Depot) in 1970 and AG-I (Depot) in 1971. In 1985. he was posted at AG-I (Depot) at Food Storage Depot, Ghevra. He Along with Sh. Dev Kumar, AC-II (D) was made in charge of Units No. 3 and 4 at Food Storage Depot, Ghevra.

(3) On December 19, 1985, the petitioner was suspended' in pursuance to the order dated December 13, 1985 in contemplation of disciplinary proceedings. Physical verification of the stocks of Units No. 3 and 4 of the Food Storage Depot, Ghevra was carried out on December 28 and December 29. 1985 and shortage of 350 bags of imported sugar of 50 Kg. each was discovered. An F.I.R. No. 30 of 1986 was got registered against the pelitioner. In respect of the disciplinary proceedings which were to be initiated in respect of the suspension, the disciplinary authority sought to inflict punishment of reduction of pay to one stage below the petitioner's basic pay. Although the Enquiry Officer had exonerated the petitioner but the disciplinary authority did not agree with the finding of the Enquiry Officer and imposed the penalty of reduction of pay to one stage. An adverse entry was recorded in the A.C.R. of 1986. The case of the petitioner for promotion was kept in sealed cover when his juniors were promoted as the outcome of 'the criminal case was awaited. "The petitioner came to be acquitted in the criminal case vide judgment dated' January 27, 1970 which has become final.

(4) The petitioner was kept under suspension on registration of the criminal case till_ he was awarded acquittal in' the criminal case and his suspension was revoked on 28b August 1990. Vide

order dated 26th August 1992, the Reviewing Authority had changed the penalty of reduction in pay to penalty of censure. The petitioner's case was considered by Departmental Promotion Committee on- 16th September 1992 but he was not declared fit for promotion with regard to panel of 1987. In 1994, the petitioner's case for promotion was again considered in respect of the vacancy occurring for the panel of 1993 and according to the petitioner, he has been declared fit for promotion and the present memo has been issued against the petitioner proposing to hold the departmental enquiry under Regulation 58 for imposing major penalty which is now being challenged before this Court.

(5) In the counter affidavit, filed by Food Corporation of India, it has been averred that the mere fact that the petitioner has been acquitted by the Metropolitan Magistrate in the criminal case does not debar the respondent from holding a departmental enquiry against the petitioner on the same very charge which he faced in the criminal Court and it is averred that till the departmental enquiry is completed, the petitioner cannot be given any promotion'. It has been also pleaded that the petitioner has been' duly considered for promotion by the authorities and he was not found fit for promotion for 1987 panel and it is also averred that the' adverse remarks recorded in the A.C.R. of the petitioner are not liable to be deleted as they have been based on the assessment of the work and conduct of the petitioner for a particular year. It is also pleaded that after the petitioner has been acquitted by the Court of the Metropolitan Magistrate, the respondent has been in correspondence with the C.BT. in order to find out if any further action was to be taken and C.B.I, had taken its time in sending its communication as the officer who was to give the opinion and advise was busy in conducting some investigation in the case of murder of Sh. Rajiv Gandhi, ex-Prime Minister of this country and as soon as the report was received from C.B.I, advising the respondent to initiate the departmental proceedings against the petitioner, the memo of charge-sheet has been issued against the petitioner and there has been no undue delay on the part of the respondent in initiating the departmental proceedings against the petitioner.

(6) We have heard arguments in detail for disposing of the writ petition at the admission stage itself. We have not been able to understand how this Court should proceed to quash the adverse entry recorded in the A.C.R. of the petitioner for a particular year and the learned counsel for the petitioner has not been able to point out to any illegality committed by the authorities in giving adverse entry in the A.C.R. of the petitioner. In 1985. the petitioner faced departmental proceedings in some other matter which resulted in awarding of penalty of censure to the petitioner which is not being challenged before us.

(7) Learned counsel for the petitioner h (8) On the other hand, counsel for the respondent has contended that in fact the acquittal of the petitioner in the criminal case Was not on- merits. But even if it is to be inferred that the acquittal was on merits, even then the respondent is not debarred from holding departmental proceedings against the petitioner for his misconduct on the same very allegations which were the subject matter of the criminal trial.

(9) There has been a lot of conflict of opinion among various High Courts regarding holding of departmental proceedings after the criminal Court has rendered a verdict of acquittal on the same allegations.

