

**Central Administrative Tribunal
Principal Bench**

OA No. 4081/2015

Order Reserved on: 06.05.2016
Order Pronounced on: 13.07.2016

Hon'ble Dr. B.K. Sinha, Member (A)

Dr. Parveen
W/o Dr. Hilaluddin,
R/o Bungalow No.68, Canning Road,
FRI Campus,
PO New Forest, Dehra Dun
And also at 2/31A, Prem Gali,
Babarpur, Shahdara, Delhi-110 032 -Applicant

(By Advocate: Shri Sulaiman Mohd. Khan)

VERSUS

1. The Secretary,
Union Ministry of Environment, Forests
& Climate Change and
Chairman Board of Governors of
Indian Council of Forestry Research &
Education, Indira Paryavaran Bhawan,
Jor Bagh, New Delhi-110 003
2. The Director General,
Indian Council of Forestry Research &
Education, Union Ministry of Environment, Forests
& Climate Change, Van Vigyan Bhawan,
Sector-V, R.K. Puram, New Delhi-110 007
3. Dr. S.S. Negi,
Director General (Forests) and
Special Secretary to Union Ministry of
Environment, Forests & Climate Change,
Indira Paryavaran Bhawan,
Jor Bagh, New Delhi-110 003
4. Mr. Vivek Khandekar,
Secretary, Indian Council of Forestry
Research & Education,
PO New Forest, Dehra Dun-248 006

5. Mr. Shasikar Samanta, Registrar,
Forest Research Institute,
PO: New Forest, Dehra Dun-248 006

-Respondents

(By Advocates: Mr. H.K. Gangwani with Mr. Amit Chawla for
respondent nos. 1 & 3
Mr. Sanjay Katyal for respondent nos. 2,4
and 5)

O R D E R

The instant Original Application filed under Section 19 of the Administrative Tribunals Act, 1985 has generated more heat than light. It was vehemently argued over a course of almost four days and has grown alarmingly in volume. It has also come under judicial scanner of the Hon'ble High Court on occasions more than one.

2. The applicant, in the instant case, is aggrieved with the order dated 21.08.2015 transferring her as Scientist-D, Genetics & Tree Propagation Division, Forest Research Institute (FRI, for short), Dehradun to Rain Forest Research Institute (RFRI, for short), Jorhat on administrative grounds. It has been issued by the Indian Council of Forestry Research and Education (ICFRE, for short). The applicant is also aggrieved with the order dated 02.09.2015 relieving her with effect from the even date to report for duty to the Director, RFRI, Jorhat signed by Registrar, FRI, Dehradun.

3. The applicant has prayed for the following relief(s):-

“a) Issue an order setting aside/quashing/cancelling/recalling the impugned order no. 40-18/2015-ICFRE dated 21.08.2015 of ICFRE and Order No. 11-621/2014-Estt-1 dated 02.09.2015 of the FRI with immediate effect.

b) Issue an order setting aside/quashing/cancelling/recalling Memos No. 40-18/2015-ICFRE dated 31.07.2015 and No.4-37/2010-Bhawan dated 06.08.2015;

c) Issue an order commanding the Respondent no.2 to maintain status quo of the applicant as was on 02.09.2015 in the Division of Genetics & Tree Propagation, Forest Research Institute, Dehra Dun until this case is finally disposed off;

d) Issue an order directing the Chief Vigilance Officer of the Union Ministry of Environment, Forests and Climate Change, New Delhi for initiating disciplinary actions under CCS Conduct Rules against the Respondents and others involved in causing immense sufferings, harassment and pains to applicant and also lodging FIR against them under operational Sexual Harassment Guidelines issued by Hon’ble Apex Court of India;

e) Issue an order or directions which this Hon’ble Court may deem fit and proper under the circumstances and facts of the case; and

f) Allow this application with special costs in favour of applicant throughout.”

4. The case of the applicant, in brief, is that she is Scientist, who holds Ph.D degree with a specialized master degree in arid studies from Ben-Gurion University, Israel. She has authored and co-authored around 50 research articles published across the globe and has been recipient of “Mashav Fellowship” from Israel and “United Nations Development Programs Fellowship”. She has participated several international conferences all over the world with

financial support from hosting countries on the basis of her innovative research outputs. She joined ICFRE as Research Assistant Grade-I at Arid Forest Research Institute (AFRI, for short), Jodhpur on 05.12.1990. She was selected and appointed as Scientist-B and posted at FRI since 05.05.2003 on merit. Subsequently, she was promoted as Scientist-C in July, 2008 and Scientist-D during July, 2012 on the quality and quantity of her contribution to Science. Presently, she is serving ICFRE, Dehradun as Scientist-D.

5. It is the case of the applicant that she has specialized master degree in arid studies and has developed series of interspecies Eucalyptus hybrids after intensive 10 years for the development of agro-forests of the Northern India. Thus, were she to be transferred out to the Rainforest Research Institute, Jorhat (RFRI), it would not only be a setback to her ongoing research endeavours of 10 years but would also expose her research work to plagiarism and hijacking and other unethical practice prevailing in the respondent institution. The applicant claims that the work area of FRI, Dehradun is Northern India (Punjab, Haryana, Delhi, UP, Uttarakhand, etc.) which is largely a semi arid tract whereas RFRI's work area is restricted to rain forests of Northeast India – an entirely a different agro-ecological zone. The applicant also claims that in addition, she is also Principal

