

**Central Administrative Tribunal
Principal Bench**

OA No.1428/2016

New Delhi, this the 17th day of May, 2016

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K. N. Shrivastava, Member (A)**

K. S. Meena
S/o Shri Lt. B. L. Meena
Aged about 51 years,
Presently working as
Joint Secretary,
Urban Development Delhi Secretariat,
Government of National Capital Territory of Delhi,
New Delhi 110 002. Applicant.

(Applicant is present)

Versus

1. Union of India
Through Secretary
Ministry of Home Affairs,
North Block,
New Delhi 110 001.
2. Joint Secretary (Union Territories)
Ministry of Home Affairs,
North Block,
New Delhi 110 001.
3. Chief Secretary, GNCTD
5th Floor, Delhi Secretariat,
IP Estate,
New Delhi 110 002. ... Respondent.

(By Advocates : Shri B. L. Wanchoo for respondents No.1 & 2.
Ms. Sangita Rai and Shri Pradeep Singh Tomar for
respondent No.3.)

: O R D E R (ORAL) :

Justice Permod Kohli, Chairman :

Ms. Sangita Rai, learned counsel for respondent No.3 has placed on record copy of communication dated 16.05.2016 from the Deputy Director (Vigilance) to Deputy Director (Litigation) accompanied with an order dated 06.05.2016.

2. Vide order dated 06.05.2016 respondents have constituted Complaints Committee in respect of the allegations made against the applicant. The order, however, is silent as regards the nature of inquiry intended to be conducted against the applicant.

3. It is useful to notice brief facts of the case. The applicant is working as Joint Secretary, Urban Development in the Government of National Capital Territory of Delhi (GNCTD). On the basis of a complaint filed against him by one Caretaker of the department of Social Welfare on 03.07.2006 for alleged sexual harassment, a committee was constituted vide order dated 24.07.2006 (Annexure A-7). The said committee conducted inquiry. It is alleged that the applicant was not associated with the inquiry. The committee submitted its report dated 21.08.2006 (Annexure A-2) holding that the allegations of sexual harassment made against the applicant have not been proved, however, leaving it open to the competent authority to take appropriate disciplinary action. On the basis of the report of the committee, Memorandum dated 02.07.2007 under Rule 16 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 was issued. The applicant submitted his statement of defence dated 07.01.2008, and requested for a regular inquiry into the allegations of sexual harassment. Since no inquiry was ordered, the applicant filed an appeal on 30.12.2010 under Rule 24 of CCS (CCA) Rules, 1965. The said appeal was rejected vide order dated 02.02.2012. Orders of the Disciplinary and Appellate Authorities came to be challenged in OA No.2249/2012. The said OA was allowed by this Tribunal vide judgment dated 06.02.2015 with the following observations:-

“21. In any case, when the applicant had specifically requested for regular inquiry into the charges leveled against him, in the facts of the case, the Disciplinary Authority ought to have ordered a detailed inquiry into the matter, particularly so far the reason that even after examining 23 witnesses and 14 documents, the Sexual

Harassment Committee also not arrived on at a definite conclusion, i.e., whether the applicant had simply harassed or sexually harassed to the complainant. In the circumstances, the orders passed by the Disciplinary Authority as well as the Appellate Authority are quashed. It would be open to the Disciplinary Authority to pass fresh orders, after complying with the requirements of the said OM dated 28.10.1985 (referred to hereinbefore). There shall be no order as to costs.”

The Tribunal while quashing the orders passed by the Disciplinary Authority as well as the Appellate Authority, permitted the Disciplinary Authority to pass a fresh order after complying with the requirements of OM dated 28.10.1995. Concluding para of this OM reads as under:-

“6. NOW THEREFORE after going through the order dated 06.02.2015 passed by the Hon’ble CAT vis-à-vis the advice of DoP&T, the matter is referred to the Govt. of NCT of Delhi to conduct inquiry in the matter in terms of the order passed by the Hon’ble CAT keeping in view the advice of DoP&T as cited in preceding paras. The outcome of the inquiry alongwith recommendations of Govt. of NCT of Delhi may be submitted to the Ministry for taking further necessary action. The records of the case are returned herewith.”

From the perusal of the above, it appears that the GNCT of Delhi has been asked by the MHA to conduct inquiry in the matter in terms of the order passed by the Tribunal. The applicant thereafter represented to the respondents. The representation of the applicant has been rejected vide communication dated 27.01.2016 (Annexure A-5). Hence, the applicant has filed the present OA with the following reliefs:-

- (i) Set aside, quash and treat the original complaint dated 03.07.2006 as filed/closed made by Ms. Neelam Kataria, Care Taker of Social Welfare Department, GNCTD, alleging harassment.
- (ii) Set aside and quash the Committee Report dated 21.08.2006 of the Committee for prevention of harassment against woman at work place wherein the Committee recommended disciplinary action against the applicant.
- (iii) Set aside and quash the charge memo No.14033/10/2007-UTS-II dated 02.07.2007 under rule 16 of CCS (CCA) Rules, 1965 whereby it was proposed to take action against the applicant.
- (iv) Set aside and quash the order No.14040/38/2012/UTS-II dated 13/14/May, 2015 addressed to Delhi Govt. to conduct the fresh inquiry in the matter in terms of order dated

06/02/2015 passed by the Hon'ble Central Administrative Tribunal in OA No.2249/2012.

(v) Set aside and quash the rejection order vide No.14040/38/2012-UTS-II dated 27.01.2016 vide which dated 04.11.2015 representation of application was summarily rejected.

(vi) Drop the disciplinary proceedings once for all."

4. Vide order dated 25.04.2016, the Tribunal directed the respondents to inform the court as to what action has been taken by the respondents with regard to the Memorandum dated 13.05.2015 (Annexure A-4). It is in response to the aforesaid order that the respondents have placed on record copy of the order dated 06.05.2016.

5. We have perused the order dated 06.05.2016. Even though the complaints committee has been constituted in respect of the allegations of sexual harassment against the applicant, however, the order is silent as to the nature of inquiry intended to be conducted against the applicant. Since the Tribunal in earlier judgment dated 06.02.2015 has already quashed the disciplinary proceedings against the applicant, granting liberty to the respondents to initiate a fresh proceeding, the aforesaid order dated 06.05.2016 seems to have been passed. Ms. Sangita Rai, learned counsel appearing on behalf of respondent No.3 submits that the respondents intend to hold an inquiry in respect to the Memorandum dated 02.07.2007. Since the applicant has prayed for holding the inquiry, and the respondents also have now constituted new committee for holding inquiry, the same has to be conducted on the basis of OM dated 28.10.1985 and in accordance with the provisions of sub rule (1) (b) of Rule 16 which *inter alia* provides the procedure to hold an inquiry in the manner laid down in sub-rules (3) to (23) of Rule 14 of CCS (CCA) Rules, 1965.

6. The prayer made by the applicant, who appears in person, is that respondents may be directed to hold inquiry in accordance with rules expeditiously and the same be concluded within a stipulated time. Parties are *ad idem* so far holding of inquiry is concerned.

7. In the above circumstances, this OA is disposed of with direction to the respondents to commence and conclude the departmental inquiry in respect to memorandum dated 2nd July, 2007 (Annexure A-3) within a period of four months from the date of receipt of copy of this order. On receipt of the inquiry report, the Disciplinary Authority shall proceed to take a final call in accordance with rules within a period of three months thereafter. The outcome of the disciplinary proceedings shall be communicated to the applicant in accordance with law.

(K. N. Shrivastava)
Member (A)

(Permod Kohli)
Chairman

/pj/