the State Government to evolve the scheme in this behalf.Thus, the State Government has shown little interest in the matter. There is found no valid reason. Once the principle of parity has been accepted, it should not be left half way. It must be given full effect.

(24) In the result the writ petition is allowed with a direction to the respondents to prepare a scheme with regard to the remaining other allowances like medical allowances, bonus, leave travel concession and the retiral benefits like leave encashment etc. Respondents No. 4 to 12 (managements of the aided schools) shall prepare a scheme afresh regarding parity in respect of the aforesaid allowances and benefits which are admissible to the teachers of Government. schools but are not paid to the teachers of aided schools. The scheme shall be furnished to the State Government within six months from the date of this order. The scheme shall be prepared in consultation with the Association of teachers of the aided schools. The State Government shall thereafter take a decision thereon within three months from the date of submission of the scheme to it by respondents No 4 and 12.

(25) No order as to costs.

J.S.T.

Before Jawahar Lal Gupta & V. M Jain, JJ

RAM KISHAN,—*Petitioner*

versus

THE FARIDABAD COMPLEX ADMINISTRATION & OTHERS,—*Respondents*

C.W.P. No. 8103 of 1997

17th December, 1999

Constitution of India, 1950—Arts. 21 & 226—Disciplinary & criminal proceedings initiated placing the petitioners under suspension in 1986 on the charge of embezzlement—Trial Court acquitted the petitioner as no evidence produced before it till 1994—Petitioner reinstated without prejudice to pending departmental proceedings—Department failed to produce any material to prove the charge despite the lapse of 13 years—Merely because a charge sheet has been served it cannot be assumed that the charge is proved—Disciplinary proceedings against the petitioner quashed directing payment of full arrears of salary during his suspension period besides awarding an amount of Rs. 25,000 as compensation.

Held, that it is true that the charge of embezzlement is serious. If proved, the employee would not be normally entitled to continue in the service of the Corporation. However, it cannot be assumed that the charge is proved merely because a charge-sheet has been served on the petitioner. In fact, in the present case, the petitioner has been acquitted of the charge of embezzlement by the Court. Not only that. The respondents have not been able to produce even an iota of evidence against him during the proceedings as also before the court in the present case. Thus, not even a single piece of evidence has been brought on the file of the enquiry case despite the lapse of 13 years since the charge sheet was served on the petitioner.

(Para 11)

Further held, that we quash the disciplinary proceedings which have been pending against the petitioner since the year 1986. Keeping in view the fact that nothing has been proved against the petitioner, we consider it appropriate to direct that the period of suspension shall be treated to have been spent on duty and that he would be entitled to full arrears of salary. He would be further compensated by payment of Rs. 25,000 on account of the protracted proceedings that he has faced.

(Para 12)

Raj Mohan Singh Advocate, *for the petitioner.*

A.R. Takkar, Advocate, *for the respondents.*

JUDGMENT

Jawahar Lal Gupta, J.

(1) The petitioner is working as a House Tax Clerk with the Municipal Corporation, Faridabad. He complains that the proceedings initiated against him with the charge sheets issued in the year 1986 have not been completed till now. The petitioner points out that two charge-sheets had been served on him,—*vide* memorandums dated 4th August, 1986 and 15th October, 1986. It was alleged that the petitioner had embezzled different amounts of money totalling about Rs. 35,000 approximatley. He was also placed under suspension.

(2) Besides issuing the charge-sheets, the authority had also lodged FIR No. 297, dated 19th October, 1986. The challan in this case had been submitted in July, 1989. Despite the grant of innumerable opportunities, no evidence proving the charge against the petitioner was produced. Ultimately,—*vide* judgment dated 25th May, 1994, the trial court acquitted the petitioner with the observation that the

prosecution had failed to examine the witness despite "as many as nine effective opportunities spent over a period of more than four years....."

(3) The petitioner alleges that even after the acquittal by the court, the proceedings were not dropped. Nor has any evidence been recorded. Till today, no final decision has been taken. On these premises, the petitioner prays that the disciplinary proceedings against him be quashed and that the respondents be directed to release all his dues.

(4) A written statement has been filed on behalf of the respondents. It has been *inter alia* averred that the petitioner had been placed under suspension on 2nd July, 1986. He was charge sheeted. Even the criminal proceedings were initiated. During the departmental proceedings, the petitioner had failed to appear. On 31st May, 1988, a show cause notice was issued to him. He was asked "as to why he should not be removed from the service of the Respondent-Corporation". In reply to the notice, the petitioner submitted medical certificates showing that he was not well. On receipt of the reply, a departmental enquiry was ordered to be conducted against him. However, it could not proceed "as the documents concerned had been sent to the police in connection with the FIR. The Respondent-Corporation sent various references many times to the concerned authorities to make available the record but the same could not be provided and this is the reason for which the enquiry against the petitioner is still pending".