Investigator in developing 100% Neem coated urea besides co-investigator of genetic improvement of Melia composite. The applicant has alleged that she has been continuously harassed by her superiors over the past few years for reasons not known. She has brought the matter before the Chairperson of Prevention of Sexual Harassment at Workplace Committee of ICFRE/FRI on 23.09.2013 with a request to take disciplinary action against those involved in harassment under the Sexual Harassment at Workplace (Prevention, Prohibition & Redressal) Act 2013, including specific complaints against one A.S. Rawat, Group Coordinator Research & Head Accounts Office, FRI, Dehradun. The Chairperson Dr. Neelu Gera vide letter dated 24.10.2013 expressed opinion that the complaints made by the applicant did not amount to sexual harassment and, therefore, remained out of purview of the committee. It is pertinent to point out here that Dr. Neelu Gera, who was then registered for Ph.D at FRI University headed by the respondent no.3 as Vice-Chancellor against whom, complaints were made. The applicant thereafter filed a complaint to the National Commission for Women on 20.01.2013 making specific charges against the said A.S. Rawat and one Dr. Paramjeet Singh, the then warden of the Girls hostel during 2003, seeking independent inquiry into the matter. This complaint was forwarded to erstwhile

Director General (DG) of ICFRE vide Case No. 8/2373/2014/NCW/HK/SJ dated 31.05.2014 directing him to look into the matter and take action as per Sexual Harassment at Work Place (Prevention, Prohibition & Redressal) Act, 2013. The DG, in turn, constituted a inquiry committee, instead of taking action against the respondent no.2 – batch mate of the DG. The applicant appeared before the inquiry committee and submitted her grievances. The inquiry committee in its interim report dated 31.10.2014, observed that the harassment made to the applicant was administrative in nature and did not amount to sexual harassment. The Committee further found that the applicant was lacking in giving regard to importance of verbal communication in organization; instead she has the habit of exaggerating and complicating the issues by putting everything in writing and even bringing rather petty matters under the purview of sexual harassment. The Committee further held that all the allegations made by the applicant were examined threadbare and found baseless. The applicant not satisfied with the report, approached the Police with a request to lodge FIR against those involved in her harassment in the light of Sexual Harassment Rules at Work Place on 12.12.2014. The applicant used RTI to glean information that FRI University has become a hub for awarding Ph.D. degrees to IFS officers in gross violation of

established norms and governing rules and regulations. She has cited a particular example of the said Neelu Gera, who had been awarded Doctorate in December/2013 without having obtained a “no objection certificate” from her HOD and without having taken study leave of 10 years after her registration, instead of 5 permissible. The applicant also refers to an article published in Tehlka in its issue dated 07.02.2015 which, *inter alia*, stated that officers had been granted degrees even before their registration confirmed and numerous examples of the cases of Ph.D. degree had been granted in utter violation and disregard of rules. One Dr. Hilaluddin, husband of the applicant, brought the fake degree scam into the notice of respondent no.2 on 18.06.2015 and requested him to set up an independent inquiry into the matter. The said Dr. Hilaluddin also wrote to the Vigilance Officer of the respondent – Ministry with a request to initiate disciplinary proceedings against those officials involved in fraudulent degree scam on 24.06.2015 under intimation to respondent no.1. The respondent no.4, the applicant alleges, as a retaliatory measure, vide their order dated 31.07.2015 issued a show cause for violation of Rule 3 of CCS (Conduct) Rules, 1964 by sending e-mails directly and individually to officers serving in ICFRE without following the due process of channel and communication and using derogatory and insulting language against them.

Further the applicant questioned the show cause being issued by the incompetent authority. The applicant pointed out to irregularities in house allotment. It was in this backdrop the respondent no.2 transferred the applicant from FRI, Dehradun to RFRI, Jorhat on administrative grounds, as a punitive measure.

6. The applicant has adopted almost nine grounds for her application, which are being listed as below:-

(i) The transfer in question is punitive one and not on the basis of job requirements.

(ii) The transfer has been made in disregard to the transfer policy dated 31.05.2012 in respect of Group 'A' Scientists which envisages mandatory recommendations of transfer committee of even a single scientist. Here, the applicant has also relied upon the decided cases of **Subhash Chandra Vs. State of HP** (LHLJ 1044/2011), **Shyam Singh Vs. State of HP** (SLR 207/2011) and **Ashok Kumar Vs. Himachal Pradesh Power Corporation** (SLC 1594/2013).

(iii) The applicant was relieved on 03.09.2015 without having completed the mandatory formalities of handing over/taking over the charge and without obtaining NOC.

(iv) The respondents have claimed that the transfer has been made in public interest. However, the applicant alleges that it clearly emerges from the perusal of the file that it has been done as a measure of revanche and is hence punitive in nature.

(v) The most effective argument in the quiver of the applicant is that of malafide. The applicant and her husband had stumbled upon a massive racket involving in awarding fake degree and plagiarized publication. It was in order to cover up and prevent disclosures of murky ongoing in the institute.

(vi) The next argument is that the applicant has specialization in respect of semi arid zone, while she has been transferred out to rain forest zone at Guwahati. Thus, the research work painstakingly done by the applicant stands to get plagiarized.

(vii) The applicant is the only officer of Group 'D' Scientist category to transfer out while three other officers along with her are in the lower categories.

(viii) The applicant alleges that significant portion of the research work done in the institute is sub-standard and plagiarized. She has cited a particular instance

when a Journal in Sydney referred critically to plagiarization being done by the respondent no.3.

