

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A No.623/2007 & O.A.133/2008

Wednesday, this the 24th day of September, 2008.

CORAM

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

O.A.623/2007

Kumari R Baby,
UD Clerk,
Films Division,
Ministry of Information & Broadcasting,
Government of India, B Wing,
CGO Complex, Poomkulam,
Vellayani.P.O.
Thiruvananthapuram-22.Applicant

(By Advocate Mr Rajiv Koyikkal)

v.

1. The Union of India,
Rep. By the Secretary,
Ministry of Information & Broadcasting,
New Delhi.
2. The Branch Manager,
Films Division,
Ministry of Information & Broadcasting,
Government of India, B Wing,
CGO Complex, Poomkulam,
Vellayani.P.O.
Thiruvananthapuram-22.
3. The Chief Producer,
Films Division,
Ministry of Information & Broadcasting,
Government of India,
24 Dr G Desh Marg,
Mumbai-26.
4. the Assistant Administrative Officer,
Films Division,
Ministry of Information & Broadcasting,
Government of India,
24 Dr G Desh Marg,
Mumbai-26.Respondents

(By Advocate Mr.TPM Ibrahim Khan, SCGSC)

O.A.133/2008

Deepa Shanker,
Upper Division Clerk, Films Division,
Ground Floor, B Wing, CGO Complex,
Poonkulam, Vellayani.P.O.,
Trivandrum.

- Applicant

(By Advocate Mr TC Goyindaswamy)

v.

1. Union of India rep by the
Secretary to Government of India,
Ministry of Information & Broadcasting,
New Delhi-110 016.
2. The Chief Producer,
Films Division, Government of India,
No.24, Dr G Deshmukh Marg,
Mumbai-400 026.
3. The Sr. Branch Manager,
Films Division,
Ground Floor, B Wing, CGO Complex,
Poonkulam, Vallayani.P.O.
Trivandrum.
4. Mr Venugopal,
The Sr. Branch Manager,
Films Division,
Ground Floor, B Wing, CGO Complex,
Poonkulam, Vallayani.P.O.
Trivandrum.
5. Ms Viplove Rai Bhatia,
Director, Films Division,
Government of India,
No.24, Dr G Deshmukh Marg,
Mumbai-400 026.

- Respondents

(By Advocate Mr CM Nazar, ACGSC for R.1 to 3)

(By Advocate Mr TPM Ibrahim Khan, SCGSC for R-4)

This application having been finally heard on 18.8.2008, the Tribunal on 24.9.2008 delivered the following:

ORDER

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

Both these O.As are inter-linked and, therefore, they are taken up for hearing together and are being disposed of by this common order.

2. Facts in O.A.623/2007: The applicant is aggrieved by the Annexure A-1 order dated 31.7.2007 of the 3rd/4th respondents, namely, the Branch Manager Films Division, Trivandrum/the Chief Producer, Films Division, Mumbai transferring her from Distribution Branch Office, Thiruvananthapuram to Distribution Branch Office, Madurai with immediate effect.

3. The applicant was earlier transferred from the Distribution Branch Office, Thiruvananthapuram to Distribution Branch Office, Madurai vide order dated 4.3.2004 for the reason that she was not in a position to get on well with the other staff members. She challenged the said order before this Tribunal in O.A.466/2004. The department's submissions were that she had made false complaints against the other staff members in her office twice earlier and in the departmental proceedings held against her, she admitted her guilt and tendered apology and, therefore, it was necessary in public interest that she should be transferred out for the smooth functioning of the office. The said O.A was accordingly dismissed. She challenged the aforesaid order of this Tribunal before the Hon'ble High Court of Kerala in W.P.(C) No.22361/2004. Vide Annexure A-2 judgment dated 29.7.2004, the High Court while holding that the view taken by this Tribunal were correct and justified, took note of her submission that she was a 52 year old unmarried lady having an old and sick mother to be looked after, directed the competent authority to consider her review petition dated 26.7.2004 pending before the department and to take a lenient view in the matter. In deference to the said directions of the High Court, after obtaining an undertaking from her, the respondents vide Annexure A-3 letter dated 31.2.2004 allowed her to be retained in the Distribution Branch Office, Thiruvananthapuram and her absence from duty was regularised by granting her the leave due and admissible.

4. While she was continuing so, the 4th respondent, viz, the Assistant Administrative Officer, Film Division, Mumbai, issued the Annexure A-4 memorandum dated 1.7.2005 stating that her Controlling Authority had reported that on 19.5.2005 she misbehaved with "one lady staff in the office" and the competent authority has viewed it very seriously. She was, therefore, warned not to behave in such a manner, failing which action will be taken against her as deemed fit. Vide Annexure A-5 letter dated 5.7.2005 addressed to the 3rd respondent, viz, the Chief Producer, Film Division, Mumbai, the applicant denied the allegation that she misbehaved with "one lady staff in her office". The 4th respondent again issued a Memorandum dated 23.5.2006 seeking her explanation as to why disciplinary action should not be initiated against her stating that her Controlling Authority has reported that she was making abusive statements loudly with the staff members during office hours and it amounts to misbehaviour and misconduct under Rule (3) of CCS(Conduct) Rules, 1964. Vide her explanation dated 17.6.2006 (Annexure R-3) she denied the allegations made against her. Again vide Memorandum dated 20.6.2006, the 2nd respondent issued a memorandum to her seeking her explanation stating that she was still abusing the other staff members. It was followed by the complaint dated 3.7.2006 by one A.Udayshanker, a retired Newsreel Officer and husband of a staff member, viz, Mrs Deepa Shanker stating that the applicant has been abusing his wife using unparliamentary language. He has also alleged that the applicant has openly said in the presence of Branch Manager "Udayashankar will die stabbed in this CGO complex within a month" and his wife was scared and shaken up because the applicant has several plans to harm his wife and his family. Smt Deepa Shankar has also made a petition against the applicant before the Kerala Women's Commission.