(10) It is settled law that a judgment of criminal Court, even if given on same points or issues, is not binding on the Civil Court. The findings of the criminal Court do not operate as res judicata in civil proceedings. [See Adi Pherozshah Gandhi Vs. H. M. Seervai .] (11) The standard of proof which is required to prove a criminal charge is much more onerous than the standard of proof required to prove any issue in a civil Court or in departmental proceedings. In the criminal trial, the prosecution has to prove beyond any shadow of reasonable doubt that the particular accused is guilty of a particular charge whereas in the civil proceedings and also in the departmental proceedings, it is the probability or preponderance of the probabilities which determines the findings which can be arrived at on a particular point. The object of holding a criminal trial is to punish the accused in accordance with the provisions of the criminal law whereas the object of holding the departmental proceedings is to award penalties for misconduct of a particular employee. The strict rules of evidence which govern the civil proceedings and the criminal proceedings do not apply to departmental proceedings.

(12) The principle of issue estoppel also would not apply in as much as such a principle applies in subsequent proceedings in the same Court meaning thereby if some issues of facts have been decided by the criminal Court while trying a particular charge, the principle of issue estoppel will operate on such findings of facts in any subsequent trial of same person may be on different charges. The issue estoppel would not apply to the findings of a criminal Court when same issue arises for consideration before the civil Court or in- the disciplinary proceedings. The doctrine of "Double Jeopardy" enshrined in the Constitution under Article 20(2) also is not applicable because such a doctrine would apply if a person is vexed twice in the same forum.

(13) In S.A. Venkataraman Vs. Union of India, while discussing the provisions of Article 20(2) of ".he Constitution of India, it was laid down that the roots of the principle, which Article 20(2) enacts, are to be found in the well established role of English law which finds expression in the maxim "Nemo debet his vexari" i.e. a man must not be put twice in peril for the same offence. If a man is indicted again for the same offence in an English Court, he can plead, as a complete defense, his former acquittal or conviction, or as it is technically expressed, take the plea of "autrefois acquit" or "autrefois convict". It was laid down by the Supreme Court that the ambit and contents of the guarantee of the fundamental right given in Article 20(2) are much narrower than those of the Common Law rule in England or the doctrine of "Double Jeopardy" in the American Constitution. It was explained that Article 20(2) of the Constitution of India does not contain the principle of "autrefois acquit" and in order to enable a citizen to involve the protection of such an Article, there must be both prosecution and punishment in respect of the same offence and the words 'prosecuted' and 'punished' are to be taken not distributive so as to mean prosecuted and punished. Both the factors must co-exist in order that the operation of the clause may be attracted. The Supreme Court also laid down that the language of Article 20.affords a clear indication that the proceedings in connection with the prosecution and punishment of a person must be in the nature of a criminal-proceeding, before a court of law or a judicial tribunal, and cot before a tribunal which entertains a departmental or an administrative enquiry even though set up by a statute but which is not; required by law to 'try a matter judicially and on legal evidence.

(14) In Adi Pherozshah Gandhi (supra), the well-known legal proposition was again reiterated by the Supreme Court in para 35 as follows:- "INa civil proceeding the decision of a criminal court is not res judicata. To give an example, if a person is involved in a traffic offence in which some one is injured he may in the criminal court receive a light sentence but if he is sued' in a civil court for heavy damages, he can plead and prove that he was -not negligent or that accident was due to the contributory negligence of the defendant. The decision of the criminal court would not preclude him from raising this issue before the civil court."

(15) In J. D. Siiva Vs. Regional Transport Authority, , while dealing with the issue arising before us, it was held by the Division Bench of the said Court that it would be indeed a strange predicament when. in respect of the same offence, he should be punished by one Tribunal on the footing that he was guilty of the offence and that he should be honourably acquitted by another Tribunal of the very same offence. It was emphasised that as primarily the criminal courts of the land are entrusted with the enquiry into offences, it is desirable that the findings and orders of the criminal courts should be treated as conclusive in proceedings before quasijudicial tribunals like the Transport Authorities under the Motor Vehicles Act.

(16) A Division Bench of Madras High Court in case of S. Krishnamurthy Vs. Chief Engineer, has followed the judgment given by the same Court in case of J.D. Silva (supra).