(ix) The applicant alleges that the respondents had assured on affidavit to this Tribunal that *“the applicant has since not applied for leave/medical leave/leave on half pay on medical grounds supported by a proper medical certificate.”* However, she will certainly be paid leave salary on sanction of leave of the kind due to her.”

Reverting to their commitments, the respondents have not released the salary of the applicant in spite she has submitted her sickness certificates issued by AIIMS, New Delhi and Shujat Hospital, Amroha vide letter dated 15.12.2015 with a humble request to the respondent no.2 to release her due salaries of past few months. The applicant further informed the respondent no.2 that she is proceeding on child adoption leave and as per rules, vide letter dated 27.12.2015. The said letter was supported by copies of legal papers of child adoption for official record and with a humble reminder to release due salaries of the applicant for past four months. Afterwards, she submitted her fitness certificate vide letter dated 07.01.2016. Yet, her salary for the period has not been released.

7. The learned counsel for the applicant concluded his argument that the transfer is calculated to break moral courage of other women working in ICFRE and elsewhere in other institutes, to speak up against acts of sexual harassment and large scale malpractices going on in research institutions.

8. The respondent nos. 2, 4 and 5 have filed a counter affidavit rebutting the averment of the applicant, stating that the applicant has been working as a Scientist in Genetics & Tree Propagation of Division of FRI Dehra Dun since her appointment as Scientist D w.e.f. 05.05.2003 and has never been transferred out of FRI Dehra Dun or to the North East Region. The Director, RFRI, had requisitioned the services of four Scientists in the grade of Scientist D to Scientist F to implement major programmes of research in the region and there is need for domestication and breeding of a large number of species of economic importance, systematic survey for assessment of genetic diversity in those species, identification of plus trees, establishment of seed orchards etc.. It was in consideration of the fact that the applicant has been working as a Scientist since her appointment as Scientist B w.e.f. 05.05.2003 and has never been transferred out of FRI Dehra Dun, the Director General, ICFRE, final authority for deciding the transfer of a Scientist under Rule

6 of Transfer Policy, transferred her in the same capacity to RFRI, Jorhat in larger public interest. Further the transfer/posting is a regular administrative incidence of service in the career of a Group A Scientist who carries an all-India service liability. The respondents also submit that the applicant has specialization in the area of genetics of trees, which is equally applicable to all agro-climatic zones. The respondents have further stated that there are many Scientists as eminent as or more than the applicant at FRI Dehradun and her transfer to RFRI, Jorhat will not affect the ongoing research work. Rebutting the argument of the applicant that current research in genetics would be adversely affected by her absence and her research work would get hijacked, the respondents have stated that all research and intellectual property generated by scientists, while in employment of the respondent institution, is property of the organization. The applicant has completed all her in-house projects as Principal Investigator as she has also submitted project completion reports and did not have any ongoing projects in the capacity of Principal Investigator. As such, her transfer does not hurt research work of the organization. The very appointment letter of scientists contains clause as to their All India Service liability. There are other instances of scientists working in FRI Dehra Dun and elsewhere in ICFRE Institutes getting

transferred to RFRI, Jorhat, e.g. one S.Gogoi, Research Officer transferred from Institute of Forest Productivity Ranchi, A. Deb Barma, Scientist 'B' and Dr. S.C. Bisas, Scientist 'B' from Tropical Forest Research Institute, Jabalpur. The respondents have further cited the examples of one Dr. Paramjit Singh, Scientist 'E' transferred from FRI Dehra Dun to RFRI, Jorhat and one Dr. Arun Pratap Singh, Scientist 'E' transferred from FRI Dehra Dun to RFRI, Jorhat. Hence, transfer of the applicant is a routine administrative transfer and no rules have been violated or disregarded while effecting the same.

9. The respondents have further submitted that the charges of sexual harassment leveled by the applicant at Workplace had been found to be totally false vide the report submitted with the covering letter dated 31.10.2014. The issue of farzi Ph.D. degree and plagiarism raised by the applicant have no relevance to the matter at hand.

10. The respondents have also relied on the fact that the applicant had sought interim relief which had been denied by this Tribunal vide its order dated 01.12.2015. The applicant made an undertaking before the Hon'ble High Court on 11.12.2015 in WP (C) No. 11474/2015 that she would be joining her place of posting soon after the expiry of her sick leave on 05.01.2016. Learned counsel for the

respondents submitted that she reneged on her pledge by not joining her place of posting for which she is liable for action. Further referring to the additional affidavit filed by the applicant for seeking outstation leave from one Dr. Ginwal, clearly indicates that the applicant stands relieved in the afternoon of 03.09.2015 and the HOD has no authority to sanction leave to her beyond 03.09.2015. The respondents have repeatedly directed the applicant to report to her place of posting. In this regard, the respondents have also placed reliance on their letter dated 29.01.2016 issued to the applicant which has been filed along with sur-rejoinder directing to submit all requests for sanction of medical leave/child adoption leave/salary etc. at RFRI, Jorhat. The applicant's alleged sick leave had never been sanctioned nor as her child adoption leave. The respondents have placed reliance on the followings judgments:-

- (i) MCD Vs. Chattarbhuji, 133(2006) DLT 581;
- (ii) Tushar D. Bhatt Vs. State of Gujarat & Anr., JT 2009(2) SC 474
- (iii) Y.P. Sarabhai Vs. U.B.I. & Anr. (2006) 5 SCC 377;
- (iv) Narendra Kumar Maheshwari Vs. Union of India & Ors. 1989(3) SCR 43; and
- (v) K.N. Bhardwaj Vs. LIC & Ors. 176 (2011) DLT 8

11. The learned counsel for the respondents strongly argued that the applicant has completely failed to prove any kind of malafide for violation of transfer policy, disregard to the rules and her case stands demolished. The applicant is guilty of reneging on her undertaking before the Hon'ble High Court and is trying one excuse or the other to wriggle out of this transfer. Therefore, the OA is liable to be dismissed.

