

IN THE HIGH COURT OF JHARKHAND AT RANCHI

**L.P.A. No. 462 of 2025**

Sanjay Nishad, aged about 46 years, Son of Late Harimullah, Resident of Block NO. 24, Qr. No. 278, Murlinagar, P.S. Saraidhela, P.O.- B.C.C.L. Township, Koyla Nagar, District-Dhanbad, Jharkhand.

... Appellant

Versus

1. Bharat Coking Coal Limited through its Chairman cum Managing Director, having its office at Koyla Bhawan, P.O. and P.S. Saraidhela, District Dhanbad.
2. General Manager, Bharat Coking Coal Limited Bastacolla Area-IX, P.O. and P.S. Dhansar, District-Dhanbad.
3. The Project Officer, Bharat Coking Coal Limited Dobari Colliery, Bastacolla Area-IX, P.O. and P.S. Dhansar, District-Dhanbad.

... Respondents

With

**L.P.A. No. 463 of 2025**

BHUTESHWAR PRASAD SHAW, aged about 37 years, son of Late Mahabir Shaw, resident of village- Kasiatand, P.O. Kalyanpur P.S. Barbadda, District Dhanbad (Jharkhand) ... Appellant

Versus

1. Bharat Coking Coal Ltd through its Chairman-cum-Managing Director, having its office at Koyala Bhawan, PO. and P.S. Saraidhela, District Dhanbad.
2. The General Manager (P & IR), Bharat Coking Coal Ltd, having its office at Koyala Bhawan, P.O. and P.S. Saraidhela, District Dhanbad.
3. The General Manager (P & IR), Bharat Coking Coal Ltd, East Basuria Colliery, Kusunda Area, P.O. and P.S. Kusunda, District Dhanbad.
4. The Disciplinary Authority-cum-Project Officer, East Basuria Colliery, Bharat Coking Coal Ltd, Kusunda Area, P.O. and P.S. Kusunda, District Dhanbad.

... Respondents

With

**L.P.A. No. 467 of 2025**

NARESH NISHAD, aged about 51 years, Son of Shri Prakash Mallah, Resident of Kusum Vihar, Koyla Nagar, P.O Koyla Nagar P.S. Saraidhella District Dhanbad, Jharkhand. ... Appellant

Versus

1. Bharat Coking Coal Limited through its Chairman cum Managing Director, having its office at Koyla Bhawan, P.O. and P.S. Saraidhela, District Dhanbad, (Jharkhand).
2. The General Manager, Lodna Area, Bharat Coking Coal Limited, Lodna, PO Bhaga, P.S Jharia, District Dhanbad (Jharkhand).

... Respondents

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**CORAM: HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE RAJESH SHANKAR**

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For the Appellant(s) : Mr. Sudarshan Srivastava, Advocate  
Mr. Anil Kumar, Advocate.  
For the Respondents : Mr. Anoop Kumar Mehta

Mr. Amit Kumar Das, Advocate.  
Mr. Shivam Utkarsh Sahay, Advocate.  
Mr. Amit Kumar Sinha, Advocate.  
Mr. Manish Kumar, Advocate.

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**C.A.V. On: 01.09.2025**

**Pronounced On: 09.09.2025**

**Per Tarlok Singh Chauhan, C.J.**

1. We have heard the learned counsel for the parties and have gone through the materials available on record.
2. The moot question in all these appeals, which arises out of a common judgment rendered by the writ Court is whether the criminal case and the departmental proceedings against the petitioner(s)-appellant(s) can be permitted to continue simultaneously. The learned writ Court held that preventing the respondents from passing final orders in the departmental proceedings in the backdrop of delay in finalizing of the criminal case could not be in the interest of justice and accordingly dismissed the writ petitions filed by the appellants herein.
3. The facts of each of the case are enumerated in brief as under:-
4. **L.P.A. No. 462 of 2025**
5. The appellant was appointed as Miner Loader on 18.8.2000 at Dobari Colliery of Bastacolla area.
6. The appellant was thereafter transferred to Ena colliery on the post of Dispatch clerk and has been working in the said post since then.
7. During the service period of the appellant a criminal case was instituted against the appellant vide FIR No. RC Case No.01(A)/2018-D, dated 29.1.18 under Section 7 of the Prevention of Corruption Act, alleging therein that the appellant had demanded an illegal

