

The applicant is aggrieved by order dated 10.09.2018 (Annexure A-1), whereby his representation for reinstatement back in service after acquittal in the criminal case has been rejected by the respondents.

2. Facts of the case, in brief are that a charge sheet was issued to the applicant when he was posted as Postal Assistant, Head Office, Raipur on 22/25.04.1992 (Annexure -2) alleging loss of Government money due to negligence on behalf of the applicant. It was also alleged against the applicant that he had accepted a deposit of Rs.10000/- from a postal agent and granted the receipt of the same. However, he did not enter the same in the postal record, as a result, the Department had sustained financial loss. The matter was also reported to the police and two criminal cases nos.7619/1992 and 1022/2010 were registered against the applicant. The department proceeded with the departmental enquiry and the Disciplinary Authority vide its order dated 08.06.1994 inflicted the punishment of dismissal from service on the applicant. The applicant, thereafter, preferred an appeal but the same was rejected by the Appellate Authority vide order dated 29.12.2000 (Annexure A-3).

3. It is the case of the applicant that for the same incidence, criminal cases were registered against the applicant and, therefore, the Department ought



not to have proceeded with the departmental enquiry. Ultimately, the said criminal cases ended in acquittal in the year 2017 and when the applicant made a representation praying for reinstatement in service after his acquittal, the departmental has not considered his representation and rejected the same in a mechanical manner.

4. In their reply, the respondents have stated that Government of India's decision 5(5) under Rule 14 of the CCS (CCA) Rules, 1965 provides that the department may proceed with the departmental proceedings where there is criminal trial on the very same charges. Hence, the department has decided to proceed with the departmental enquiry as per rules after providing ample opportunities to the applicant to defend himself and after completion of departmental enquiry, penalty of dismissal from service was imposed upon the applicant. In the order dated 09.03.2017 issued in the criminal case No.380/1992, nothing has been mentioned to reinstate the applicant in service.

5. We have heard the learned counsel for the parties and perused the pleadings and the documents available on record.

6. It is a settled position that departmental proceedings and proceedings in criminal case can proceed simultaneously, as there is no bar in their being



conducted simultaneously, though separately. 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, whereas 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 question of fact and law. Offense 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. Converse is the case of departmental enquiry. The inquiry 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. The strict standard of proof or applicability of the Evidence Act stands excluded is a settled legal position. It is always question of fact to be considered in each case depending on its own facts and circumstances. Thus, there can be no doubt regarding the settled legal proposition that as the standard of proof in both the proceedings is quite different, therefore, no interference is required by this Court in the departmental proceedings being carried out against the applicant.

7. It is also well settled that acquittal in a criminal case does not automatically entitles an employee to seek reinstatement back in service and it is always open for the appointing authority to decide such issue looking to the seriousness of the offence. In the present case, it is a proven case in the departmental proceedings that the applicant has misappropriated the Government money and even after affording him sufficient opportunities, he had failed to prove his innocence. Thus, once the charges regarding misappropriation of Government money have been duly established against



the applicant in the departmental proceedings, the respondents cannot be compelled to reinstate back the applicant in service even after his acquittal in the criminal case. Moreover, in the criminal case No.377/94 registered against the applicant under Sections 420 and 409 of IPC, the applicant has been acquitted on the basis of 'benefit of doubt' and this itself cannot be a sufficient ground for the applicant to seek reinstatement.

8. In view of the foregoing reasons, we do not find any merit in this Original Application. Accordingly, the Original Application is dismissed. No order as to costs.

(Kumar Rajesh Chandra)
Administrative Member

(Akhil Kumar Srivastava)
Judicial Member

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