12. The respondent nos. 1 and 3 have also filed a counter affidavit supporting the contentions of the respondent nos. 2,4 and 5 and stating that Indian Council of Forestry Research & Education, Dehra Dun, is an autonomous body under the Ministry of Environment Forests and Climate Change, New Delhi with the strength of 280 Scientists headed by Director General, who is the Chief Executive Officer and is appointed by the Government of India with the approval of Appointment Committee of Cabinet. DG is the final authority for deciding the transfer of the Scientists.

13. The applicant has filed rejoinder application along with additional affidavit. The applicant and respondents have also filed their respective written submissions. The narratives in the instant case have been drawn largely from their respective statement.

14. I have considered the pleadings of rival parties as also the documents adduced and the citations relied upon on either side and have patiently heard the arguments advanced by the learned counsel for the parties from the above discussions.

15. The following issues are germane for decision in this case:-

- (i) Whether the transfer of the applicant has been made in contravention of any of the Rules?
- (ii) Whether the transfer of the applicant is punitive in nature consequent to her complaint under Sexual Harassment Act, 2013 and exposure of murky dealings in the respondent – institution?
- (iii) Whether the order of transfer is hit by malafide?
- (iv) What relief, if any, could be granted to the applicant?

16. Insofar as first of the issues is concerned, a convenient point to start is by having a look at the transfer policy of the respondent organization. This transfer policy was promulgated on the basis of the recommendations of Transfer Committee for adoption of transfer policy for Group 'A' and 'B' Scientists/Officers. However, the transfers made in the organization continue to be governed by the instructions of the Government of India. Neither of the

contending parties has challenged the transfer policy. Though transfer policy relates to Group 'A' and 'B' Scientists, it shall be presumed that policy shall equally applicable to other ranks of Scientists. The principal challenge in this case is that under provisions of clause 6 of the Transfer Policy, the recommendations of the Transfer Committee have been made mandatory. However, the Director General of ICFRE has been made the final authority in deciding the transfer of a Scientist. Clause 6 thereof is being reproduced below for the sake of greater clarity:-

“6. Transfer Committee

There shall be a Transfer Committee to be constituted by the Director General, ICFRE consisting of following members:

- i. Deputy Director General (Administration), ICFRE Chairman
- ii. Deputy Director General (Research), ICFRE Member.
- iii. Director of ICFRE Institute Member (to be nominated by Director General, ICFRE)
- iv. ICFRE Scientist (F/G) Member (to be nominated by Director General, ICFRE)
- v. Representative of SC/ST/OBC Member.
- vi. Secretary, ICFRE Member Secretary.

The Director as member of the Institute shall be on a rotation of one year. The Transfer Committee shall submit its recommendations to the Director General, ICFRE. The Director General shall be the final authority for the deciding the transfer of a Scientist.”

It is significant to note that the recommendations of the Transfer Committee are submitted to the Director General, ICFRE, who is the final authority for deciding the transfer of a Scientist. Nowhere does it provide that the Director General shall be bound to by the principles of transfer policy alone. The Transfer Committee as is clear from the wordings is only a recommendatory body and its recommendations may or may not be accepted by the Director General, who is the final authority for deciding the transfer of a Scientist. It also implies that Director General may or may not agree with the recommendations of the Transfer Committee. I also take note of the principles governing the transfer, which I consider it necessary to reproduce as follows:-

“7. General

- i. To the extent possible, transfer to a different location would be synchronized with the end of the financial year so that the education of children does not suffer.
- ii. The discipline/specialization of the Scientists shall be taken into consideration as far as possible while considering his/her case for a transfer from one place to another.
- iii. Scientists opting for transfer, at any other time and on their own volition or on mutual basis may make request to the Director General, ICFRE who may consider the request on merit on case to case basis.
- i. No external influence should be brought in by a Scientist for his transfer. In the event of such occurrence, relevant provisions of CCS (Conduct) Rules shall apply.

- ii. The Council reserves the right to transfer any of its Scientists from one place to another under its jurisdiction in the interest of Government work.”

It appears abundantly clear that specialization of the Scientists as per Clause (ii) of Rule 7 is of prime consideration while considering the case of Scientists for a transfer from one place to another. Sub-clause (xv) of Rule 4 further provides that scientist could continue at a place subject to public interest and he/she may be considered to continue at the same place on merit. The applicant has relied upon the case of **Subhash Chander vs. State of H.P** (supra) where the Hon’ble Court has held that “*Transfer Policy does not create vested right in favour of an employee but it is not a waste paper either. It has been framed for adherence and not for violation. Thus, transfer quashed*”.

17. Using the principle of harmonious construction between two extreme postures adopted by the rival parties, i.e., the Transfer Committee is only a recommendatory body and its recommendations are not must for effecting a transfer and other that the recommendations of the Transfer Committee are must, I find that when it has been provided in the rules meant to be implemented. However, the present set of rules is only in the form of administrative instructions and not rules framed under Article 309 or otherwise. Hence, it is lacking in statutory force. The utility of provision 6 lies

in the fact that it provides a body to make recommendations for transfer of employees. Hence, I am not to read much in this argument of the applicant that the transfer gets vitiated because it was not based on the recommendations of the Transfer Committee. This argument appears all the more flimsy when viewed in terms of the findings of the Hon'ble Supreme Court in **Shilpi Bose versus State of Bihar** [AIR 1991 (SC) 532] holding as under:-

“4. In our opinion, the Courts should not interfere with a transfer order which is made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide. A Government servant holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer orders issued by the Competent Authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the order instead affected party should approach the higher authorities in the department.”

