



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No. 751/2020

M.A. No. 949/2020

New Delhi, this the 18th day of March, 2020

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A.K. Bishnoi, Member (A)

Dr. A.K. Jha,
Professor,
S/o Shri Rajendra Jha,
R/o 22-C, Hans Vihar Apartments,
Sector-13, Rohini, Delhi-110085
Aged 53 years, Group 'A'

Presently posted at :
Ambedkar Institute of Advanced
Communication Technologies and Research,
Geeta Colony, New Delhi.

.. Applicant

(By Advocate: Shri Ajesh Luthra with
Shri Jatin Parashar)

Versus

1. Govt. of NCT of Delhi
Through its Chief Secretary,
Delhi Sachivalaya, Players Building,
I.P. Estate, New Delhi-2.
2. Principal Secretary,
Department of Training & Technical Education,
(GNCT of Delhi),
Muni Maya Ram Marg,
Pitam Pura, Delhi-88.
3. Principal Secretary,
Directorate of Vigilance,



Govt. of NCT of Delhi,
Delhi Sachivalaya,
Players Building, I.P. Estate,
New Delhi-2.

4. Lt. Governor of Delhi,
GNCT of Delhi,
Raj Niwas, Rajpur Road,
New Delhi.
5. The Principal,
Ambedkar Institute of Advanced
Communication Technologies and Research,
Geeta Colony, New Delhi.

.. Respondents

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman

The applicant is working as Professor in the Department of Training and Technical Education and, at present, he is posted at Ambedkar Institute of Advanced Communication Technologies and Research. Certain complaints were received against him from the girl students of the Institute in the year 2014, alleging that he misbehaved with them and made several indecent sexual advances. On receipt of the complaints, the Head of the Institute referred the same to the Internal Complaints Committee (ICC). The Committee, in turn, submitted its report on 12.06.2014, observing



that the applicant resorted to acts of sexual harassment against the students. It has also recommended that disciplinary action, in accordance with the CCS (Conduct) Rules; be taken against him.

2. The applicant was issued a Charge Memorandum dated 17.08.2015. An Inquiry Officer (IO) was appointed on 02.03.2016. At that stage, the applicant made a representation stating that the inquiry, if at all must be conducted by the ICC itself, and it is not proper to appoint a separate IO. The objection was overruled and the inquiry was proceeded with. A report was submitted on 21.10.2019, holding the charges against the applicant, as 'proved'. This O.A. is filed challenging the order dated 02.03.2016, through which the Disciplinary Authority (DA) has appointed the IO; the order dated 21.04.2016, through which the objection raised by the applicant was rejected; and the report of the IO dated 21.10.2019.

3. The applicant contends that the rules provide for conducting of an inquiry, only by the Departmental



Complaints Committee (DCC) and report submitted by the said Committee is treated as the report of the inquiring authority itself. It is also stated that the DoP&T issued guidelines, through O.M. dated 16.07.2015, providing for submission of preliminary inquiry report and, that in the instant case, when the IO filed his preliminary inquiry report, there is no need to entrust the inquiry to a separate individual.

4. The Applicant contends that the procedure adopted by the respondents is contrary to the procedure prescribed under Rule 14 of the CCS (CCA) Rules, 1965; and the provisions of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (for short, the Act); apart from the judgment of the Hon'ble Supreme Court in **Medha Kotwal Lele & Ors. vs Union of India & Others**, (2013) 1 SCC 297. He contends that the report dated 21.10.2019 is vitiated in several respects, and the same cannot constitute the basis for taking any further steps.



5. We heard Shri Ajesh Luthra, learned counsel for the applicant, at the stage of admission, at length.

6. The effort of the Parliament, the Hon'ble Supreme Court and various other agencies was to ensure that the persons, who resort to acts of sexual harassment at work places, are dealt with seriously and without any loss of time. To ensure objectivity into the proceedings, the concept of ICC or DCC was also evolved and that, in turn, was ascribed to the status of the report of the IO, by inserting proviso to sub-rule (2) of Rule 14 of the CCS (CCA) Rules. Parliament enacted the Act, to streamline the procedure to deal with the complaints of this nature. The Committee is not only empowered to submit its report and record its findings on the allegations, but also to recommend the further action, in terms of the relevant service rules. The Hon'ble Supreme Court has also indicated several measures for speedy and effective disposal of matters of this nature.

7. Several girl students of the Institute, where the applicant is teaching, submitted their complaints alleging acts of sexual harassment and misconduct.