(17) A Single Judge of the Madhya Pradesh High Court in case of Qamarali Wahsd All Vs. State of Madhya Pradesh, has followed the same ratio and. has held that it is equally true that a departmental authority cannot be permitted to sit in judgment over a law court as if it were art appellate authority. It was observed that if criminal court has rendered acquittal on a particular charge no departmental proceeding can be initiated on the same charge based on same evidence' arid facts.

(18) A Division Bench of Mysore High Court in P.Ekambaram Ponauraogam Vs. General Manager and Competent Authority, Mysore Govt. Road Transport Department, Air 1962 Mysore 84(6) and a single Judge of Madras High Court in Shaik Kasim Vs. The Superintendent of Post Offices, appear to have also taken the same view. However, the ratio has been little tarred down by laying down that where the criminal court has tried the concerned person and acquitted him, it would be improper and such a proceeding is liable to be quashed as not in consonance with the principles of natural justice if the administrative authority later initiates disciplinary proceedings on the identical facts and identical charge and records a contrary conclusion. It was further clarified that there could be no right or inflexible rule that the finding of a criminal court is conclusive in every sense upon administrative authorities and if the finding is purely a technical acquittal, the administrative authority may conceivably punish on the same facts. However, it was emphasised that where the acquittal is substantially on merits, on identical facts and charges, it would not be proper for the disciplinary authority to record a finding of guilt ami to punish thereon. The learned Judge, in his wisdom, held that this is the basic principle of jurisprudence and it makes no difference that the departmental authority acts before a criminal proceeding or after it and the Court, in exercise of jurisdiction under Article 226 of the Constitution would be justified in striking down the action based on such findings as not in consonant with the principles of natural justice. Otherwise, grave

anomalies might follow.

(19) The Supreme Court, as far back as in 1963, in case of State of Andhra Pradesh Vs. S. Sree Rama Rao, Air 1963 Supreme Court 1720(8) has considered the distinction between the standard of proof required in criminal trials from what is required in departmental proceedings and laid down that there is no warrant for the view expressed by the High Court that in considering whether a public Officer is guilty of a misconduct charged against him, be rule" followed in criminal trials that an offence is not established unless proved by evidence beyond reasonable doubt to the satisfaction of the Court applied and if that rule is not applied, the High Court, under Article 226 is competent to declare the order of authorities holding the departmental enquiry invalid. Then the court had laid down the law as to in what cases the High Court can exercise the jurisdiction under Article 226 while dealing with the findings of facts arrived at in departmental enquiry and it was explained that the departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there be some legal evidence on which their findings can be based the adequacy or reliability of that evidence is cot a matter which can be permitted to be canvassed before he High Court.

(20) A single Judge of this Court in case of Kundan Lal Vs. Delhi Administration, 1976(1) S.L.R. 133(9) after noticing various judicial decisions on the subject, preferred to follow the middle view to the effect that when there is a substantial acquittal of the accused of criminal charge, there should not be a departmental proceedings against him in respect of the same charge on same facts unless there are present conditions like the acquittal being on technical ground or establishing the conduct which would make it. unworthy of the said officer continued in office.

(21) A Division Bench of Bombay High Court in case of Bhaurao Dagadu Thakur Vs. State of Maharashtra, 1972(10) Labour industrial Cases 1453 considered some of the judgments taking the view that no departmental proceedings can be initiated in- case of the same charges acquittal has been rendered by the criminal court on merits. The learned judges examined the provisions of Section 11 of Code of Civil Procedure. Section 403 of old Criminal Procedure Code sad Article 20(2) of the Constitution and also the principle of issue estoppel and after noticing the judgments of the Supreme Court given in cases of S.A. Venkataraman, (supra) and Adi Pherozshah Gandhi (supra), proceeded to hold that the view expressed by the Madras High Court in case of J.D. Silva (supra), which is followed by other High Courts, is not sound. In para 10, it was laid down as follows :- "WHAT seems to have weighed heavily on the minds of the learned Judges is "the strange predicament" of there being confficting, findings in the even of two different tribunals being called upon to decide upon same set of facts. But, in our opinion, such contingency is implicit where two different tribunals are called upon to decide questions arising out of same set of facts for altogether different purposes and under different procedures and rules and standard of evidence."

It was, hence, laid down: that the domestic tribunal such as dismissing authority in departmental proceedings does rot violate any rule of law or any other principle of law, when- it chooses to ignore the findings of the criminal court and decides to act on the evidence led before him and ultimately comes to the conclusion that such police officer is not fit to be retained in service inspite of his acquittal by the criminal court and such 'ribunal does not violate any principle of natural justice merely by ignoring such findings of the criminal court where otherwise he has recorded his finding

after giving full opportunity to the delinquent to have his say.