This has also been impressed upon in case of **Union of India vs. S.L. Abbas**, [(1993) 4 SCC 357] wherein the Hon'ble Supreme Court held as under:-

“7. Who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by mala fides or is made in violation of any statutory provisions, the Court cannot interfere with it. While ordering the transfer, there is no doubt, the authority must keep in mind the guidelines issued

by the Government on the subject. Similarly if a person makes any representation with respect to his transfer, the appropriate authority must consider the same having regard to the exigencies of administration.”

18. In yet another decision in **State of U.P. Vs. Gobardhan Lal** [(2004) 11 SCC 402], the Hon’ble Supreme Court held as under:-

“7. It is too late in the day for any Government servant to contend that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires. Transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contra, in the law governing or conditions of service. Unless the order of transfer is shown to be an outcome of a mala fide exercise of power off violative of any statutory provision (an Act or Rule) or passed by an authority not competent to do so, an order of transfer cannot lightly be interfered with as a matter of course or routine for any or every type of grievances sought to be made. Even administrative guidelines for regulating transfer or containing transfer policies at best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequence of depriving or denying the Competent Authority to transfer a particular officer/servant to any place in public interest and as is found necessitated by exigencies of service as long as the official status is not affected adversely and there is no infraction of any career prospects such as seniority, scale of pay and secured emoluments. This Court has often reiterated that the order of transfer made even in transgression of administrative guidelines cannot also be interfered with, as they do not confer any legally enforceable rights, unless, as noticed supra, shown to be vitiated by mala fides or is made in violation of any statutory provision.

8. A challenge to an order of transfer should normally be eschewed and should not be countenanced by the Courts or Tribunals as though they are Appellate Authorities over such orders, which could assess the niceties of the administrative needs and requirements of the situation concerned. This is for the reason that Courts or Tribunals cannot substitute their own decisions in the matter of transfer for that of Competent Authorities of the State and even allegations of mala fides when made must be such as to inspire confidence in the Court or are based on concrete materials and ought not to be entertained on the mere making of it or on consideration borne out of conjectures or surmises and except for strong and convincing reasons, no interference could ordinarily be made with an order of transfer.”

It has also been held by the Hon’ble Supreme court in a number of cases that even if executive instructions or guidelines are disregarded in making transfer in public interest, such disregard do not serve to vitiate a transfer.

[Rajendra Rai vs. Union of India & Anr. 1993(1) SCC 178 & Dr. S.K. Mohapatra Vs. Union of India & Ors. 2013 SLJ 123 (CAT)].

19. I also do not find any credence in the argument of the applicant that she had been summarily relieved without completing the formality of handing over or taking over a charge or without obtaining NOC or clearing her pending dues when she was on outstation leave on health grounds and the impugned relieving order served through e-mail in the evening of 03.09.2015 at her in-laws house (Amroha). Here, in this regard, it is to be noted that relieving is an

administrative action. Though there are certain formalities prescribed for relieving, it is for the administrative authorities to consider whether those formalities be necessitated upon or served. Both the examples are common depending upon the circumstances of the case.

20. In view of the above discussion, I find no merit in the case of the applicant and hence decide the issue against the applicant.

21. Taking up the second of the issues, the argument of the applicant has already been noted that the applicant was transferred as a measure of revanche because of her raising the issue of sexual harassment at Workplace and such other collateral issues uncomfortable to the respondents. This is evident from the RTI reply received by the applicant. As this issue is mainstay of the argument of the applicant, I am of the opinion that the file notings in this regard need to be reproduced in some details:-

"It is submitted that in response to this office Memo dated 31.07.20015 (74 to 76/C, flagged -A), a reply dated (11.08.2005(P-102/C, flaged-B) from Dr. Parveen, Scientist -D G& TP Division, FRI has been forwarded by the Registrar, FRI vide his letter No. 11/621/2014 Estt. I dated 14.08.2015, (P-103/C, Flagged -C) for necessary action.

Dr. Parveen vide her above cited reply has informed that the Secretary, ICFRE is incompetent to issue a show cause notice to her, as he is neither her Controlling no Appointing Authority. Further, she

has stated that show cause notice issued by the incompetent authority using ultra Jurisdictional power. In this connection, she has also warned that writing nasty letters to a woman on flimsy grounds for ulterior motives and wrongful gains are punishable under governing Sexual Harassment Rules of the Union of India.

In this connection, it is stated that in compliance of remarks endorsed by the DG, ICFRE on Dr. Parveen's email dated 03.07.2015 (mentioned at P-3/C flagged-D) a memo dated 31.07.2015 (P-74-76/C, flagged-A) was issued to Dr. Parveen with regard to direct correspondence with the superior authority of ICFRE and using derogatory and insulting language for her colleagues as well as other officer and employees of ICFRE and also against the officials of MoEF&CC.