(5) The respondents admit that the petitioner was acquitted,— *vide* judgment dated 25th May, 1994. After acquittal, he was reinstated. This order was without prejudice to the enquiry proceeding which were pending against him.

(6) Counsel for the parties have been heard.

(7) Mr. Raj Mohan Singh, learned counsel contended that the petitioner has been unduly harassed for a long period of more than 13 years. He has suffered mentally and monetarily. Initially, the prosecution prolonged the case in the court for a period of almost eight years. No evidence could be produced despite innumerable opportunities. Ultimately, the petitioner was acquitted in the year 1994. After that, more than five years have elapsed. The proceedings have still not made any head-way. No evidence has been examined. No witness has been produced. And yet, the dues of the petitioner for the period of suspension have not been released. Even his chances of further promotion have been adversely affected.

(8) Mr. A.R. Takkar, learned counsel appearing for the respondents submitted that the proceedings could not be concluded on account of the non-availability of record.

(9) The sequence of events is clear. The two charge-sheets were issued to the petitioner in the year 1986. A criminal case was also registered against him at about the same time in October, 1986. The proceedings were prolonged for a period of about eight years before the trial court. The petitioner was acquitted in 1994 as the prosecution had failed to produce any material to prove the charge against him. Thereafter, during the next five years, the departmental proceedings have made no head-way. Should the proceedings be still allowed to continue ?

(10) In order to satisfy ourselves, we gave various opportunities to the counsel for the respondents to produce the record. He could produce none. Ultimately, —*vide* our order dated 1st December, 1999, we had directed the Commissioner of the Respondent-Corporation to appear in court with the record on 13th December, 1999. He appeared. He had no record relating to the charge against the petitioner. It was stated that the record had been handed over to the police. On enquiry, the police had stated that the record had been produced in court. The application submitted to the court after our order of 1st December, 1999 had been returned with the observation that no record was available with the case file. It is, thus, clear that the respondents do not have any record which may support the charges levelled against the petitioner.

(11) It is true that the charge of embezzlement is serious. If proved, the employee would not be normally entitled to continue in the service of the Corporation. However, it cannot be assumed that the charge is proved merely because a charge sheet has been served on the petitioner. In fact, in the present case, the petitioner has been acquitted of the charge of embezzlement by the Court. Not only that. The respondents have not been able to produce even an *iota* of evidence against him during the proceedings as also before the court in the present case. Thus, not even a single piece of evidence has been brought on the file of the enquiry case despite the lapse of 13 years since the charge sheet was served on the petitioner.

(12) The petitioner has suffered the agony of these proceedings continuously. His health has suffered. He has gone through mental torture. In the circumstances of this case, we are satisfied that the petitioner deserves to be saved from future suffering. Still further, we are also satisfied that he deserves to be adequately compensated for the protracted proceedings that have been kept hanging over his head for an unjustifiably long period of many years. Thus, in the peculiar circumstances of this case, we quash the disciplinary proceedings which have been pending against the petitioner since the year 1986. Keeping

in view the fact that nothing has been proved against the petitioner, we consider it appropriate to direct that the period of suspension shall be treated to have been spent on duty and that he would be entitled to full arrears of salary. He would be further compensated by payment of Rs. 25,000 on account of the protracted proceeding that he has faced.

(13) The writ petition is allowed in the above terms.

R.N.R

Before N.K. Agrawal, J.

B.K. AGGARWAL,—*Petitioner*

versus

STATE BANK OF INDIA & OTHERS,—*Respondents*

C.W.P. No. 11966 of 1998

12th October, 1999

Constitution of India, 1950—Art. 226—Indian Penal Code, 1860—S. 409—In 1995, FIR lodged by the Bank against the petitioner placing him under suspension for fraudulently withdrawing money from saving accounts—In 1997, CJM charging the petitioner under section 409 IPC—Departmental proceedings also initiated against him—Whether both the criminal proceedings and the disciplinary proceedings based on identical allegations go on simultaneously—Held, no—Disciplinary proceedings ordered to be stayed till the conclusion of the criminal trial.

Held, that the criminal case as well as the departmental proceedings are based on identical allegations. The matter was reported to the police by a senior officer of the Bank. The nature of evidence would also be similar in both the proceedings, though the standard of proof may indeed be different. In the criminal trial, standard of proof would be strictrer. FIR was lodged on 31st October, 1995 whereas charge sheet in the disciplinary proceedings has been served on the petitioner on 18th December, 1997. In these circumstances, it is found appropriate that the disciplinary proceedings may await the outcome of the criminal case. The petitioner should not be asked to face two indentical proceedings involving same facts and allegations. The questions to be decided in both the proceedings appear to be almost similar. In these circumstances, it would be just and fair to stay the disciplinary proceeding till the conclusion of the criminal trial.

(Para 11)