(22) The Division Bench has followed the Similar view expressed by the Gujarat High Court in case of the Moti Singh Vs. S. D. Mehta, . It also quoted the observations made by the Supreme Court in. case of Pritam Singh Vs. State of Punjab, which lays down that the effect of verdict given by a criminal competent court is binding and conclusive in all the subsequent proceedings between the parties to the adjudication. The maxim res judicata pro vitiate acceptor as no less applicable to criminal than to civil proceedings were interpreted to mean that such person cannot be tried again in any criminal court on the strength of the same facts but the Supreme Court could not have intended to have laid down that such acquittal is effective even in departmental proceedings when the rules and provisions of the Constitution themselves speak to the contrary.

(23) A Division Bench of the Mysore High Court in case of Nissar Ahmed Vs. State of Mysore, 1970(2) Mysore Law Journal 199(13) has also held that discharge in a criminal case is no bar to departmental enquiry on same charge based on same allegations as in the criminal prosecution.

(24) A Division Bench of the Orissa High Court in case of Jayaram Panda Vs. D. V. Raivani, has laid down that an order of acquittal passed in a criminal case does not debar a departmental enquiry on self-same charges. Even if delinquent is honourably acquitted, a discretion is left with the authority himself arid if he, on the facts and circumstances of the case, feels that notwithstanding the acquittal of the delinquent, a departmental enquiry is expedient, ordinarily that should not be open to scrutiny by a court. This judgment has made reference to certain observations of the Supreme Court made in case of Partap Singh Vs. State of Punjab where it has been held that the Government is also free to conduct departmental proceedings after the close of the' criminal proceedings. Various judgments taking conflicting views have been noticed in this Full Bench case.

(25) Reliance was also placed on the observations of Supreme Court in case of Corporation of the City of Nagpur, Civil Lines Nagpur Vs. Ramachandra G. Modak, In the said case, the question which arose before the Apex Court was whether the Municipal Commissioner being the competent authority to suspend the employee pending departmental enquiry, the High Court was justified in quashing the order of suspension ? The Supreme Court considered the question whether the departmental proceedings which were pending enquiry should continue or not. The Supreme. Court noted that the criminal cases instituted against the employee were still pending and therefore, they directed the Magistrate to conclude the criminal proceedings and it was observed as follows :- "THE other question' that remains is if the respondents are acquitted in the criminal case whether or not the departmental enquiry pending against the respondents would have to continue. This is a matter which is to be decided by the department after considering the nature of the findings given by the criminal court. Normally where the accused is acquitted honourably and completely exonerated of the charges, it would not be expedient to continue departmental enquiry on the very same. charges or evidence, but the fact remains that merely because the accused is acquitted, the power of authority concerned to continue the departmental enquiry is not taken away nor is its discretion in any way fattered."

(26) The Full Bench in case of Jayaram Panda (supra) then expressed the view that discretion is available to the departmental authorities to initiate or continue the departmental proceedings on same charge on which the criminal court has rendered the judgment of acquittal on merits. In judgment delivered by one of the Judges, the then Hon'ble the Chief Justice H. L. Aggarwal, it was noticed that there is not any difference between the expression "honorable acquittal" and "acquittal simplicitor".

(27) In case of Masud Khan Vs. State of U.P. the question of applicability of issue estoppel was also discussed and it was laid down as follows :- "THE principle of issue estoppel is simply this that where an issue of fact has been tried by a competent court on a former occasion and a finding has been reached in favor of an accused, such a finding would continue an estoppel or res judicata against the prosecution not as a bar to the trial and conviction of the accused for a different or distinct offence but as precluding the reception of evidence to disturb that finding of fact when. the accused is tried subsequently even for a different offence which might be permitted by law."

So, the Full' Bench held that initiation of departmental proceedings is not vitiated only on the ground that the' charges on which the departmental proceedings are based have been already examined by the criminal court and criminal court has rendered the judgment of acquittal on merits.

(28) A single Judge of the Andhra Pradesh High Court in case of S. Rama Rao Vs. Food Corporation of India, 1989 (5) S.L.R. 567(18) has expressed a view that if there has been honorable acquittal by the criminal court, then departmental proceedings on the same charges cannot be initiated. However, the' judgment does not discuss any judgment of the Supreme Court or other High Courts taking a different view.