Secretary

In continuation to above note

- The memo regarding showcase notice dated 31.07.2015 was issued with the approval of appointing authority and disciplinary authority i.e. DG, ICFRE.
- The person i.e. Mrs. Parveen Scientist was given an opportunity to explain her conduct, however, she has not refuted the contents of show cause. Her reply is kept at P 102.
- In addition to above, she has threatened the U/S and others like him to fakely implicate in cases related to sexual harassment. This indicates a premeditated strategy and bend of mind to implicate U/S and Registrar, FRI and other is false cases. In addition, she has been trying to vitiate the cordial administrative atmosphere by inciting others against the superiors apart from indulging in insubordination and engaging insubordination and engaging in will full insult and use of derogatory language against other officers/employees of ICFRE. She has been levying charges often found false of sexual harassment against number of officers in past.

- Her continued presence in DehraDun will certainly vitiate the atmosphere further and she may indulge in attempts at implicating others as mentioned above. Thus in view of the facts brought forth above, she needs to be transferred at some place away from DehraDun.
- In this regard, kindly peruse the letter from Dir RFRI kept at page 108-11, wherein it is requested to make available a scientist with expertise in genetics and related fields. The present strength of scientist is 28 in RFRI against the sanctioned strength of 30 scientists in RFRI with one more scientist going to superannuate on September 2015.

Thus as brought out before in view of acts misconduct, insubordination, threat of implicating the officers in false sexual harassment cases and attempts to vitiate the administrative atmosphere and also in view of recommendation of Dir, FRI against her continued presence in FRI / Dehra Dun and requirement of scientist in RFRI:

- Transfer Dr. Praveen with immediate effect to RFRI and
 - (b) Handover the memo along with reply to show cause to frame charge sheet against Dr. Praveen to CVO, ICFRE.

Submitted for approval and directions.”

22. It is apparent from the above that the complaints filed by the applicant and the issues raised by her were not liked by the authorities as a disruptive force in the institute and as such, she had to be transferred out. In this regard, the requisition of the Director, RFRI became a convenient tool to

transfer the applicant out. I am of the firm opinion that the respondents cannot approbate and reprobate simultaneously. It would have been much better if the respondents have come out with the plea that transfer was necessitated on administrative grounds and not raised the issue of public interest. Both cannot go together. Either one could say that she had expertise in some subjects and as such, she was transferred out in the larger public interest. However, that has been falsified in view of their own notings that she was being transferred out as she had been filing petitions against superior officers for her derogatory language. In that much, the respondents would have been correct in holding that the transfer had been made on administrative grounds. However, I cannot hold that this by itself would be sufficient to vitiate the order of transfer. It has to be decided in the context of the issue no.3 that whether transfer has been made by *malafide*. This issue is perhaps the most important of the whole lot of issues that I have raised. Existence of *malafide* is certainly sufficient to prove to vitiate any order of transfer which then has to necessarily go. The question of what is malafide has been answered by the Hon'ble Supreme Court in ***State of Punjab and Another versus Gurdial Singh*** [1980 (2) (SCC) 471] holding as under:-

“9. The question then, is what is mala fides in the jurisprudence of power? Legal malice is gibberish unless juristic clarity keeps it separate from the popular concept of personal vice. Pithily put, bad faith which invalidates the exercise of power - sometimes called colourable exercise or fraud on power and oftentimes overlaps motives, passions and satisfaction - is the attainment of ends beyond the sanctioned purposes of power by simulation or pretension of gaining a legitimate goal. If the use of the power is for the fulfilment of a legitimate object the actuation or catalysation by malice is not legicidal. The action is bad where the true object is to reach an end different from the one for which the power is entrusted, goaded by extraneous considerations, good or bad, but irrelevant to the entrustment. When the custodian of power is influenced in its exercise by considerations outside those for promotion of which the power is vested the court calls it a colourable exercise and is undeceived by illusion. In a broad, blurred sense, Benjamin Disraeli was not off the mark even in law when he stated. "I repeat..... that all power is a trust-that we are accountable for its exercise that, from the people, and for the people, all springs, and all must exist." Fraud on power voids the order if it is not exercised bona fide for the end designed. Fraud in this context is not equal to moral turpitude and embraces all cases in which the action impugned is to affect some object which is beyond the purpose and intent of the power, whether this be malice-laden or even benign. If the purpose is corrupt the resultant act is bad. If considerations, foreign to the scope of the power of extraneous to the statute, enter the verdict or impels the action mala fides on fraud on power vitiates the acquisition or other official act.”

23. In the case of **Ravi Yashwant Bhoir versus District Collector, Raigad & Others** [2012(4) SCC 407], the Hon’ble Supreme Court defined malafide as under:

“47. This Court has consistently held that the State is under an obligation to act fairly without ill will or malice- in fact or in law. Where malice is attributed to the State, it can never be a case of personal ill-will or spite on the part of the State. "Legal malice" or "malice in law" means something done without lawful excuse. It is a deliberate act in disregard to the rights of others. It is an act which is taken with an oblique or indirect object. It is an act done wrongfully and wilfully without reasonable or probable cause, and not necessarily an act done from ill feeling and spite.

48. Mala fide exercise of power does not imply any moral turpitude. It means exercise of statutory power for "purposes foreign to those for which it is in law intended." It means conscious violation of the law to the prejudice of another, a depraved inclination on the part of the authority to disregard the rights of others, where intent is manifested by its injurious acts. Passing an order for unauthorized purpose constitutes malice in law. (See: Addl. Distt. Magistrate, Jabalpur v. Shivakant Shukla, AIR 1976 SC 1207; Union of India thr. Govt. of Pondicherry & Anr. v. V. Ramakrishnan & Ors., (2005) 8 SCC 394; and Kalabharati Advertising v. Hemant Vimalnath Narichania & Ors., AIR 2010 SC 3745).”