Promptly enough, the matter was referred to the ICC, which comprised of the Chairperson and 3 Members. After interacting with the complainants and other connected persons, the Committee submitted its report on 12.06.2014. Detailed findings and recommendations through a separate communication were made, as under:

“Accordingly, the Committee has unanimously decided the following:

1. The Departmental Complaints Committee had tried examining the said complaints and investigate the matter by Committee in different intervals by

- Surprise Visit to AIACTR on 17/04/2014 taken to random sample of 26 students studying in different programmes and Meeting with Faculty Members of AIACTR.
- Personally interacting with Prof. A.K. Jha on 29/04/2014.
- Investigated individually/group of students/ girls students on 02/05/2014 etc.
- Accordingly, the Departmental Complaints Committee comes to the conclusion that the complaints against Prof. A.K. Jha, AIACTR lodged by the students of AIACTR, Geeta Colony, Delhi for his indecent behaviour and sexual advances towards Girl students in the Institute seems to be genuine/true.
- Thus, the Committee feels that necessary action as per CCS (Conduct) Rules can be taken by the Competent Authority against Prof. A.K. Jha besides recommendation given by the



Departmental Complaints Committee in their final report.

2. Further the complaints against Shri Dipti Mal, Training & Placement Officer by the students, Geeta Colony, Delhi for his regular smoking habit, not maintaining of office hours and indecent behaviour towards students in the Institute seems to be genuine/true. Thus, the committee feels that necessary warning may be issued by the Competent Authority to Shri Dipti Mal for refraining himself from smoking, maintain proper official timings and strictly adhere CCS (Conduct) Rules, besides improving his behaviour towards the students/staff.”

8. It is on the basis of these recommendations, that the DA issued a Charge Memorandum on 17.08.2015. The charges framed against the applicant read as under:

“Article-I

Some students of AIACTR made complaints against Prof. A.K. Jha of the Institute against his indecent behaviour and inappropriate sexual advances towards the female students. The matter was referred to the Departmental Complaint Committee vide Order No.PS/DIR/TTE/Comp/2014/1978 dated 02/04/2014 for conducting enquiry. During the enquiry, conducted by the Departmental Complaint Committee, some students confirmed the indecent behaviour and inappropriate sexual advances towards the female students by Prof. A.K. Jha.

Article-II

Prof. A.K. Jha served legal notices to the students, through his advocate, who had made complaints against him regarding his indecent behaviour and inappropriate sexual advances towards the female students, thereby leaking the



names of those students. Those students received threats/pressure from other faculty members for withdrawing their complaints which caused unrest and insecurity among students.

By the above acts of omission & commission, the aforesaid Prof. A.K. Jha, exhibited gross moral turpitude and dereliction of duty, which is unbecoming of a govt. servant, thereby violating the provisions of Rule 3 of CCS (Conduct) Rules, 1964.

9. The applicant submitted his representation on 15.01.2016, with a request to entrust the inquiry into the charge memorandum to the DCC itself. Another representation was made on 21.03.2016, with a request to withdraw the charge memorandum dated 17.08.2015, and to issue another charge memorandum with definite allegations and to withdraw appointment of the Inquiring Authority. Through a memorandum dated 21.04.2016, those requests were rejected. The applicant participated in the inquiry.

10. In the departmental inquiry, 9 witnesses, i.e. PW-1, PW-2, PW-3, PW-4, PW-5, PW-6(A), PW-6(B), PW-6(C) and PW-7, were examined. Several documents were also filed. On behalf of the applicant, 10 witnesses, i.e. DW-1 to DW-10 were examined. The



Inquiring Authority submitted a report dated 21.10.2019, which runs into 37 closely printed pages. He held both the articles of charge framed against the applicant, as 'proved'. A copy of the same was furnished to the applicant and he was required to offer his remarks. At that stage, he filed the present O.A.

11. The applicant challenged the Annexures A/1 to A/5, i.e., (i) the report of the Inquiry Officer dated 21.10.2019; (ii) the order dated 02.03.2016, through which the Inquiring Authority was appointed; (iii) order dated 21.04.2016, through which the representations of the applicant for referring the matter to the DCC was rejected; (iv) order dated 05.08.2016, through which the representation made by the applicant to conduct the inquiry in a different way was rejected; and (v) the memorandum dated 21.12.2017, through which the request of the applicant for changing the Inquiring Authority was rejected.

12. In a way, the grounds raised by the applicant covered the challenge to almost all the



orders, referred to above. The contention is that once Rule 14(2) mandates that the report of the ICC shall be treated as the report of Inquiring Authority, it is axiomatic that the ICC alone must conduct the subsequent inquiry also. He has also placed reliance upon the O.M. dated 16.07.2015 issued by the DoP&T. Reference is also made to the Section 13 of the Act.

13. First it becomes necessary to take note of the proviso to Rule 14(1) and (2) of the CCS (CCA) Rules, 1965. It reads as under:

“14. Procedure for imposing major penalties

(1) No order imposing any of the penalties specified in clauses (v) to (ix) of Rule 11 shall be made except after an inquiry held, as far as may be, in the manner provided in this rule and rule 15, or in the manner provided by the Public Servants (Inquiries) Act, 1850 (37 of 1850), where such inquiry is held under that Act.

(2) Whenever the disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against a Government servant, it may itself inquire into, or appoint under this rule or under the provisions of the Public Servants (Inquiries) Act, 1850, as the case may be, an authority to inquire into the truth thereof.