(29) A single Judge of the erstwhile Pepsu High Court in case of Dalmer Singh Vs. State of Pepsu, Air 1955 Pepsu. 97(19) has held that even where there has been a regular trial, the judgment of the criminal court is not necessary decisive as regards departmental or disciplinary action.

(30) A single Judge of the Kerala High Court in case of J. Spadigam Vs. State of Kerala, 1970 Kerala Law Times 1047(20) has also laid down that the judgment of a criminal court acquitting the accused on the merits of the case would not bar disciplinary proceedings against him on the basis of the same facts The judgment would not operate as conclusive evidence in disciplinary proceedings. The reason for it is not far to seek as a criminal court requires a high standard of proof for convicting an accused. The case must be proved beyond reasonable doubt and the acquittal of an accused by a criminal court only means that the case has not been proved beyond reasonable doubt. Such a standard of proof is not required for finding a person guilty in disciplinary proceedings. It would be enough if there is a preponderance of probability of his guilty . The learned Judge has also expressed the view that the object of criminal law and its enforcement through criminal proceeding is different from that of a disciplinary proceeding. Whereas a criminal proceeding is mainly intended to punish persons who have broken the king's peace and thus to show the indignation of the community to criminals whereas disciplinary proceedings is meant to maintain the purity and efficiency of public service. It was noticed that in a criminal trial, the only evidence admissible is that which is made

admissible under the provisions of 'the Evidence Act whereas a tribunal conducting an enquiry is not bound by the strict rules of evidence. Any material which has a logically probative value to prove or disprove the facts in issue is of value and admissible. Therefore, in a disciplinary proceeding. a person can be found guilty of a charge on the materials which are inadmissible in evidence in a criminal trial. It was also laid down that a judgment of acquittal by a criminal court is inadmissible in a civil suit based on the' same cause of action except for very limited purpose mentioned in Section 43 of the Evidence Act. Just as a civil court must independently of the decision of the criminal court investingate facts and come to its own finding, a tribunal conducting a disciplinary proceeding must investigate the facts independently and come to its own finding without being hampered by the strict rules of evidence. We entirely agree with these reasons and the ratio given in this case.

(31) In case of Maharashtra State Board of Secondary & Higher Education Vs. K. S. Gandhi & Others, the Supreme Court has laid down in para 37 that the standard of proof in departmental proceedings is not a proof beyond reasonable doubt but the preponderance of probabilities tending to draw an inference that the fact must be more probable. Standard of proof cannot be put in a strait-jacket formula. The probative value could be gauged from facts and circumstances in a given case The standard of proof is the same both in civil cases and domestic enquiries. It was also laid down that strict rules of evidence do not apply to departmental proceedings or domestic tribunal.

(32) A Division Bench of this court to which one of us (P.K. Bahri, J.) was a party in case of Suraj Bhan Vs. Food Corporation of India (2?) Civil Writ Petition No. 3133189 decided on February 28, 1992 had quashed the departmental proceedings solely on the ground that there has been acquittal of the delinquent in criminal charge on merits. However, this judgment has not discussed various judgments, as noticed by us above, including the Supreme Court judgments. So, this judgment would be per inquirium. We are told that a Special Leave Petition was filed against this judgment. The Supreme Court has kept this question open for decision in any other appropriate case and had dismissed the Special Leave Petition on another point. This Special Leave Petition was decided on November Ii, 1992.

(33) However, the matter is no longer res integra in as much as the Supreme Court in case of Nelson Motis Vs. Union of India, now categorically laid down on this point as follows : "SO far as the first point is concerned, namely whether the disciplinary proceeding could have been continued in the face of the acquittal of the appellant in the criminal case, the plea has no substance whatsoever and does not merit a detailed consideraoin. The nature and scope of a criminal case are very different from those of a departmental disciplinary proceeding and an order of acquittal therefore cannot conclude the departmental proceeding. Besides, the tribunal has pointed out that the acts which led to the initiation of the departmental disciplinary proceeding were not exactly the same which were the subject matter of the criminal case."

(34) It is not necessary for us to express any view on the merits of Ihe case as decided by the criminal court. In view of the ratio now clearly laid down by the Supreme Court we hold that mere fact that acquittal has been rendered by the criminal court on the same charges on merits, the initiation of departmental proceedings on the same very charges based on same very facts and

evidence is no barred.