24. Further, in the case of in **Institute of Law versus Neeraj Sharma** Manu/SC/0841/2014 the Hon’ble Apex Court has held as under:

*“29. Further, we have to refer to the case of **Akhil Bhartiya Upbhokta Congress v. State of M.P. and Ors.** (2011) 5 SCC 29, wherein this Court has succinctly laid down the law after considering catena of cases of this Court with regard to allotment of public property as under:*

50. For achieving the goals of justice and equality set out in the Preamble, the State and its agencies/instrumentalities have to function through political entities and officers/officials at different levels. The laws enacted by Parliament and the State Legislatures bestow upon them powers for effective implementation of the laws enacted for creation of an egalitarian society. The exercise of power by political entities and officers/officials for providing different kinds of services and benefits to the people always has an element of discretion, which is required to be used in larger public interest and for public good.....In our constitutional structure, no functionary of the State or public authority has an absolute or unfettered discretion. The very idea of unfettered discretion is totally incompatible with the doctrine of equality enshrined in the Constitution and is an antithesis to the concept of the rule of law.

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54. In *Breen v. Amalgamated Engg. Union*, Lord Denning MR said: (QB p. 190, B-C)

... The discretion of a statutory body is never unfettered. It is a discretion which is to be exercised according to law. That means at least this: the statutory body must be guided by relevant considerations and not by irrelevant. If its decision is influenced by extraneous considerations which it ought not to have taken into account, then the decision cannot stand. No matter that the statutory body may have acted in good faith; nevertheless the decision will be set aside. That is established by *Padfield v. Minister of Agriculture, Fisheries and Food* which is a landmark in modern administrative law.

55. In *Laker Airways Ltd. v. Deptt. of Trade* Lord Denning discussed prerogative of the Minister to give directions to Civil Aviation Authorities overruling the specific provisions in the statute in the time of war and said: (QB p. 705, F-G)

Seeing that the prerogative is a discretionary power to be exercised for the public good, it follows that its exercise can be examined by the courts just as any other discretionary power which is vested in the executive.

56. This Court has long ago discarded the theory of unfettered discretion. In S.G. Jaisinghani v. Union of India, Ramaswami, J. emphasised that absence of arbitrary power is the foundation of a system governed by rule of law and observed: (AIR p. 1434, para 14)

14. In this context it is important to emphasise that the absence of arbitrary power is the first essential of the rule of law upon which our whole constitutional system is based. In a system governed by rule of law, discretion, when conferred upon executive authorities, must be confined within clearly defined limits. The rule of law from this point of view means that decisions should be made by the application of known principles and rules and, in general, such decisions should be predictable and the citizen should know where he is. If a decision is taken without any principle or without any rule it is unpredictable and such a decision is the antithesis of a decision taken in accordance with the rule of law.....

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59. In Kasturi Lal Lakshmi Reddy v. State of J&K, Bhagwati J. speaking for the Court observed: (SCC pp. 13-14, para 14)

14. Where any governmental action fails to satisfy the test of reasonableness and public interest discussed above and is found to be wanting in the quality of reasonableness or lacking in the element of public interest, it would be liable to be struck down as invalid....

61. The Court also referred to the reasons recorded in the orders passed by the Minister for award of dealership of petrol

pumps and gas agencies and observed:
(Common Cause case, SCC p. 554, para 24)

24. ... While Article 14 permits a reasonable classification having a rational nexus to the objective sought to be achieved, it does not permit the power to pick and choose arbitrarily out of several persons falling in the same category. A transparent and objective criteria/procedure has to be evolved so that the choice among the members belonging to the same class or category is based on reason, fair play and non-arbitrariness. It is essential to lay down as a matter of policy as to how preferences would be assigned between two persons falling in the same category....

62. In *Shrilekha Vidyarthi v. State of U.P.* the Court unequivocally rejected the argument based on the theory of absolute discretion of the administrative authorities and immunity of their action from judicial review and observed: (SCC pp. 236, 239-40)

29. It can no longer be doubted at this point of time that Article 14 of the Constitution of India applies also to matters of governmental policy and if the policy or any action of the Government, even in contractual matters, fails to satisfy the test of reasonableness, it would be unconstitutional...."

25. It emerges clearly that the theory of absolute discretion has been given a go-by in the pronouncements of the Hon'ble Supreme Court and that of Lord Denning. Here the argument of absolute discretion appears to have been adopted by the respondents to justify the transfer which I am of the opinion is not a fair proposition, in view of the pronouncements of the Hon'ble Supreme Court and other superior courts, there is nothing like absolute. Every action

of the Government/respondent authorities has to be in consonance with the rules of natural justice and preferably reasoned.

26. In **Kumaon Mandal Vikas Limited vs. Gargi Shanker** (2001)1 SCC 182, the Hon'ble Supreme Court has gone into the question of malice and that mere allegations cannot take the place of proof.

27. The decision is to withstand the test of reasonableness, freedom from malice of both kinds, i.e. malice in law and malice of facts. No doubt, in the case of **Jawahar Thakur vs. Union of India & Ors.** (OA No. 1888/2015 decided on 19.06.2015), this Tribunal upheld the right of the employer to transfer his employees. In this judgment also, this Tribunal did not find the transfer orders suffering with any transgression of rules. However, what I find is that a transfer order has been made on administrative grounds and on account of seeming nuisance caused by the applicant to the respondents by filing the petition.

