

1 Reserved-

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

....

original Application No.1291 of 2002.

this the 29th day of November 2002.

HON'BLE MAJ GEN K.K. SRIVASTAVA, MEMBER (A)
HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

Smt. Pushpa Srivastava, w/o Sri Ajit Kumar Srivastava, R/o
211/64 D Alop Bagh, Allahabad, presently posted as Head
Clerk (Electrical), North Central Railway, Allahabad.

Applicant.

By Advocate : Sri A.N. Mullah.

Versus.

1. Union of India through the General Manager, North Central Railway, Allahabad.
2. The Deputy Chief Mechanical Engineer, N.C.R., Allahabad
3. S.A. Abbas, Sr. Section Engineer (Mechanical), North Central Railway, Allahabad.
4. S.K. Agarwal, Deputy Chief Electrical Engineer, North Central Railway, Allahabad.
5. Rajendra Prasad, Asstt. Electrical Engineer, N.C.R., Allahabad.
6. Sri Chand, private Secretary to O.S.D., N.C.R., Allahabad.

* Respondents.

By Advocate : Sri K.P. Singh.

O R D E R

MRS. MEERA CHHIBBER, MEMBER (J)

By this O.A., the applicant has sought for quashing of the chargesheet dated 21.10.2002 and has sought a direction to the respondents not to proceed any further on the basis of the chargesheet dated 21.10.2002.

2. In short, the grievance of the applicant is that she has been working as Head Clerk (Electrical), North Central Railway, Allahabad, where some officers namely Senior Section

Engineer Sri S.A. Abbas started harrassing the petitioner by passing lewd remarks and singing obscene songs which amounts to sexual harassment and in spite of repeated requests made by the applicant to her senior officers, no action was taken against him. On the contrary, he started sitting in the office room of the applicant which continued to lay on the mind off the applicant as his ^{actual} chamber was in another room. Since she was not getting any redressal on behalf of her grievances, she lodged a written complaint to the Officer on Special Duty, North Central Railway on 21.5.2002 with copies to the National Commission for Women, New Delhi, Ministry of Railways explaining all the facts therein. A copy of the complaint has been annexed as Annexure A-1 to the O.A. According to the applicant, it is a result of this complaint only that her life became further ^{hell} ~~hell~~ as the said Sri S.A. Abbas started forcing her to take back her complaint and also instigated the Dy. C.M.E., who called the applicant in his chamber and uttered indecent and unparliamentary language and stated that he would see to it that the applicant's life was made all the more miserable and scolded. Being fed-up, she made another complaint to the Officer on Special Duty, North Central Railway with copy to Deputy Chief Mechanical Engineer, N.E. Railway and National Commission for Women, New Delhi, praying therein to initiate action in the matter in accordance with Railway printed Serial No. 11596 and 11679, a copy of which has been annexed as Annexure-2 to the O.A. However, since the matter was taken up with the National Commission for Women, New Delhi and thereafter the Officer on Special Duty North Eastern Railway constituted a committee on 19.6.2002 to enquire into the matter and informed the applicant about the same. Subsequent communication dated 8.7.2002, the applicant came to know that the committee included Smt. Richa Negi as a Member, who is wife of the Secretary to Officer on Special Duty and since she was member of the officer concerned, naturally she could not have been termed as an independent ^{in Committee} person. Therefore, she objected for constitution of the said

vide her letter dated 9.7.2002. She has further submitted that as per circular no. 11679 of 1998 the committee should be headed by a woman and not less than half of the members should be women and further to prevent the possibility of any undue pressure or influence from senior level, such complaint committee should involve third party, either NGO or other body who is familiar with the issue of sexual harassment. (Annexure-6). However, without giving any heed to the objection raised by the applicant, the Officer on Special Duty vide his letter dated 10.7.2002 asked the applicant to attend enquiry before the same committee. Finally, ^{With} ~~no~~ ^{Available} other alternative, the applicant filed Civil Misc. Writ petition No. 29257 of 2002 before the Hon'ble High Court at Allahabad. Thus, the matter as well as the constitution of the committee are concerned is pending before the Hon'ble High Court at Allahabad. It is stated that during pregnancy in this period, the respondents kept on humiliating and harassing the applicant with the result she suffered miscarriage alongwith high level of diabetes and high Blood pressure and was immediately rushed to a private Nursing Home on 22.8.2002. The Doctor who attended to her gave a certificate dated 22.8.2002 to remain on bed rest for six weeks (Annexure-12), but the applicant ^{was} surprised when the Dy. Chief Electrical Engineer, N.C.R., Allahabad, wrote a letter to the said Doctor Smt. Rekha Srivastava to reduce her recommendation for rest period with regard to Smt. Pushpa Srivastava.

