



**Central Administrative Tribunal
Principal Bench, New Delhi**

**O.A. No.2166/2020
M.A. No.2757/2020**

This the 5th day of February, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

U.K. Sinha
Age 42 years
S/o Sh. Late Sh. Lalit Mohan Sinha
Deputy Labour Commissioner (Group A)
Govt. of NCT of Delhi
F Block, Labour Welfare Centre
Karam Pura New Delhi-110015

Presently residing at
Flat No. D2, H3/81 Bengali Colony
Mahavir Enclave, New Delhi. ... Applicant

(through Sh. Parkash Chandra)

Versus

1. Lt. Governor, Delhi
6 Raj Niwas, Delhi-110054.
2. Chief Secretary cum Chief Vigilance Officer
Govt. of NCT of Delhi
Delhi Secretariat
Delhi 110054.
3. Secretary cum Commissioner
Department of Labour
5-Sham Nath Marg, Delhi-110054. ... Respondents

(through Ms. Esha Mazumdar, Advocate)

ORDER (Oral)**Justice L. Narasimha Reddy, Chairman:**

The applicant joined the Department of Labour, Govt. of NCT of Delhi as Assistant Labour Commissioner (ALC). A complaint was submitted against him by a woman employee in the department alleging acts of sexual harassment at work place. An FIR was registered against him on 21.06.2014 and thereafter, the matter was referred to the Internal Complaints Committee (ICC) by the department on 20.11.2014. It is stated that the applicant was discharged in the criminal case on 22.06.2017. It is also stated that the ICC submitted its report in the year 2016 and the applicant has also submitted his comments to the same on 11.08.2016.

2. The DPC for promotion to the post of DLC (re-designated as Joint Labour Commissioner) held on 12.12.2019. The case of the applicant was considered and the proceedings in relation to him were kept in a sealed cover. This OA is filed with a prayer to quash the proceedings in relation to the complaint of a lady employee dated 09.06.2014 and 16.06.2014, to direct the respondents to refrain from initiating proceedings relating to such a complaint, to open the sealed cover, and to take

further consequential steps. The applicant contends that he was discharged in the criminal case and the ICC, which has enquired into the matter, did not find anything against him. He contends that there was no basis for adopting the sealed cover procedure in his case, and at any rate, it ought to have been opened, once he is acquitted in the criminal case.



3. On behalf of respondents a detailed counter affidavit is filed. It is stated that a woman employee of the department filed a complaint alleging serious acts of misconduct on the part of the applicant and that the same resulted in initiation of disciplinary proceedings, and accordingly the matter was referred to the ICC. It is stated that though the applicant was discharged in the criminal case, the necessity to adopt the sealed cover procedure arose on account of the pendency of the proceedings before the ICC, when the DPC met.

4. We heard Mr. Parkash Chandra, learned counsel for the applicant and Ms. Esha Mazumdar, learned counsel for the respondents.

5. The first prayer in the OA is to quash the proceedings in relation to the complaint submitted by a woman employee. That is just, impermissible in law. The matter

has already been referred to the ICC and in the recent past, a charge sheet was also issued on 22.01.2021. We do not find any ground or reason to interfere with the departmental proceedings, in relation thereto.



6. The other prayer is to restrain the respondents from proceeding with the complaint made by a woman employee. This also becomes untenable in view of the fact that the ICC has already enquired into the matter and a charge memo is also issued now.

7. So far as the plea for opening of sealed cover is concerned, the two aspects become relevant. The first is whether there exists any basis for adopting the sealed cover procedure at all, and the second is whether the occasion has arisen for opening it.

8. The circumstances under which the sealed cover procedure can be adopted, are clearly laid down in the judgment of Hon'ble Supreme Court in **Union of India v. K.V. Jankiraman**, 1991 AIR 2010. The three circumstances under which such steps can be taken are when:

(a) the employee is placed under suspension; (b) figured as an accused in the criminal case; or (c) was issued a charge memo; at a time, when the DPC met.



9. In the instant case, though the criminal case was filed against the applicant, that ended in discharge, much before the DPC met. The applicant was also not under suspension. However, the proceedings were very much pending before the ICC, when the DPC met. The proviso to sub rule 2 of Rule 14 of CCS (CCA) Rules, 1965 becomes relevant in this behalf. The rule making authority has equated the proceedings before the ICC, to the disciplinary proceedings under the CCA Rules. Therefore, the third ground, namely, the pendency of disciplinary proceedings becomes relevant and obviously for that reason, the sealed cover procedure was adopted.

10. The occasion to open the sealed cover procedure would arise, if only the disciplinary proceedings or other proceedings are concluded. In the instant case, apart from the proceedings before the ICC not having been terminated in favour of the applicant, the DA issued a charge memo recently on 22.01.2021. Under these circumstances, the respondents cannot be directed to open the sealed cover. The applicant has to wait till the disciplinary proceedings conclude.

11. We do not find any merit in the OA. It is accordingly dismissed. The disciplinary proceedings shall be

concluded as early as possible and not later than six months.

Pending MA also stands disposed of. There shall be no order as to costs.



(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

lg/vb/neha/ankit