gratification of Rs.5000/- from the Complainant for furnishing details of contribution of Provident Fund etc. to him in respect of his father Rupa Bauri, the then support Mazdoor of Dobari colliery under Bastacolla area of Bharat Coking Coal Limited, Dhanbad. It is further alleged that the appellant had demanded Rs.3000/- as first installment of bribe of the total number of amount of Rs.5000/- for furnishing the details of the said Provident Fund contribution.

8. The CBI had submitted a charge sheet dated 26.3.18 under sections 7 and 13(2) read with 13(1)(d) of the Prevention of Corruption Act.

9. The appellant had been granted anticipatory bail by this Court vide order dated 9.5.2018.

10. The appellant was put under suspension vide letter dated 19.4.18 by Project Officer, Dobari colliery.

11. Thereafter the appellant was served with Article of Charges vide memo Ref. No. D/IX/18/87, dated 12.6.2018, wherein the appellant was supplied with the article of charges alleging therein that the appellant while posted as Provident Fund clerk in the office of Project Officer, Dobari Colliery, Bastacolla committed a grave misconduct as much as demanded and accepted bribe of Rs.2000/- from Mr. Subhash Bauri/Complainant for furnishing the details of Provident fund, pension contribution with additional increment etc., in respect of his father Sri Rupa Bauri, support Mazdoor and on the basis of the said Memorandum, Departmental proceeding was initiated against the appellant.

12. Thereafter the Departmental Proceeding continued against the appellant and the appellant regularly attended the departmental

proceeding which is evident from the Minutes of the Departmental Proceeding dated 26.3.18 and 12 6.18. The departmental proceeding is still in way and the appellant is regularly attending the proceeding.

13. That the said departmental proceeding is illegal and devoid of merits.

14. That from perusal of Annexure-1, it will be evident that the prosecution in total has examined altogether 18 witnesses and have also examined 20 documents connected to the present criminal proceeding. Further the prosecution has relied upon 20 lists of material objects and exhibits in connection with RC No. 01(A)/2018-D.

15. That from perusal of the impugned memorandum, it would be evident that in the departmental proceeding as much as seven documents have been relied upon which also forms the part of first information report. Also, the departmental proceeding under the list of witnesses there are seven witnesses that have been examined which would also form part of the first information report.

16. That from the perusal of the memorandum, it would be evident that from the similar sets of facts and allegation to the extent that the appellant had demanded illegal gratification for furnishing the details of the provident fund, Pension Contribution with additional increment with respect to the father of the complainant Sri Rupa Bauri.

17. That from perusal of both the articles of charge and the first information report, it would be evident that there are similar set of facts and allegations which has formed part of memorandum of the same as against the law and judicial pronouncements.

18. That the appellant made a representation dated 8.5.19 before the concerned authorities for staying of the departmental proceeding and the same has not been replied by the concerned authorities till date.

**19. L.P.A. No. 463 of 2025**

20. That the appellant was appointed on the post of General Mazdoor on 02.04.2010 in Basuria Colliery and was continuing with his employment under Bharat Coking Coal Ltd (hereinafter referred to as "BCCL" in short).

21. That in the year 2015 the appellant was appointed on the post of Clerk after following due process of law in Basuria Colliery with respondent-BCCL and thereafter the appellant was honestly and diligently performing his duties.

22. That in the year 2020, an F.I.R. dated 12.05.2020, being CBI/DNB Case No. RC-3(A)/2020(D) was registered under Section 7 of the Prevention of Corruption Act, for the allegation that the appellant demanded gratification of Rs.25,000/- from the complainant and during verification, the appellant being an accused in the F.I.R., agreed to accept illegal gratification of Rs. 10,000/- as first installment of total demanded bribe of Rs.25,000/-.

23. That thereafter the appellant was taken into custody on 13.05.2020 and the appellant accordingly moved before this Court for grant of bail at subsequent stage of litigation vide B.A. No. 4111/2020 and vide order dated 22.09.2020 passed by this Court, the appellant was granted bail and released from custody.