5. The third respondent has, therefore, ordered a preliminary enquiry into the matter and appointed one Shri K Kassiappa, Senior Branch Manager to look into the complaints received from the Branch Office against the applicant. After holding discussion with the staff members and taking into consideration of their written statements, the enquiry officer came to the conclusion that Smt Deepa Shankar is the root cause of all problems in the office. His report dated 8.11.2006 reads as under:

"No.BM/P/2006-07/
Films Division
Ministry of Information & Broadcasting
Government of India

No.11, New Mission Compound,
Lalbagh

Dated the 8th November, 2006.

Shri TT Fernandes,
Asstt. Administrative Officer,
Films Division, Govt. of India,
No.24, Dr G Deshmugh Marg,
Mumbai-400 026.

Subject: Preliminary enquiry on the complaints received from staff of Branch Office, Thiruvananthapuram against Kum R Baby, Upper Division Clerk

Sir,

This is with reference to your letter No.A-20012/43/79-Est. II dated 19.10.2006 regarding the above mentioned subject. I have conducted the fact finding inquiry on 2.11.2006 at Films Division Branch Office, Thiruvananthapuram.

The list of officials conducted by me is as under:

SALES SECTION

A.R.R.O

- | | | |
|----|----------------------------------|------------------------------|
| 1. | Shri K.V.Anandan, Steno Gr.I | Shri P Dhanapal,A.N.R.O. |
| 2. | Shri P Sree Kumar, LDC | Shri K Ashokan, Peon to ANRO |
| 3. | Smt.Santha Krishnan, Steno Gr.II | |

ACCOUNTS SECTION

1. Kum R.Baby, UDC
2. Smt.Deepa Shankar, UDC
3. Smt S.Symala Devi, UDC
4. Smt Usha T Nair, LDC/Cashier
5. Smt Sreedevi Amma, LDC

6. Smt Sheeba Shaffi, LDC
7. Shri Soman Nadar, Daftry
8. Shri MK Kumaran, Chowkidar

BOOKING SECTION

1. Shri S Nazeer Khan, Junior Booker
2. Shri Sree Kumar, Junior Booker
3. Shri K Janardhan Iyer, Junior Booker
4. Smt Salomi George, LDC
5. Shri G Divakaran Nair, Mazdoor
6. Shri G Mohan Kumar, Packer
7. Shri P.K.Karthikeyan, Mazdoor

I am herewith enclosing the original statements and typed copy of the same with signature, date and time submitted to me during my enquiry for your perusal and which is also self explanatory to know the fact of the complaint by Smt Deepa Shankar and her husband ex-employee of Films Division.

In fact I observed personally during my enquiry each and every staff of that Branch Office are blaming to Smt Deepa Shankar only. Everyday Smt Deepa Shankar will shout on Kum Baby and in turn both of them will shout loudly in the office. They explain that Smt Deepa Shankar is junior to Kum Baby. Smt. Deepa Shankar will not get the promotion of Head Clerk as long as Kum Baby continue in the Branch and Smt Deepa Shankar is very much depressed and unhappy. So in any one of the way Smt Deep-a Shankar wants Kum Baby must get out of that Branch and that is why Smt Deepa Shankar creating and always blaming and quarrelling with Kum Baby.

It is true that by verifying the records and personal enquiry with the staff complaints are only from Smt Deepa Shankar and her husband. Whatever Smt Deepa Shankar intimates to her husband in their house against Kum Baby, Shri Uday Shankar is also trusting and frequently writing letters to Head Office which is not correct and the subject mentioned in the letter is also false one. Smt Deepa Shankar's mentally is since her husband was in Films Division, she thinks that she can get all the actions against Branch Manager and Kum Baby directly from Head Office. She thinks that she is a wife of an officer and influenced person, they can create the problem and solve it with favourable to them.

During my enquiry I have called Kum Baby and Smt Deepa Shankar together and advised them for compromise the matter. Kum Baby obliged and promised me that she will not interfere in anybody's matter in the office and she will maintain the cordial relationship in the office. The letter submitted to me is also enclosed for your perusal. But Smt Deepa Shankar was adamant and she was informing me that if the enquiry is not in her favour she will approach outside and take appropriate action.

It is also observed during the enquiry, many of the staff mentioned that the Branch Managers whoever comes to Trivandrum must give the importance and respect to Smt Deepa Shankar and to take her advise, otherwise she is the lady who will create the problem in the office and she is the type of writing the complaints against

Branch Managers and making transfer to Branch Managers too.

It is also brought to my notice during the enquiry, connected to the Seniority List as per H.O letter No.A-23024/1/2006-Est.II dated 13.1.2006 Kum R Baby stands in 3rd position and the method of recruitment is PROMOTION. But Smt Deepa Shankar who is in the 26th place and the method of recruitment is PROMOTION BY EXAM. Actually it is reported to me that Smt Deepa Shankar is not attended any departmental exam and how it is mentioned as BY EXAM. So far no objection and representation forwarded to Head Office in this regard even after knowing the fact by the Branch Office. This may kindly be verified with the records and necessary corrections may be entered in the records if it is true. I am herewith enclosing the copy of the Seniority List for the post of Upper Division Clerk as on 31.12.2005, for your ready reference.

Everybody feels that whatever action taken by the Head Office will be known to her within half an hour. You are requested to kindly keep the records confidentially.