(35) So, we negative the first contention raised by learned counsel for the petitioner challenging the initiation of departmental proceedings on the ground that petitioner has been acquitted on merits by the criminal court on the same charges.

(36) Another point urged by learned counsel for the petitioner is that departmental proceedings have been initiated belatedly inasmuch as the petitioner was acquitted of the criminal charge as far back on 7th January 1990 whereas the departmental proceedings have been initiated in 1994. It is true that on the ground of delay, the initiation of departmental proceedings can be quashed. However, if there is a good explanation given for the delay caused in initiating the departmental proceedings, in that situation, the court would not exercise its discretionary jurisdiction in Article 226 for quashing the departmental proceedings.

(37) In Civil Writ Petition No. 3529/90, A.M. Roy Vs. Food Corporation of India, decided on February 7, 1991, a Division Bench of this Court had quashed the departmental proceedings as there has been inordinate and unexplained delay in initiating the departmental proceedigs.

(38) In Food Corporation of India Vs. George Verghese, , the departmental proceedings were not initiated as the criminal case was launched by lodging an F.I.R. and after, in appeal, the officer had earned the acquittal that the departmental proceedings were initiated and the Supreme Court held that there has been no inordinate or unexplained delay in initiating the departmental proceedings after termination of criminal proceedings finally. The Supreme Court said that authorities were fair in staying its hands as soon as the prosecution was initiated and it did not proceed with the departmental enquiry lest it may be said it was trying to over-reach the judicial proceedings.

(39) Sh. Ziley Singh, Deputy Manager, Food Corporation of India, who has filed the counter has explained the delay which has occurred in initiating the departmental proceedings. It is mentioned that no doubt the facts pertaining to initiating the charge against the petitioner occurred in 1985 and petitioner was also suspended but the departmental proceedings were not initiated as criminal prosecution was in progress against the petitioner and as soon as the criminal prosecution was over and the department came to know about the judgment, the department had written a latter to C.B.I. dated March 3, 1990 and repeated reminders were sent to C.B.T. to know as to what action, if any, is proposed to be taken after the judgment of the acquittal rendered by the criminal court and such reminders were issued on- 7-5-1990, 15-1-1991, 12-2-1991, 27-4-1991, 30-5-1991, 11-9-1991, 3-2-1992, 23-4-1992, 12-8-1992, 16-10-1992, 5-12-1992, 11-3-1993 and 26-4-1993. It is only by letter dated 3-6-1993 that the C.B.I, directed the department to initiate departmental proceedings against the petitioner but as the relevant documents were in possession of C.B.I. the respondent wrote a letter dated 5-7-1993 requiring the C.B.I, to send the draft chargesheet Along with the relevant documents to enable the respondent to proceed further in the matter and reminders were issued dated 18-1-1994 and 25-3-1994 and it was only on 23-5-1994 that C.B.I, responded by sending the necessary documents and the draft charge-sheet and it was learnt that C.B.I. could not take any action earlier on the letters issued by the respondent to C.B.I. as Mr. Amit Verma, who was in charge of the case, was busy in investigating the case of assassination of Sh. Rajiv Gandhi.

(40) A reference has been made to para 1.7 of Chapter in of Vigilance Manual wherein it has been mentioned that once a case has been entrusted to C.B.J. for investigation, further inquiries should be left to them and departmental enquiry, whether fact-finding or a formal under the Discipline and Appeal Rules, if any commenced already should be held in abeyance until such time as the investigation by C.B.I, has been completed and further action by the administrative authority should be taken on the completion of the investigation by C.B.I, on the basis of their report.

(41) So, it is urged on behalf of the respondents that without receiving the proper report from C.B.I. as envisaged by the aforesaid provisions of the Vigilance Manual, the department could not have been in; a position to take any decision whether any departmental proceedings should or should not be initiated against the petitioner despite the petitioner having been acquitted in the criminal case based on the same charges.

(42) We find that in the present case, proper and reasonable explanation has been given by the respondent for the delay which has occurred in initiating the departmental proceedings against the petitioner. So, we do not find that it is a fit case for quashing the departmental proceedings on the ground of delay. No other point has been urged before us. We find no merit in this petition which we hereby dismiss but in view of the peculiar facts, we leave the parties to bear their own costs. However, we require the authorities to complete the departmental proceedings as expeditiously as possible.