24. That thereafter the prosecution in the criminal case against the appellant submitted charge sheet under Section 173 Cr.P.C. for the

offence under Section 7 of the P.C. Act enclosing list of witnesses, documents, material objects and original sanction of prosecution.

25. That after the appellant was taken into custody on 13.5.2020, a letter was issued from Respondent No.4, putting the appellant under suspension with effect from 13.5.2020. However, suspension of the appellant was revoked on 06.04.2021 and thereafter the appellant gave his joining before the respondent-authority on 07.04.2021.

26. That thereafter the appellant was served with Memo of charges contained in reference no. 236 dated 04.01.2021 containing articles of charges, description of documents and details of witnesses. Further, by the said letter the appellant was directed to file reply to the show cause to the allegations within fifteen days from the date of receipt of said Memo of charges.

27. That in pursuance to direction contained in reference no. 236 dated 04.01.2021, the appellant submitted his reply to the said Memo of charges on 16.01.2021 and requested the concerned respondent to provide/supply him documents pertaining to the Memorandum of charges and departmental proceeding.

28. That in response to request made by the appellant, the appellant was served with letter dated 29.01.2021 contained in reference no. 254, by which the appellant was directed to file his reply within seven days as earlier reply filed by the appellant to the Memorandum of charges vide letter dated 04.01.2021 was not satisfactory.

29. That thereafter the appellant in response to letter contained in reference No. 254 dated 29.01.2021 made representation before the respondent, inter-alia requesting the respondents to provide list of

documents, statement of imputation annexed along with Memorandum of charges contained in reference no. 236 dated 04.01.2021.

30. That the appellant was served with office order contained in reference no. 1515 dated 23.3.2021 issued by respondent No.4 whereby and where under the respondent decided to initiate departmental enquiry for the allegations levelled against the appellant, Memorandum of charges dated 04.01.2021 and Shri A.K.Dubey, General Manager (EXCV), Kusunda Area was appointed as Enquiry Officer.

31. That in response to letter no. 1551 dated 23.3.2021 the appellant submitted representation before the respondent, inter-alia, requesting the authority to stay the departmental proceeding till the final outcome of the criminal case launched against the appellant as the same is based on the same set of facts between the departmental proceeding and criminal case.

32. That initiation of departmental proceeding is based upon similar facts contained in the F.I.R. and charge sheet.

33. That from perusal of the Memorandum of Charges contained in reference no. 236 dated 4.1.2021, it will be evident that the allegation levelled against the appellant is that while he was posted and functioning as Clerk of Basuria Colliery, Kusunda Area, he committed grave misconduct by demanding bribe of Rs.25,000/- and accepting bribe of Rs.10,000/- as first installment from Shri Dwarika Mandal son of Khirodhar Mandal, Retd. Line Helper of East Basuria Colliery for processing his claim, such as P.F, Pension, gratuity etc. after his superannuation and was arrested by C.B.I. for his cognizable offence

punishable under Section 7 of P.C. Act, 2018. Thus, by the above act, the appellant failed to maintain absolute integrity and devotion to duty and committed misconduct under clause 26.1.3 of the certified Standing orders applicable for the workmen of establishment under B.C.C.L.

**34. L.P.A. No. 467 of 2025**

35. That the appellant was appointed as Minor Loader on 24.7.1995 under Respondents and is presently working as Assistant Revenue Inspector, Lodna Area office in the district of Dhanbad.

36. That a criminal case was instituted against the appellant vide FIR No. RC-02(A)/2018-D dated 05.02.2018 under Section 7 of the Prevention of Corruption Act, 1988 for demand of illegal gratification of Rs.5000/-from the complainant of the F.I.R. for putting up and processing land acquisition claim etc. of the complainant namely Shri Sudam Deo.

37. That it is stated that after lodging of F.I.R. and institution of Criminal case, the appellant was taken into custody and thereafter, series of litigation took place and finally, the appellant was released on bail vide order dated 16.5.2018 passed by this Court in B.A. No.3345 of 2018.