During my enquiry almost all the staff of the Branch Office are against to Smt Deepa Shankar only and not against Kum R Baby. My personal suggestion in this is whatever complaint received if any in future from Smt Deepa Shankar or Shri Uday Shankar may be ignored. Smt Deepa Shankar is the only lady in the office who is creating all type of complaints and problems to spoil the office atmosphere. She behaves like a don and her thinking and mentality is that everyone in the office must obey her. There is no doubt that she wants to dominate the office. Because of Smt Deepa Shankar, this office is spending Government money unnecessarily on reporting statements. She is the lady who approaches so many commissions there in Trivandrum and spoiling the office atmosphere.

It is also brought to your notice that I have observed during my presence at Trivandrum that Kum R Baby should not be considered for any type of further promotion in her career. She is unfit for any type of further promotion. If she applies for VRS, the same may also be considered and to allow her to go on VRS.

So as a Reporting Officer to maintain the office with very good cordial relationship, decorum and discipline, my report/verdict/judgment in this is if there is any complaint or any type of nuisance by Smt Deepa Shankar or her husband Shri Uday Shankar after submission of this report by me to you, Smt Deepa Shankar may be transferred to some other office to get her peace physically and mentally. Even after Smt Deepa Shankar's transfer, if there is any similar complaint or nuisance by Kum R Baby, may also be transferred to some other office.

Yours faithfully,
Sd/-
(K.KASIAPPA)
Sr. Branch Manager."

Encl: As stated

6. Again, the applicant herself made a complaint of harassment by one Shri Karthikeyan, Mazdoor working in her office before the Women's Police Cell, Trivandrum. Shri Karthikeyan was summoned by the Police on 7.6.2007 at the Kovalam Police Station to enquire into the complaint. However, the Branch Manager, Shri K.Venugopal vide his Annexure A-7 letter dated 8.6.2007 informed the Sub Inspector of Police, Kovalam that the complaint of the applicant was baseless and she was in the habit of making such false allegations against the staff members. The Branch Manager has also informed the 4th respondent about the complaint of the applicant to Women's Police Cell (Annexure A-10) letter dated 8.6.2007.

7. Thereafter, the 4th respondent issued the Annexure A-1 impugned order dated 31.7.2007 transferring her to Madurai Branch Office. The applicant submitted the Annexure A-6 representation dated 9.8.2007 to the 4th respondent to reconsider his Annexure A-1 transfer order and to retain her at Distribution Branch Office, Thiruvananthapuram itself stating that her old and ailing mother and she are living together, she has been suffering from Arthritis and she cannot cope up with the climate in Madurai. She has also stated that she has just four more years to superannuate from service and the impugned order was issued without holding any enquiry in the matter and without giving any opportunity of being heard and against the spirit of Annexure A-2 judgment of the High Court of Kerala.

8. Facts in O.A.133/2008: This O.A has been filed by Deepa Shankar who is referred to in the earlier O.A.623/2007. She is aggrieved by the Annexure A-5 order dated 16.10.2007 by which she has been transferred to the main office of the Films Division at Mumbai with immediate effect and by Annexure A-3 order dated 18.10.2007 by which she has been relieved from the Branch Office,

Thiruvananthapuram. She is also aggrieved by Annexure A-13 Memorandum dated 20.2.2008 issued by the 2nd respondent informing her that the competent authority had examined the Report submitted by the designated Women's Cell (Complaint Committee) and the allegations levelled against Shri Venugopal, Senior Branch Manager Films Division. Thiruvananthapuram was not substantiated. She was also warned to refrain from making false allegations against officials/colleagues. She is further aggrieved by the Annexure A-14 order dated 20.2.2008 revoking the Annexure A-8 order dated 15.11.2007 by which the aforesaid Annexure A-5 order dated 16.10.2007 in abeyance. The other order impugned by the applicant is Annexure A-15 dated 26.2.2008 issued by the 4th respondent directing her to report for duty at Films Division, Main Office, Mumbai as per the directions contained in Annexure A-3 order dated 18.10.2007. She has, therefore, sought the following reliefs in this O.A:

- “(i) Call for the records leading to the issue of Annexures A-3, A-5, A-13, A-14 and A-15 and quash the same;
- (ii) Direct the respondents to allow the applicant to continue at Films Division, Trivandrum, as if the impugned orders have not been issued at all;
- (ii) Direct the respondents to conduct a fresh enquiry into the allegations in A-1 strictly in terms of A-16 and also the guidelines laid down by the Hon'ble Supreme Court in Visakha's case and that too by dissociating the 5th respondent and other officials who are parties to the enquiry held from 04-06 December 2007 and to take appropriate action against the 4th respondent in accordance with law;
- (iv) Award costs of and incidental to this application.
- (v) Pass such other orders or directions as deemed just, fit and necessary in the facts and circumstances of the case.”

9. The applicant had made the Annexure A-17 complaint dated 15.10.2006 to the Chairman/Secretary, Vanitha Commission, Government of Kerala, Thiruvananthapuram against Kum Baby stating that she has been abusing her in such language which cannot be reproduced. She has also alleged that the

Branch Manager was harassing her instead of stopping the misbehaviour of Kum Baby. Thereafter, she made Annexure A-1 representation dated 5.3.2007 to the 2nd respondent stating that she had earlier given a complaint against Kum Baby, UDC (Applicant in O.A.623/2007) to the Women's Council (Kerala), Trivandrum in November, 2006 about her misbehaviour in the office; the council had held 3 sittings in the matter; Kum Baby had admitted her mistakes mentioned in her complaint and since January 2007 she stopped misbehaving with her. However, because of her complaint against Kum Baby, the Branch Manager developed some personal animosity against her and he has been harassing her thereafter. According to her, the Branch Manager sought her explanation on 2.2.2007 for late coming in the office. She alleged "the Branch Manager is in the habit of speaking with double meaning sentences with sexual meanings". She has further alleged that the Branch Manager is in the habit of coming to her section many times a day, speaks to her for some time and eat beetle leaves and beetle nuts with one Mrs Sreedeviamma, LDC and utter sentences with double meaning with sexual over tones. According to her, the Branch Manager has crossed all limits and she was shocked and ashamed on 5.3.2007 when he was commenting and enjoying with Group D staff nicknaming her as "Kochhamma" which means "a pimp or head of prostitutes". She, has, therefore, made the Annexure A-1 complaint dated 5.3.2007 to 2nd respondent seeking criminal proceedings against the Branch Manager. On receipt of the aforesaid complaint, an enquiry was ordered in the matter and Mrs Viplove Rai Bhatia, Director conducted the enquiry. The applicant gave her Annexure A-2 written submission. She complained that Mr Venugopal, the Branch Manager had deep rooted and sinister plans to harass her and it began from her refusal to stand guarantee for his personal loan. Further, he sent her medical bill amounting to Rs.600/- to the Head Office for sanction when the Branch Manager himself was authorised to sanction the same. Thereafter, she was transferred from Sales to