Provided that where there is a complaint of sexual harassment within the meaning of rule 3 C of the Central Civil Services (Conduct) Rules, 1964, the Complaints Committee established in each Ministry or Department or Office for



inquiring into such complaints, shall be deemed to be the inquiring authority appointed by the disciplinary authority for the purpose of these rules and the Complaints Committee shall hold, if separate procedure has not been prescribed for the Complaints Committee for holding the inquiry into the complaints of sexual harassment, the inquiry as far as practicable in accordance with the procedure laid down in these rules.

Explanation—

(i) Where the disciplinary authority itself holds the inquiry, any reference in sub-rule (7) to sub-rule (20) and in sub-rule (22) to the inquiring authority shall be construed as a reference to the disciplinary authority.

(ii) Where the disciplinary authority appoints a retired Government servant as inquiring authority, any reference in sub-rule (7) to sub-rule (20) and in sub-rule (22) shall include such authority.

14. The proviso clearly mandates that a report submitted by the ICC shall be treated as the report of the Inquiring Authority. It would be competent for a DA to take action, on the basis of the findings recorded in the report of the ICC. One important legal aspect which, however, needs to be taken note of, is that in case of the inquiry by the ICC was held after the charge memorandum under Rule 14 is issued, the report partakes the characteristics of the report of an IO. If, on the other hand, the inquiry by the ICC was



held before the charge memorandum was issued, the report submitted by it can constitute a valid material in the inquiry, which may take place after the issuance of the charge memorandum. The DA will have the discretion to entrust the further inquiry to the ICC itself or to any other authority, depending upon the nature of allegation. For example, if the alleged misconduct is only of the sexual harassment, the matter can safely be entrusted to the ICC for inquiry, post charge memorandum. If, on the other hand, there are certain other allegations, which are not within the purview of the ICC, the inquiry needs to be entrusted to an officer, in accordance with the relevant rules.

15. In the instant case, the Article-I, no doubt, was about the alleged sexual harassment by the applicant. The Article-II, however, is not within the purview of the ICC. He is said to have got issued legal notices to certain students. Obviously, to avoid legal complications, the DA has entrusted the inquiry to an experienced officer. Therefore, no exception can be taken to it.



16. Another aspect is that the Act contains several provisions indicating the manner in which the complaints of sexual harassment need to be dealt with. An inquiry is required to be taken up under Sections 11 and 12 of the Act, duly giving opportunity to the employee. Section 13 indicates the course of action, once the inquiry is completed. It reads as under:

“13. Inquiry report.—(1) On the completion of an inquiry under this Act, the Internal Committee or the Local Committee, as the case may be, shall provide a report of its findings to the employer, or as the case may be, the District Officer within a period of ten days from the date of completion of the inquiry and such report be made available to the concerned parties.

(2) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the employer and the District Officer that no action is required to be taken in the matter.

(3) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer or the District Officer, as the case may be—

(i) to take action for sexual harassment as a misconduct in accordance with the provisions of the service rules applicable to the respondent or where no such service rules have been made, in such manner as may be prescribed;



(ii) to deduct, notwithstanding anything in the service rules applicable to the respondent, from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs, as it may determine, in accordance with the provisions of section 15:

Provide that in case the employer is unable to make such deduction from the salary of the respondent due to his being absent from duty or cessation of employment it may direct to the respondent to pay such sum to the aggrieved woman:

Provided further that in case the respondent fails to pay the sum referred to in clause (ii), the Internal Committee or as, the case may be, the Local Committee may forward the order for recovery of the sum as an arrear of land revenue to the concerned District Officer.

(4) The employer or the District Officer shall act upon the recommendation within sixty days of its receipt by him.

17. From a perusal of the above provision, it becomes clear that the committee can recommend initiation of action under the relevant Conduct Rules. The Act does not ordain that the further steps under the Conduct Rules must be entrusted to the same Committee. Therefore, no exception can be taken to the appointment of, an IO, and entrustment of the inquiry , to him. The rejection of the request made by the applicant for change of the IO, for conducting the inquiry in a different manner cannot be accepted. Once



these two legal hurdles are clear, there is no way, that any exception can be taken to the report of the IO.

18. In fact, it is a matter of deep concern that the proceedings, which were initiated in the year 2014, did not assume finality even after 6 years. The very purpose underlying the direction issued by the Hon'ble Supreme Court for early and timely action on the allegations of sexual harassment, is successfully defeated in the instant case.

19. The plea of the applicant that the guidelines issued by the DoP&T mandate the preliminary and final inquiry stands complied with, in case the report of the ICC is treated as a preliminary one, and the report submitted by the IO, as the final one.

20. On merits also, we are of the view that the findings recorded by the IO are based on the oral and documentary evidence, and no exception can be taken to them. The IO discussed the evidence of each and every witness, as though it is a criminal case. The applicant has examined almost equal number of



witnesses and their evidence was also taken into account.

21. We do not find any merit in the O.A. and, accordingly, the same is dismissed. There shall be no order as to costs.

(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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