38. That it is stated that in the said R.C. case No. 02(A)/2018-D, charge sheet dated 26.3.2018 was drawn under Section-7 and 13(ii) read with Section 13(i) (d) of the Prevention of Corruption Act, 1988.

39. That soon after lodging of criminal case and arrest of the appellant, the appellant was put under suspension vide reference letter no. 1245 dated 06.02.2018 by the Additional General Manager, Lodna Area, Bharat Coking Coal Ltd. stating therein that the



appellant has committed offence under Clause - 27(2) (i) of the Certified Standing Order and thereby, is liable to be put under suspension.

40. That subsequently suspension of the appellant was revoked on 09.03.2018 and the appellant was allowed to continue in the service. However, vide letter contained in Memo No. 388 dated 26-27/6.2018 Memorandum of charges were drawn and served against the appellant.

41. That from perusal of Memorandum of charges dated 26-27/6/2018 it would be evident that it was alleged against the appellant that the appellant while being posted and functioning as Assistant Revenue Inspector of the Establishment-Department in the office of General Manager, Lodna area committed grave misconduct as much has demanded and accepted bribe of Rs.5,000/- from Shri Sudam Deo (complainant) for processing compensation of his land for mining activity by BCCL at Tisra Colliery, Lodna Area. Thus, by the above act, the appellant failed to maintain absolute integrity and committed misconduct under Clause- 26(i)(xxiii) of the Certified Standing Orders applicable for workman of establishment under BCCL.

42. That from memorandum as contained in Memo no. 388 dated 26-27/6/2018 (Annexure-5), the appellant was also directed to submit his written statement of defence on specified date failing which necessary orders may be issued in pursuance of enquiry against the appellant ex-parte.

43. That in compliance to said direction contained in said memo no.388 dated 26-27/6/2018, the appellant submitted his response and

made statement of defence refuting all the charges against him and gave necessary clarification for him being innocent.

44. That vide reference no. 360 dated 13-15/04/2019, Shri U.C. Gupta, Chief Manager, Mining, Lodna Area, was appointed enquiry officer to enquire into the allegations made in office Memo no. 388 dated 26-27/06/2018.

45. That said departmental proceeding was initiated against the appellant and the appellant was directed to appear before the inquiry officer on 18.6.2019 to present his case. The said communication has been forwarded to the appellant vide reference no. 304 dated 31.5.2019.

46. That in compliance to direction contained in reference no. 304 dated 31.5.2019, the appellant appeared before the Inquiry officer where he was handed over series of documents which is to be relied upon by the inquiry officer during the course of departmental proceeding.

47. That from perusal of FIR, Annexure-5 and 8, it would be evident that all the documents that have been relied upon by the Department in the Departmental Proceeding, forms part in the FIR.

48. That Inquiry officer as well as the Department has picked and considered exactly same set of documents in the Memo of charges as well as list of documents that was handed over to the appellant vide minutes of departmental proceeding dated 18.6.2019, which are also part of FIR and criminal case launched against the appellant.

49. It is vehemently contended by learned counsel for the appellants that the departmental enquiry and the criminal proceedings cannot continue at the same time and therefore, the

disciplinary proceedings ought to be stayed till the outcome of the criminal proceedings. Strong reliance has been placed on the judgment passed by the Hon'ble Supreme Court in the case of ***Stanzen Toyotetsu India Private Limited v. Girish v. and others*** reported in **(2014) 3, SCC 36** and more particularly, paragraph 19 thereof. It is further argued that the disciplinary proceedings and criminal trial cannot continue simultaneously, as held by the Hon'ble Supreme Court in ***Captain M. Paul Anthony v. Bharat Coalmines Limited*** reported in **(1999) 3 SCC 679**.