the Accounts Section. The extract of the other complaint of sexual harassment against the Branch Manager is as under:

"6. From the beginning, Mr Venugopal was behaving peculiarly with me. He used to indulge in loose talks which I used to warn him and requesting not to repeat as I am not at all interested in such loose talks. I am quoting some examples to substantiate. He gave me the piece of information that the Chief Producer Mr Bankim Kapadia was suspended from the service. He is a lucky person as he enjoys a lot of women. I know him personally since my Poona Film Institute. Along with, he made statements like How fair you are. Your belly is beautiful. What do you eat, what is your menu etc. I strongly objected to his loose talks and requested not to repeat as I hate such behaviour. Not only he continued to indulge in loose talks but intensified. Another example, computer training programme when computer was purchased by this branch was denied to me, even though I am the seniormost UDC looking after the expenditure budget etc. Several officials went for the training, even Mr Janardhana Iyer, when he was a film shipper. I again requested him to send me for the training explaining the need for it, he denied me. So far, I do not know to operate computer and I am finding difficulty in doing my office work.

7. Harassment went on in many ways. Meanwhile, in September 2006, I was called by the Branch Manager to his cabin. I went and after some time, he started loose talks with double meaning with sexual overtones. I warned him not to repeat this and returned my seat. He followed me to my seat and continued with his nasty behaviour, ran around my table showing vulgar hand signs, threatened me with dire consequences. I shouted at him to stop the nonsense, otherwise I will report to higher authorities. I was shocked and ashamed at the behaviour of Mr Venugopal.

Later, on the same day, while I was discussing this issue with Mr Sreekumar, Junior Booker who is also the secretary of the Films Division Association, Mr Venugopal suddenly appeared before me and held my breast, outraging my modesty and womanhood. In the shock, I did not know how to react in that situation. I did not give any written complaint about the incident as I thought about the irreparable damage to my family life and loose respect among the officials. Mr Sreekumar explained this to Mr Nazir Khan Junior Booker in my presence. However, I requested both of them not to tell about the incident to others.

8. After this incident, I stopped going to his cabin even if I was called. He continued to harass me by instigating Kum Baby, UDC. She hurled such abuses on me and my husband, grown up sons in an unparliamentary language which cannot be printed. I could not bear this torture any more by them and I could not attend to work properly and discharge my duties.

9. I took up the case of harassment of Kum Baby again with the Head Office, seeking relief to my woes in the office and justice. An enquiry was held by Mr Kasiappa, Branch Manager, Bangalore in November, 2006. On his return from the Branch Manager's conference in Mumbai in December, 2006, Mr Venugopal threatened me saying that officials who complain will be transferred. No action will be taken against the Branch Manager on your complaint.

10. I took up the case of harassment by Kum Baby with the

Women's council of Kerala, Trivandrum. I filed a case against Kum Baby. After several hearings by the council, Kum Baby was reprimanded and directed to behave properly with me. Along with the Branch Manager was advised to be impartial and fair to me, protect the self respect of mine and other lady officials of the office."

10. According to the report submitted by Smt Bhatia (Annexure R-5) dated 23/29.8.2007, many officials have complained that Smt Deepa Shanker is in the habit of creating problems by way of arguing with the staff or Branch Manager. She regularly comes late to office and when asked for an explanation by the Branch Manager, she picks up a fight with him, she plays double game and her statements are entirely contradictory to what had actually happened, the staff members have unanimously reported that she was very irregular in her attendants and she categorically refused to give application for permission to come late and, therefore, the Branch Manager was forced to give her a memo for coming late; the other lady staff in the office have attested that the Branch Manager Shri Venugopal is a very decent character and he has never passed any comments or sexual passes over any of them; she had openly challenged that the Branch Manager will be transferred from Thiruvananthapuram; her husband Shri Uday Shanker has also wanted to interfere in the matter and he had given a letter to speak on behalf of his wife.

11. The full text of Smt Bhatia's report reads as under:

"No.VPR/TVMENQ/01-2007 Dated the 23/29 August, 2007.
To
The Chief Producer,
Films Division,
Mumbai-400 026.

Subject: Submission of report on the fact finding enquiry conducted with respect to the complaint by Smt Deepa Shankar, UDC, Films Division, Thiruvananthapuram against Shri Venu Gopal, Sr. Branch Manager, Films Division, Thiruvananthapuram.

Dear sir,

This has reference to Order No.C-13012/1/2007-Est.II regarding deputing the undersigned as Enquiry Officer for the fact finding enquiry to be conducted with respect to the complaint by Smt Deepa Shankar, UDC, Films Division, Thiruvananthapuram against Shri Venu Gopal, Sr. Branch Manager, Films Division, Thiruvananthapuram.