3. The applicant has, thus, submitted that it is only because she has challenged the constitution of the committee as decided by the respondents. According to her, even a letter dated 24.7.2002 whereby she was asked to explain whether she was an office bearer or member of any association/organisation including Hockey Association is also result of the same series of act of harassment because according to her, the department had itself authorised her in response to the letter dated 29.4.98 to serve as one of the selectors of boys and girls between the

ages of 12 and 14 in the field of Hockey at District and zonal level. She has further submitted that the respondents are fully aware that she was initially appointed as Junior Clerk in the Commercial Department against the sports quota in the year 1984 as she had represented in the National Hockey Team of India and various international meets. She was promoted in the year 1989 as Senior Clerk and thereafter in the year 1999 she was further promoted as Head Clerk. In the year 1993 she was transferred to Allahabad city N.E. Railway from where she was transferred in October '97 to North Central Railway and posted out of the cadre in the electrical branch as Head Clerk in the same capacity. It is stated that in the North Central Railways, the applicant had been nominated to work as sports Clerk and was transferred to work with sports Section, North Central Railway. Not only this, earlier also, she had been spared for various meets and tournaments in various capacities by the competent officers/authorities and till the year 2000, she had no problem with any person in the office, but it is only when the Senior Section Engineer namely Sri S.A. Abbas started harassing her and according to her the present chargesheet is also the result of the same story. She has, thus, submitted that since this chargesheet is initiated due to bias attitude of the officer against her and it is only a futile exercise because the respondents have already made their mind to harass her, the Tribunal may intervene at this stage and protect her ^{from} further harassment. She has, thus, sought quashing of the chargesheet dated 21.10.2002.

4. We have heard the counsel for the applicant as well as the respondents and perused the pleadings as well.

5. At the outset, we may say that the law is well settled by now that the court should not interfere at the stage of issuance of chargesheet as it would be pre-mature and would amount to pre-judging the issue, which should be left to the authorities at the first instance to decide. However, since the applicant has appeared in person alongwith her advocate

and has narrated her experience in the office and how she was being harassed at various levels simply because she had courage to raise her objection against the men in the office. In normal course, we would have simply rejected the O.A. by directing the applicant to co-operate with the respondents by giving reply so that the respondents may pass final orders. In this case, we do find that the applicant has been able to demonstrate few things in the matter which show that there is some truth in what she is stating inasmuch as it was rather strange to see that the authorities should be writing to the Doctor concerned to reduce the bed rest as advised to her. In routine matter, no officer has written such a letter to a private Doctor. More-over, she has also shown us a number of letters whereby she ^{has} ~~was~~ ^{been} ⁱⁿ ^{her} ⁱⁿ informed the respondents about the position holding in the association and how the respondents ⁱⁿ ⁱⁿ ⁱⁿ ^{her} ⁱⁿ were relieved ^{themselves} for attending such tournaments or other such sports activities. According to her, she never stood for any election and was nominated as a Secretary in order to give her same area since she is a known international player of Hockey.

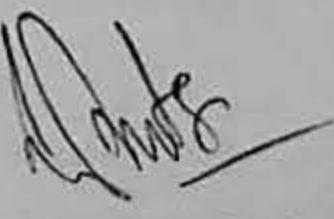


6. We do not wish to make any comments beyond this point as the respondents have only asked the applicant to give her reply to the Memorandum dated 21.10.2002. The apprehension of the applicant that she would be imposed with some punishment in order to teach her a lesson is imaginary at this stage because we are sure that once she gives her reply alongwith all the supporting documents, the respondents would definitely apply their mind to the facts as stated by the applicant and pass a reasoned and a detailed order. At this stage, we would not like to interfere in the matter and would like that the respondents should apply their mind to the grievances raised by the applicant and for this purpose, we would grant six weeks time to the applicant to prepare her reply alongwith all the supporting documents and to submit the same to the authorities, who shall pass their orders on the same, if need be, after hearing the applicant in person.

7. In view of above, we would direct the respondents not to pass any final order for a period of six weeks from today on the memorandum. If the applicant is still aggrieved by the final order passed by the respondents, she will be at liberty to challenge the same by filing a fresh O.A. after exhausting the departmental remedy available to her. With the above observations and directions, O.A. stands disposed off as above at admission stage itself with no order as to costs.


MEMBER (J)

GIRISH/-


MEMBER (A)