50. However, we find no merit in this contention; in case, the judgment rendered in ***Captain M. Paul Anthony (Supra)*** is minutely perused, then it would be noticed that it has been specifically held that departmental proceedings can be resumed and proceeded, even when they may have been stayed earlier in cases, where the criminal trial does not make any headway. It shall be apt to reproduce the relevant observations made in paragraph 14 of the judgment in ***Stanzen's*** case (Supra), wherein the Hon'ble Supreme Court after taking into consideration ***Paul Anthony's*** case (Supra) observed as under:-

*“14. In Paul Anthony this Court went a step further to hold that departmental proceedings can be resumed and proceeded even when they may have been stayed earlier in cases where the criminal trial does not make any headway.”*

51. As a matter of fact, in ***Stanzen's*** case (Supra), an identical question as involved in the instant lis was involved and the Hon'ble Supreme Court held that the question, as raised in the writ petition would depend upon whether there is any legal bar to the continuance of disciplinary proceeding against the employees based on an

incident, which is also subject matter of criminal case against such employee. It would also depend upon the nature of the charges in the criminal case filed against the employee and whether the case involved complicated questions of law and facts. The possibility of prejudice to the employees accused in the criminal case on account of parallel disciplinary inquiry going ahead is another dimension which will have to be addressed while permitting or staying such disciplinary inquiry proceeding. It was held that there could not be any short-cut solution to the problem but it was unequivocally well-settled and not disputed that there is no legal bar to the conduct of disciplinary proceedings and a criminal trial simultaneously.

52. At this stage, it has to be remembered that the purpose underlying departmental proceeding is distinctly different from the purpose behind prosecution of offenders for commission of offences by them. While criminal prosecution for an offence is launched for violation of the duty that the offender owes to the society, departmental enquiry is aimed at maintaining discipline and efficiency in service. The difference in the standard of proof and the application of Rules of evidence to one and inapplicability to the other is also required to be taken into consideration which makes it abundantly clear that conceptually disciplinary proceedings and criminal proceeding operate in different sphere and are intended to serve distinctly certain purposes.

53. In ***Karnataka State Road Transport v. M.G. Vithal Rao*** reported in **(2012) 1 SCC 442**, summarized the principles in the following words :-

- (i) There is no legal bar for both the proceedings to go on simultaneously;
- (ii) The only valid ground for claiming that disciplinary proceeding may be stayed, would be to ensure that defence of the employee in criminal case may not be prejudiced. But, even such grounds would be available only in case involving complex questions of facts and law.
- (iii) Such defence ought not to be permitted to necessarily delay the departmental proceedings. The interest of the delinquent officer as well as the employer clearly lies in a prompt conclusion of the disciplinary proceeding.
- (iv) Departmental proceedings can go on simultaneously to the criminal trial, except whether both the proceedings are based on same sets of fact and the evidence in both the proceedings is common.

54. Earlier, the Hon'ble Supreme Court in **Stanzen's** case (Supra), summarized the principles as follows:-

*"11. We may also refer to the decision of this Court in Capt. M. Paul Anthony v. Bharat Gold Mines Ltd., where this Court reviewed the case law on the subject to identify the following broad principles for application in the facts and circumstances of a given case: (SCC p. 691, para 22).*

*"(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 employee is of a grave nature which involves 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."*

55. In ***Hindustan Petroleum Corporation Limited v. Sarvesh Joshi*** reported in **(2005) 10 SCC 471**, the respondent was charged with possessing asset disproportionate to his known source of income. The question was whether disciplinary proceeding should remain stayed pending a criminal charge being examined by a competent criminal court allowing the appeal of the employer Corporation, the Hon'ble Supreme Court held as under:-

*"8. So, a 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 a grave nature involving complicated questions of fact and law. 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."*

(emphasis supplied)

56. The legal position was summed up by the Hon'ble Supreme Court in **Stanzen's** case (Supra) as follows:-

*"13. It is unnecessary to multiply decisions on the subject for the legal position as emerging from the above pronouncements and the earlier pronouncements of this Court in a large number of similar cases is well settled that disciplinary proceedings and proceedings in a criminal case can proceed simultaneously in the absence of any legal bar to such simultaneity. It is also evident that while seriousness of the charge leveled against the employees is a consideration, the same is not by itself sufficient unless the case also involves complicated questions of law and fact. Even when the charge is found to be serious and complicated questions of fact and law that arise for consideration, the court will have to keep in mind the fact that departmental proceedings cannot be suspended indefinitely or delayed unduly."*