I proceeded on tour to Thiruvananthapuram on 9th May, 2007 and reached Thiruvananthapuram on 10th May, 2007. I have enquired the following officials/officers during my stay from 10th July, 2007:

1. Smt Deepa Shankar, UDC.
2. Smt. Santha Krishnan, Stenographer Gr.II.
3. Kum R Baby, UDC.
4. Smt. S Syamala Devi, UDC.
5. Smt Sheeba Shaffi, LDC.
6. Smt B Sreedevi Amma, LDC.
7. Smt Salomi George, LDC.
8. Smt Usha T Nair, LDC/Cashier.
9. Shri P Sreekumar, LDC.
10. Shri K Janardhan Iyer, Junior Booker.
11. Shri S Srekumar, Jr. Booker.
12. Shri S Nazeer Khan, Jr. Booker.
13. Shri G Soman Nadar, Daftary.
14. Shri K Asokan, Peon.
15. Shri G Mohana Kumar, Packer.
16. Shri G Divakaran Nair, Mazdoor.
17. Shri P.K.Karthikeyan, Mazdoor.
18. Shri M.K.Kumaran, Chowkidar.
19. Shri Venugopal, Sr. Branch Manager.

The written statements of all the above officials/officers along with their respective signatures with date are attached herewith for your kind perusal.

My findings in the above enquiry are:

The major allegation of Smt. Deepa Shankar against Shri Venugopal was that he is habituated to passing loose talks and passing comments with sexual overtones. She also complains that the Branch Manager has nicknamed her 'KOCHOMMA', which in slang means A PIMP OR HEAD OF PROSTITUTES.

On enquiry from the officials of the Thiruvananthapuram Branch, the following findings have come out:

Many officials have complained that Smt Deepa Shankar, is habituated to creating problems in the office by way of arguing with the staff or Branch Manager. She regularly comes late to office and when asked for an explanation, by the Branch Manager, she picks up a fight with him.

First, in the written statement of Smt Deepa Shankar, she states that in September, 2006 the Branch Manager had passed some loose talks and when she was discussing about this with Shri

Sreekumar in the office, Shri Venugopal went there and held her breast. But on enquiry with Shri Sreekumar, whether he witnessed such an incident, he said that when Smt Deepa Shankar was telling him about some argument over the leave problem, Branch Manager came there and touched her shoulder and said "Sorry, forget that".

It is evident from the above, that Smt. Deepa Shankar is playing a double game. In her written statement she writes something entirely contradictory to what has actually happened.

Secondly, the staff unanimously have told that Smt Deepa Shankar is very irregular in her timings of arrival to office. The Branch Manager, when asked her to submit a late permission letter on 2.2.2007, she categorically denied to give. Upon this the Branch Manager was forced to give her a Memo to submit an explanation for coming late. In the said memo, instead of the words 'Head of Office' which is the Branch Manager himself, he wrote mistakenly 'Head Office' which was blown out of proportion by Smt Deepa Shankar.

Thirdly, even the other lady staff other office have attested that the Branch Manager, Shri Venugopal is of a very decent character and he has never passed any comments or sexual passes over any of them nor to Smt Deepa Shankar in front of them. Smt Deepa Shankar in her written statement has mentioned that the Branch Manager passes comments and sexually coloured gestures in gestures in public, while the entire staff were of the opinion that the Branch Manager never misbehaved with any staff.

Smt Deepa Shankar openly challenges in the office, that she will see to it that the Branch Manager is transferred from Thiruvananthapuram. It is evident from the written statements of some officials.

Each and every staff of Thiruvananthapuram Branch are of the opinion that Smt Deepa Shankar is the root cause of all the troubles in the office. Because of her persistent arguments with everybody in the office, the work atmosphere of the office is disturbed. The staff opined that if Smt Deepa Shankar is transferred the atmosphere in the office would be more congenial and peaceful.

Smt Deepa Shankar's main allegation was that the Branch Manager calls her 'KOCHAMMA'. Upon enquiring with each and every official in the Thiruvananthapuram branch, it is clear that he never called her that way. Moreover, 'KOCHAMMA' in any part of Kerala means, either 'Mother's younger sister' or 'Madam' as the maids call the house-lady.

During the enquiry, Smt Deepa Shankar, gave a request letter from her husband Shri Uday Shankar to the undersigned. It was a letter seeking permission to give him an opportunity to speak on this matter. Since Shri Uday Shankar is no more a staff of Films Division, I did not accede to his request. She is trying all possible ways to harass him and fulfil her wish. She tried to pressurize by calling her husband for meeting the undersigned.

This, it is very evident from the above enquiry and the written

statements of all the officials that Smt Deepa Shankar, UDC is hell-bent upon transferring Shri Venugopal, Branch Manager from Thiruvananthapuram branch and ruining the peace in the office working atmosphere. These kind of applications should not be entertained by the office and she should be given a very strong memo seeking explanation for applications with such ulterior motives.

Here, I would like to put forth the fear of the staff of Thiruvananthapuram branch that in the past there had been umpteen enquiries conducted by the Head Office and the secrecy of the reports of the Enquiry Officer is not maintained. The result of this is that Smt Deepa Shankar retaliates to each and every staff in the very very negative manner, for what they have said against her. This sets a bad precedence and the faith on the Enquiry Officer is almost negligible. Chief Producer as Head of the Department may please look into this personally and I would suggest that once the report is read by the concerned officers, the same may be again placed under sealed cover, instead of keeping them open in the file."

12. The respondent No. 2 vide Annexure A-4 Memorandum dated 16.10.2007 informed her that necessary enquiry was conducted by the office in regard to her allegations of sexual harassment and found that there was no substance in her complaint. She was warned to desist from the making false allegations against the Officer/Officials. Thereafter, she was transferred vide Annexure A-5 letter dated 16.10.2007 and relieved vide letter dated 18.10.2007.

