

(Open Court)
**Central Administrative Tribunal , Allahabad Bench
Circuit Bench at Nainital,**

O.A. No.331/00055/2017

This the 16th day of April, 2018

Hon'ble Mr. Gokul Chandra Pati, Member (A)
Hon'ble Mr. Jayesh V. Bhairavia, Member (J)

Dr. Praveen w/o Dr. Hilaluddin, r/o Banglow No. 68, Canning Road, Forest Research Institute P.O. New Forest, Dehradun-24.

Applicant
By Advocate: Sri G.K. Singh
Versus

1. The Director General, Indian Council of Forestry Research & Education , P.O. New Forest, Dehradun-248006.
2. The Director, Forest Research Institute, P.O. New Forest , Dehradun -248006 as Chairman, PSHWC of ICFRE/FRI.

Respondents
By Advocate: Sri Suyas Pant

ORDER

By Hon'ble Mr. Jayesh V. Bhairavia, Member (J)

The applicant has filed the present O.A. u/s 19 of the Administrative Tribunals Act, 1985 with the following reliefs:-

- "i) Issue an order or directions in the form of setting aside/quashing the impugned undated report of the PSHWC of ICFRE/FRI served vide letter No. III-19(A) -2010-CVO- ICFRE (Pt. file) dated 18.10.2016.
- ii) Issue an order or directions in the form of punishing the Director General, ICFRE with fine of Rs. 50000/- for non-compliance with the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013 as per its Section 26(1)(b&c);
- iii) In case your Lordship think proper , may like to issue an order or directions in the form of commanding the respondents to re-conduct the enquiry strictly in accordance with the provisions of the sexual harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013 and rules made thereunder, and after

following the definition of sexual harassment given in Section 354, 354 A and 354 D of IPC and the Criminal Law (Amendment) Act, 2013.

- iv) Issue an order or directions which this Hon'ble Tribunal may deem fit and proper under the circumstances and facts of the case; and
- v) Allow this application with special costs in favour of the applicant throughout."

2. In the instant O.A., the applicant had submitted that a complaint for sexual harassment caused to her by some of officials at the working place of her service. On receipt of her complaint along with directions dated 31st May, 2014 issued by the National Commission for Women, New Delhi, the respondents had referred the said complaint and the letter of NCW to the Chairperson, complaint committee for prevention of sexual harassment for women ICFRE/ FRI letter dated 11 July, 2014 and thereafter, the committee for prevention of sexual harassment of women at work place (in short it is referred as PSHW) initiated the inquiry.

3. The said designated committee (PSHW) submitted an interim report dated 31st October, 2014 (Annexure A/2 refer) and then submitted a final report dated 18.10.2016 (Annexure A/1 refer). By the said final report, the designated committee had exonerated the persons against whom the complaint was made by the applicant. The said final report dated 16.10.2016 is impugned in this O.A.

4. On behalf of the applicant, learned counsel Sri G.K. Singh mainly submitted that the decision of the committee is in violation of principle of natural justice and also contrary to the provisions of the Sexual Harassment of Women at Workplace (PP&R) Act, 2013

and the Rules, 2013. It is submitted that the complaints committee constituted under the Act and Rules are required to inquire into the complaint in accordance with the principles of natural justice. The said committee failed to adhere to the statutory provisions, since the committee which submitted the final report did not extend the opportunity of being heard to the applicant. The applicant had also demanded certain relevant documents vide her letter dated 8.8.2014 and also requested the copies of reply of the officers against whom she made complaint with a view to prepare her reply. However, the same was not provided as requested by her. It is further submitted that the members of the committee who had inquired the case and furnished the interim report and the members of the committee who had submitted the final report are not the same. The committee also failed to consider the material on record and also deprived the applicant from meaningful effective participation in the said enquiry resulting in violation principle of natural justice.

5. In contra, on behalf of respondents, learned counsel for respondents Sri Suyas Pant submitted that as such the committee was constituted as per the provision of the Act, 2013 and inquiry was conducted strictly in accordance with the provisions of law and the final report is based on the material on record. However, if the applicant is aggrieved with the procedure followed by the committee is in violation of natural justice depriving the applicant for proper representation of her case, in that case, the respondents are ready

to get the matter inquired again in accordance with the provisions of Act and Rules.

6. On behalf of the applicant, learned counsel submitted that if proper opportunity will be provided to the applicant for redressal of her grievance, she will file her detailed reply before the said committee. It is also submitted that the applicant does not press the prayer for any compensation at this juncture.

7. Heard the learned counsel for parties and rival submissions.

8. It is noticed that as per the provision of Rule 7(4) of Sexual Harassment of Women at Workplace (PP&R) Rules, 2013, it is clear that the complaint committee shall make inquiry into the complaint in accordance with principles of natural justice. It is also revealed from the record that the inquiry report was not provided in time to the applicant, the relevant documents though demanded were not provided and thereafter, after span of two years, the copy of final report was provided to the applicant vide communication dated 18.10.2016 whereby the said committee came to the conclusion that the complaint dated 23rd September, 2013 and 20th November, 2013 made by the applicant do not attract the provisions of the Act. During the course of submissions, the learned counsel for the respondents has shown willingness of the respondents to provide another opportunity to the applicant. The learned counsel for the applicant on the instructions of the applicant also submitted that the applicant is ready to accept the suggestions made by the respondents. At this juncture, there is a readiness on the part of

the respondents to reconsider the complaint of the applicant afresh. Therefore, it is appropriate to remit this matter to the respondents for reconsideration of the complaint of the applicant by the complaints committee after providing due opportunity of hearing to the applicant as well as by providing relevant documents of the inquiry as required by the applicant and as would be revealed from the inquiry and thereafter, take appropriate decision in accordance with provisions of the Sexual Harassment of Women at Workplace (PP&R) Act, 2013 and the Rules 2013.

9. In view of the above discussion, the final report (Annexure A/1) which was provided to the applicant vide letter dated 18.10.2016 is hereby set aside and as directed above, the respondents are directed to complete the inquiry proceedings through the committee constituted under law and inquire into such complaint and submit the final report in accordance with law within 3 months from the date of receipt of the certified copy of this order. It is made clear that we have not touched the merit of the case and dispose of this O.A. only on the ground of violation of principles of natural justice by the committee which furnished the final report. Therefore, it is open for the respondents to take appropriate decision afresh as directed above in accordance with law.

10. Accordingly, O.A. is disposed of. No order as to costs.

(Jayesh V. Bhairavia)
Member (J)

(Gokul Chandra Pati)
Member (A)

HLS/-