57. In **Eastern Coalfields Ltd. v. Rabindra Kumar Bharti** reported in **(2022) 12 SCC 390**, the Hon'ble Supreme Court observed as under:-

*"13. We would notice that this is a case where there is a criminal case against the respondent. The appellant(s) as employer also launched disciplinary proceedings. It is undoubtedly true that this Court has taken the view that when the charges are identical and give rise to complicated issues of fact and law and evidence is the same, it may not be appropriate to proceed simultaneously in disciplinary proceedings, along with the criminal case. The rationale behind the principle largely is that the employee who is facing the disciplinary proceeding would necessarily have to take a stand. This in turn would amount to revealing his defence and therefore prejudice the employee in the criminal proceedings. No doubt, this Court has laid down that it is not an absolute embargo*



and the principle is one to be applied based on the facts of each case.

14. Even applying the principles as such to the facts, that is, examining its impact on the destiny of this case, we find as follows: When the respondent was faced with the disciplinary proceeding, he approached the High Court. Apparently, he sought stay of the proceedings. The High Court did not deem it appropriate to grant stay of the disciplinary proceeding. Instead, as noticed by us by order dated 29-6-2017, the proceedings were allowed to be continued. According to the appellant(s) proper enquiry was held and the respondent participated. As to whether the enquiry was held properly or not is not a matter on which we do express our opinion. However, at the end of the enquiry as held by the appellant in view of the order [Rabindra Kumar Bharti v. Eastern Coalfields Ltd., 2021 SCC OnLine Cal 3460] passed by the High Court the appellant sought permission to pass the final order, or the appropriate order of penalty. This led to the disposal of the writ petition itself by the learned Single Judge. The learned Single Judge in the judgment noticed that this is a case where the respondent had already revealed his defence by participating in the proceedings. It is further found that order dated 29-6-2017, which permitted the enquiry to be continued was not challenged. The learned Single Judge accordingly permitted the disciplinary proceedings to attain finality at the hands of the disciplinary authority. The disciplinary authority accordingly passed an order dismissing the respondent from service. No doubt this is during the pendency of the appeal.

15. In the appeal, the order of the disciplinary authority dismissing the respondent was not the subject-matter of challenge by way of an amendment in the writ petition. The Division Bench has posed the question as to what would happen if the criminal trial culminates in acquittal and it is thereafter that the High Court deemed it appropriate also apparently with reference to its power under Order 41 Rule 33 to pass the order keeping in abeyance the order of dismissal and it was to become operative upon the criminal trial going against the respondent.



16. We would notice that what is most pertinent is the aspect that in the challenge in the writ petition against the holding of the disciplinary proceedings, obtaining of an interim order in the nature of the case was of relevance and importance to the question at hand. The principle involved being that when parallel proceedings are held on the basis of identical charges and the same evidence, the employee should not be allowed to disclose his defence. This aspect of the matter is to be looked into with reference to the effect of the order dated 29-6-2017.

17. As a result of the said order passed during the pendency of the writ petition, the respondent had allegedly participated in the enquiry and there would be no scope for applying that principle as such. In such circumstances, we think that the High Court may not have been justified in passing the impugned order [Rabindra Kumar Bharti v. Eastern Coalfields Ltd., 2021 SCC OnLine Cal 3460] the result of which is that though the appellant(s) conducted the disciplinary proceeding as permitted by the learned Single Judge and the respondent allegedly participated in it and all that remained was passing of an order by the disciplinary authority and what is more during the pendency of the appeal no doubt the order of dismissal has been passed, the appellant is forced to retain the respondent and the order is to remain in suspended animation to attain finality only if the criminal case is decided in the future and it ends in the conviction of the respondent. We do not think that the High Court was justified in passing such an order in the facts of this case.

Emphasis Supplied

58. Adverting to the facts of the instant case, it needs to be noticed that when the facts of the instant case are considered in the light of the aforesaid exposition of law, it would be noticed that in all the cases charges of grave misconduct of demanding and accepting bribe having leveled against all the appellants which obviously relates to the integrity of the individual and the charges relating to their discharge (of duties) in the respondent-Company.