13. Applicant sought a 2nd enquiry against the Branch Manager by a person other than Mrs Viplove Rai Bhatia who conducted the 1st enquiry and held that her allegations were baseless. She alleged that the Branch Manager was continuing in harassing her. For example, the transfer orders dated 16.10.2007 was received by her on 27.10.2007, whereas the Branch Manager relieved her from her duties on 18.10.2007. In her Annexure A-6 representation dated 27.10.2007, she requested the 2nd respondent to transfer the Branch Manager, Mr Venugopal from Trivandrum before an enquiry is conducted "as his continuation in the post will add pressure on the officials as he has been canvassing using his position". She has also made the Annexure A-7 representation to the 2nd respondent to cancel her transfer order. The 2nd

respondent, according to her request, vide Annexure A-8 order dated 15.11.2007 kept the transfer order dated 16.10.2007 in abeyance until further orders. However, vide Annexure A-10 Memorandum dated 28.11.2007, the 2nd respondent informed her that her request for changing the Chairman of the Women Cell/Complaint Committee has not been acceded to as said Cell/Committee has been constituted by the competent authority on the basis of the existing rules. She was also informed that the power of transfer/placement of any officers/officials are vested with the Head of Department keeping in view the administrative exigencies and, it is not possible to accede to her request to transfer Shri Venugopal, Branch Manager, Trivandrum. The applicant again, vide her Annexure A-11 letter dated 4.12.2007 requested the 1st respondent, viz, the Secretary, Ministry of Information & Broadcasting, New Delhi "to form a fresh team to enquire her complaint of sexual harassment with a request to transfer the Branch Manager to provide the witnesses the needed freedom of expression".

14. The Complaint Committee of Women Cell held an enquiry on 4-6th December, 2007 on the complaint of Smt. Deepa Shanker regarding sexual harassment against Shri Venugopal, Branch Manager, Thiruvananthapuram. According to the report (Annexure R-6), the allegation of Mrs. Deepa Shanker that Shri Venugopal touched her chest portion in the presence of Shri Sreekumar, Junior Booker, was not proved. The said report is extracted below:

"FACT FINDINGS OF THE COMPLAINT COMMITTEE OF LWOMEN'S CELL ON THE ENQUIRY CONDUCTED ON 4- 6th DECEMBER, 2007 ON THE COMPLAINT OF SMT. DEEPA SHANKAR, UDC OF SEXUAL HARASSMENT AGAINST SHRI VENUGOPAL, BRANCH MANAGER, THIRUVANANTHAPURAM.

The following members of the complaint committee of Women's cell met on 4th - 6th December, 07 at Thiruvananthapuram Branch Office:

1. Smt Viplove Rai Bhatia, Chairperson
2. Shri Suresh Menon, Member
3. Shri R.K.Chandel, Member

4. Smt Pratibha Kaur Pasricha, Member
5. Smt A.R. Tarneja, Member
6. Smt T. Radhamoni, Secretary, Working Women's Association was associated as NGO.

The members went through the complaint of sexual harassment made by Smt Deepa Shankar, UDC. After discussions it was felt that following staff members may be enquired in depth:

1. Smt Deepa Shankar, UDC
2. Smt S Syamala Devi, UDC
3. Smt Sheeba Shaffi, LDC
4. Smt Usha T Nair, LDC-Cashier.
5. Shri S Sreekumar, Jr. Booker
6. Shri Nazeer Khan, Jr. Booker
7. Shri Venugopal, Branch Manager.
8. Shri P Sreekumar, LDC.

After enquiring in detail with each of the above officials, the observations of the committee is given below:

1. On 2.2.07 the Branch Manager, Mr Venugopal asked all late coming staff to give late permission letter. All other concerned staff members did so. Smt. Deepa Shankar had signed 9.00 a.m. On the attendance register in spite of coming in the office at 10.30 a.m. as per her admission in the enquiry commission. She refused to give the late permission letter and consequently Mr Venugopal gave her a note asking for explanation to Head Office. As per Shri Venugopal's admission in the enquiry he had written by mistake "Head Office" instead of "Head of Office".

2. Shri Venugopal does go to the section many times for giving letter or to give instructions. However as per his admission he does eat beetle leaves and at times when he runs short of beetle leaves he takes them from Smt Sreedeviamma, LDC who also eats beetle leaves. During the course of enquiry it was found that none of the staff members certified that Shri Venugopal utters double meaning sentences with sexual overtones.

3. After the enquiry it was found that no staff member has heard Shri Venugopal calling Smt Deepa Shankar - Kochamma. Moreover Kochamma does not mean A Pimp or head of prostitutes.

During the enquiry it has been observed that there are lapses in the office which are the root cause of the strained atmosphere in the office, like:

- a. There is no section diary maintained for the receipts of letters.
- b. The attendance register(muster) has not been maintained properly.
- c. There are no section heads which leads to lack of supervision.
- d. Mrs Deepa Shankar's allegation that Mr Venugopal touched her chest portion in presence of Shri Sreekumar, Junior Booker could not be proved in the enquiry. He has commented that Shri Venugopal had tapped her on her shoulder to pacify her about

their earlier quarrel. There was no sexual overtone to it.

All the relevant documents and certified statements of the concerned people are enclosed.

Sd/
6.12.07
(VIPLOVE RAI BHATIA)
MEMBER SECRETARY
WOMEN'S CELL COMPLAINT COMMITTEE

Sd/
(T.RADHAMONI)
KERALA
WORKING
WOMEN'S
ASSOCIATION
(NGO)

Sd/-
6.12.07
(SURESH MENON)
MEMBER

Sd/-
6.12.07
(R.K.CHANDEL)
MEMBER

Sd/-
(PRATIBHA KAUR PASCRICHA)
MEMBER

Sd/-
(A.R.TARNEJA)
MEMBER"

15. In a separate note of remarks, a Member of the aforesaid Committee, T. Radhamoni, Secretary, Kerala Working Women's Association, stated that only there were 17 persons in the whole office, all of them sitting in the same hall and, therefore, it cannot be believed that they can escape from hearing whatever is talked and seeing whatever is happening. According to her, the aforesaid facts were also to be considered while taking a decision on the enquiry report that the charges levelled against Shri Venugopal was not proved in the enquiry. The said remarks reads as under:

**"REMARKS OF SMT T.RADHAMONI, NGO MEMBER OF THE
SEXUAL HARASSMENT COMMITTEE**

It is seen that Smt.Viplove Rai Bhatia, Chairperson of the Sexual Harassment Committee constituted by the Films Division, Govt. of India conducted an enquiry on 10th to 13th August, 07 in the Trivandrum office on the complaint of sexual harassment of Smt Deepa Shankar against the Branch Manager, Shri Venugopal. She had interviewed all the staff of Trivandrum office and came to a conclusion that all the allegations made by Smt Deepa Shankar were false. All the blame of the incidents that took place was put on Smt Deepa Shankar and consequently Smt Deepa Shankar was transferred to Bombay with immediate effect. This history of the case has affected adversely on our enquiry.

The staff of the office are under immense fear and pressure that nobody speaks the truth. Everybody tried to escape the fury of the higher officials by saying that they had not heard anything or seen anything as you can see from their statements. All of them are scared of a transfer from Kerala office and decided not say anything against the Branch Manager. With only 17 persons in the whole office and all of them sitting in the same hall it cannot be believed that they can escape from hearing whatever is talked and seeing whatever is happening.

This fact may also kindly be taken into consideration while taking a decision even though the charges levelled against Mr Venugopal was not proved by the enquiry conducted by us.

Sd/

6.12.07

(T.RADHAMONI)

NGO

Secretary,

Kerala Working Women's Association,

Vikas Bhavan.P.O.

Thiruvananthapuram-695 033."

16. The other member of the Committee submitted an additional report commenting upon the report of Mrs Radhamoni which is as under:

"To

The Chief Producer,
Films Division,
Mumbai-400 026.

Subject: Submission of reports on the fact finding enquiry conducted with respect to the complaint by Smt Deepa Shankar, UDC, Films Division, Thiruvananthapuram against Shri Venugopal, Film Division, Thiruvananthapuram.

Sir,

With reference to Office order No.C-13012/1/2007-Est.II, dated 15.1.07, the following members of the Women's Cell Complaint Committee proceeded to Branch Office, Thiruvananthapuram on 2.12.07.

1. Smt Viplove Rai Bhatia, Chairperson,
2. Shri Suresh Menon, Member
3. Shri R.K.Chandel, Member
4. Smt Pratipha Kaur Pasricha, Member
5. Smt A.R.Tarneja, Member

As per the guidelines issued by the Government, Smt. T Radhamoni, Secretary, Working Women's Association, NGO was associated to conduct the above enquiry from 4.12.07 to 6.12.07. The following officials were enquired:

1. Smt Deepa Shankar, UDC.

2. Smt S.Syamala Devi, UDC.
3. Smt Sheeba Shafi, LDC.
4. Smt Usha T Nair, LDC Cashier.
5. Shri P Sreekumar, LDC.
6. Shri S Srekumar, Jur. Booker.
7. Shri Nazeer Khan, Jr. Booker.
8. Shri Venugopal, Branch Manager.

The written statements of all the above officials/officers duly signed by them are attached herewith for your kind perusal.

The fact Finding Report given by Smt. Radamoni, representing the NGO i.e. Kerala Working Women's Association is also enclosed for consideration.

We have gone through the report given by the NGO. We have observed that the NGO has given indication that staff of the Branch Office which was called for their submission before the Committee was under fear of transfer outside Kerala if they spoke against Branch Manager. This indication of NGO appears to be prejudiced as we have seen that all the staff members made their statements very freely and without any fear. Furthermore at no point of time we sensed any pressure on the staff before, during or after the inquiry was conducted the NGO has signed the Fact Finding Report and thereafter given her own report separately making above observations therein if the observations of the NGO were so prominent and correct, she could have insisted for inclusion of the same in the report itself. Further, the opinion of the NGO that it is not possible that nobody has seen or heard whatever is said or done in the single room office is considerable in as much as that nobody would dare to say or do anything which might attract the allegations of sexual harassment in such an open place in front of all the staff. Therefore, the contentions/observations of the NGO appear to be vague and should be ignored before taking any decision in the matter.

Sd/
(VIPLOVE RAI BHATIA)
CHAIRPERSON

Sd/-
(SURESH MENON)
MEMBER

Sd/-
(R.K.CHANDEL)
MEMBER

Sd/-
(PRATIBHA KAUR PASCRICHA)
MEMBER

Sd/-
(A.R.TARNEJA)
MEMBER

17. I have heard Shri Rajiv Koyikkal, counsel for applicant in O.A.623/2007, Shri TC Govindaswamy, counsel for applicant in O.A.133/2008, Shri CM Nazar, ACGSC for Respondents 1 to 3 and Shri TPM Ibrahim Khan, SCGSC for respondent-4. I have also perused the entire pleadings on record. From the

various records produced by the parties in the O.As, it is seen that there is no discipline in the office of the Distribution Branch, Thiruvananthapuram. There are allegations and counter allegations by the staff members. Respondent No.3 which is the Head of the Department sitting at Mumbai has only the remote control over the 2nd respondent in O.A.623 of 2007/3rd & 4th respondents in O.A.133 of 2008, viz, Mr Venugopal, the Senior Branch Manager and the staff working under him at Thiruvananthapuram. It is actually Mr Venugopal who is responsible for the maintain of discipline in his office. But there are allegations against him also. In such circumstances, the 3rd respondent has rightly ordered for independent fact finding enquiries into the allegations made by the Smt Deepa Shankar against Kumari R Baby and Mr Venugopal respectively.