59. Therefore, keeping the departmental proceedings pending only on account of the criminal proceedings having not reached the logical end is clearly against the public interest and an identical issue came up recently before the Hon'ble Supreme Court in ***Food Corporation of India v. Harish Prakash Hinunia*** passed in Civil Appeal No.3586 of 2025 decided on 05<sup>th</sup> March, 2025 where departmental proceedings had been initiated against the respondents was involved in a trap case whether the payment of Rs.1,00,000/- (Rupees One lakh only) meant for him was recovered. Therein, the respondent submitted that the charges were identical in both the criminal case and the proposed departmental enquiry and based on this defence, the High Court directed the appellants therein not to proceed with the departmental proceedings. Aggrieved by the judgment, the Food Corporation of India approached the Hon'ble Supreme Court. The Hon'ble Supreme Court after considering the matter held that preventing the appellants from initiating the departmental proceedings would not be proper as the charge is serious and relates to various discharge of duties and functions of the respondent therein in the appellant-Corporation. We shall have to reproduce the relevant observations as contained in paragraphs 3 to 7 of the judgment, which reads as under:-

*"3. The appellants are aggrieved by the impugned order inasmuch as it has prevented the appellants from initiating a departmental proceeding against the respondent who was involved in a trap case where the payment of Rs.1,00,000/- (Rupees One Lakh Only) meant for him, has been recovered.*

*4. Learned counsel for the appellants submits that only on the ground that there is a substantive criminal case pending, till the disposal of the same, the appellants should not initiate any*

*departmental proceeding against the respondent. Learned counsel submitted that in the present facts of the case, the High Court has relied upon judgments which do not completely bar the departmental proceedings to go on simultaneously to the criminal trial while ensuring that the defence of the employee in the criminal case may not be prejudiced. It was submitted that same are distinguishable inasmuch as they only state that it is desirable to keep the departmental proceeding pending where there is a criminal case pending but the distinguishing factor here is that it relates to integrity of the individual and the charges are relating to his discharge of duties in the appellant-Corporation. Thus, it was submitted that the respondent not being proceeded departmentally is against the public interest also for a person who has been charged of financial irregularity and accepting bribe is made to continue in the organisation without the employer having the right to even initiate the departmental proceeding.*

*5. Learned counsel for the respondent submitted that the charges were identical in both the criminal case and the proposed departmental inquiry and thus, the High Court has rightly directed the appellants not to proceed with departmental proceeding. Further, he submitted that one charge was different in the criminal case and with regard to that the High Court has permitted them to proceed with the departmental proceeding but even after a long gap of time, no such proceeding has been initiated.*

*6. Having considered the matter, we find that in the present facts and circumstances of the case, the order of the High Court is not justified. The respondent is said to have been the beneficiary of Rs.1,00,000/- (Rupees One Lakh Only) as bribe and for that, criminal case was instituted and departmental proceeding was proposed. Thus, preventing the appellants from initiating the departmental proceeding would not be proper as the charge is serious and relates to the very discharge of the duties and functions of the respondent in the appellant-Corporation.*

*7. For the reasons aforesaid, the Civil Appeal is allowed. The order of the High Court is set aside. The appellants are free to initiate the departmental proceeding against the respondent of charges for which the department proceeding was proposed and*

*also issued. Needless to say that the criminal proceeding shall be decided strictly on the basis of evidence adduced before the Court.”*

60. Since the appellants herein are said to have been beneficiaries of bribe and for that criminal case has been instituted and departmental proceedings are on the verge of conclusion, we are of the considered view that preventing the respondents from finalizing the departmental proceedings would not be proper as the charge is serious and relates to the very discharge of the duties and functions of the appellant(s) in the respondent-Corporation. The question of law is answered accordingly.

61. Accordingly, we find no merit in these appeals. These appeals are dismissed leaving the parties to bear the cost.

62. Pending application(s), if any, shall also stand disposed of.

**(Tarlok Singh Chauhan, C.J.)**

**(Rajesh Shankar, J.)**

**A.F.R.**

APK