18. Shri Kassiappa, Senior Manager has held an enquiry on the complaints received from Mrs Deepa Shankar, the applicant in O.A.133/2008 and her husband Udaya Shankar against Kumari R.Baby, the applicant in O.A.623/2007. According to the report submitted by Shri Kassiappa, Smt Deepa Shankar is the root cause for the indiscipline in the office. She shouts at Kumari Baby and in turn both of them shout at each other in loud voice. According to the report, Smt Deepa Shankar who is junior to Kumari Baby apprehends that she would not get her promotion as Head Clerk so long as Kumari Baby is in that office. She also draws support from her husband Shri Udaya Shankar, an ex-employer of Films Division who writes frequently to the Head Office and thereby interfering with the discipline of the office. While Kumari Baby is amenable to any compromise but Smt Deepa Shankar is adamant. She informed the enquiry officer that if his report is not in her favour "she will approach outside and take appropriate action". She also expects that all the Branch Managers who come to Trivandrum must give her importance and to take her advice. Otherwise, she would write complaints against them, to ensure their transfer. It is also the

findings of the enquiry officer that "all the staff of the Branch Office were against Deepa Shankar only and not against Kum R Baby". The report also says "Smt Deepa Shankar is the only lady in the office who is creating all types of complaints and problems to spoil the office atmosphere". The enquiry officer has also made observation about the competence of Kumari Baby and that she is unfit for promotion which was not relevant and therefore, not warranted.

19. Mrs Viplove Rai Bhatia, Director has conducted the enquiry into the allegations of sexual harassment against Shri Venugopal, made by Smt Deepa Shankar the incumbent of the post of Branch Manager. Shri Venugopal has also been impleaded as respondent No.4 in O.A.133/2008 filed by Mrs Deepa Shankar. Her allegation was that "the Branch Manager was in the habit of speaking with double meaning with sexual meanings". She has also alleged that Shri Venugopal has nicknamed her as "Kochamma" which means "a pimp or head of prostitutes". In her report, Mrs Bhatia submitted that Mrs Deepa Shankar is a regular late comer to the office and when the Branch Manager seeks her explanation, she picks up fight with him. Therefore, he was forced to give her a memo. As regards the alleged sexual harassment, Mrs Bhatia enquired the same from other lady staff in the office and according to them, "Shri Venugopal is of a very decent character and he has never passed any comments or sexual passes over to any of them nor to Smt Deepa Shankar in front of them". According to the report:

"Each and every staff of Thiruvananthapuram Branch are of the opinion that Smt Deepa Shankar is the root cause of all the troubles in the office. Because of her persistent arguments with everybody in the office, the work atmosphere of the office is disturbed. The staff opined that if Smt Deepa Shankar is transferred the atmosphere in the office would be more congenial and peaceful."

and

"Smt Deepa Shankar, UDC is hell-bent upon transferring Shri Venugopal, Branch Manager from Thiruvananthapuram Branch and ruining the peace in the office working atmosphere."

20. I do not find any reason to disbelieve the aforesaid independent fact finding reports of both Shri Kassiappa and Mrs Viplove Rai Bhatia. It is evident from the report of Shri Kassiappa that Kumari R Baby is a victim of the harassment of Mrs Deepa Shankar. It is true that Kumari Baby also had shouted at Mrs Deepa Shankar but it was only after she was badly provoked. However, the position in the case of Deepa Shankar, is very different. She is very much an indisciplined staff. She is determined to create problems for both Kumari Baby as well as the Branch Manager, Shri Venugopal. Her allegations of sexual harassment against Venugopal were proved to be baseless and she made them with the ulterior motive to transfer him from the present post. In fact, it was in retaliation against Shri Venugopal who tried to maintain discipline in the office and sought her explanation for the late coming, etc. Both reports of Shri Kassiappa and Mrs Viplove Rai Bhatia have commented upon her very bad inter-personal relationship in the office. Both the reports say that Mrs Deepa Shankar is the root cause of all the troubles and indiscipline in the office of respondent No.2.

21. In the above facts and circumstances, I find merit in the submissions made by the applicant in O.A.623/2007 filed by Kumari R Baby. No doubt, she is a victim of harassment by Mrs Deepa Shankar. I, therefore, allow the said O.A. Consequently, the Annexure A-1 order dated 31.7.2007 transferring her from Distribution Branch Office, Thiruvananthapuram to Distribution Branch Office, Madurai is quashed and set aside. Respondent No.2, viz, the Branch Manager, Thiruvananthapuram shall permit her to rejoin duty as UDC in his office forthwith. The intervening period from the date of her transfer to the date of her rejoining shall be treated as duty for all purposes and it shall be regularised by granting the leave admissible and due to her. On the other hand, I do not find any merit

in O.A.133/2008 filed by Mrs Deepa Shankar. Her allegations of abuse against Kumari R Baby and sexual harassment against Shri Venugopal has been proved to be baseless and made with ulterior motives. I, therefore, dismiss the said O.A. She has already been relieved from her duties from the Thiruvananthapuram office on 18.10.2007. However, her counsel has submitted that she has not so far joined the new place of her posting at Films Division, Main Office, Mumbai. She shall, therefore, report for duty at Mumbai immediately within two weeks from the date of receipt of this order. In that case, official respondents shall treat her absence as duty from 18.10.2007 till the date of her joining at Mumbai as duty for all purposes and it shall be regularised by granting her leave due as admissible to her.

22. There shall be no orders as to costs in both these Original Applications.

Dated, the 24th September, 2008.

GEORGE PARACKEN
JUDICIAL MEMBER

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