28. The applicant has also relied upon the case of **Somesh Tiwari vs. Union of India & Ors.**, 2009(3) MLJ 727(SC) where it has been held by the Hon'ble Supreme Court that "*when an order of transfer is passed in view of punishment, the same is liable to be set aside as wholly illegal*". This view has also been reiterated in **A. Micheal Raj vs. DG Police**

Tamil Nadu (WA No. 1138/2008. In **S.Sevugan vs. The Chief Educational Officer, Virudhunagar District**, 2006(2) CTC 486, the Hon'ble Madras High Court in para 7 and 8 has held that *“it is seen from the impugned order of transfer that it is passed on administrative ground, but it appears that the order was passed by way of punishment and based on the complaint against the conduct of the petitioner. If that be so, the petitioner is certainly entitled for proper opportunity to defend himself as to whether the complaints against him by the Public or by the Headmaster are proper or not by way of an enquiry. In these circumstances, this Court is of the view that the transfer order passed by way of punishment is without any opportunity to the petitioner and on the face of it, the order of transfer is illegal and the same is liable to be set aside”*.

29. In **R. Mohanasundaram vs. The PCCF** (W.P. No. 9599 of 2009), the Hon'ble Madras High Court in para 12 and 13 has held as under:-

“12. The above settled principle of law laid down by the Hon'ble Apex Court and this Court is squarely applicable to the facts of the case on hand as in this case also the impugned order revealed that the petitioner was transferred on administrative grounds, but the counter filed by the third respondent made it abundantly clear that the transfer order was passed against the petitioner not on administrative reasons, but the impugned order was passed by way of punishment on the basis of certain allegations and adverse remarks made against the petitioner.

13. In the above view, this Court is constrained to quash the impugned order and accordingly, the impugned order passed by the second respondent in his proceedings in S.O.16/09/Pa dated 18.05.2009 is hereby quashed. However, it is made clear that if there is any complaint against the petitioner, it is open to the Department to initiate appropriate action in accordance with law and on such event the petitioner shall be given sufficient opportunity by conducting proper enquiry in the manner known to law.”

30. In **Shantilata Patnaik vs. Swaminathan Research Foundation** [WP(C) No. 13120/2009], the Hon’ble Madras High Court in para 15 has held on 31.12.2012 that “*the transfer order as well as the termination order is not bonafide. This is not at all expected from an employer and this will break down the moral courage of other women employees in the institution, which will ultimately culminate in unsatisfactory performance.*”.

31. Here, a note has also to be taken of **Bhagwan Verma vs. Secretary, Board of High School and Intermediate UP** where Hon’ble Allahabad High Court has found that “*from the language used in the order is evident that the transfer is punitive and had been passed without a preliminary inquiry and therefore quashed the order.*”

32. Here I also take note of the argument of the finding of the Hon’ble Supreme Court in **MCD Vs. Chattarbhuja Bhushan Sharma**, 133 (2006) DLT 581 where Hon’ble High

Court had held that “a transfer can be said to be punitive only if by transferring, the workman is placed on destitute, either on salary or on seniority, or he is lowered in grade or a lower work other than the category assigned to him. If transfer is made because two employees are at rift with each other and there has been exchange of abuses between the two employees, such transfer becomes necessary for maintaining peace in office and for smooth working of the office. The case of **MCD vs. Chatturbhuj** is distinguished from the instant case by the fact that the applicant has been raising issues till so far in a language which the respondents found objectionable and till so far no abuses are reported to have been traded. I have also taken the nature of the issues into account. I have noted that some of these issues raised by the applicant relate to large scale irregularity in award of doctorate from the Institutes. Allegations are very very serious as much as they relate to award of degrees to incompetent officers, without undertaking the research and without proper qualification and by plagiarizing the work of others. Media has also taken a note of this situation ascertaining that FRI University has become a hub for awarding substandard degrees to IAS officers in gross violation of established norms and governing rules and regulations. The RTI information obtained regarding farzi Ph.D degrees resulted in an article being written as “Fake

Degrees: Real Promotions” Vol.1 (vi) of Tehlka magazine dated 07.02.2015. For the sake of better elucidation, I would like to extract some of the relevant parts:-

“A corrupt clique of Indian Forest Service (IFS) officers has cankered one of India’s proud institutions, the Indian Council of Forestry Research and Education (ICFRE), which has an illustrious history to match its heritage building in Dehradun, Uttarakhand. The worst of this is that many officers have refused to let their education interfere with their schooling and helped themselves to PHDs from the once hallowed Forest Research Institute (FRI) University, which functions under the ICFRE and is located in the same campus, under dubious circumstances, as a series of RTI queries over more than six months revealed.

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The FRI is the direct descendent of the Imperial Forest Research Institute that was set up by Dietrich Brandis, a German forester who worked for the British imperial forest service and is renowned as the father of tropical forestry. The FRI was conferred with the status of a deemed university in December 1991 by the Central Government on the recommendation of the University Grants Commission (UGC). Subsequently, it was notified as FRI University vide a notification dated 12 February 2007, with reference to UGC notification No.F6-1(11)2006 (cpp-1) dated 13 September 2006. Being the first and the only university of the country administrating research dedicated exclusively to forestry, the university aims at spreading the fruits of research and higher education in the forestry sector to young students through post-graduation and diploma in the forestry and allied sciences. Both the ICFRE and the FRI University come under the MOEF.

The FRI has awarded more than 600 PHDs so far, according to website One of them was to Rawat.

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NS Bisht has been a PhD supervisor for as many as four different IFS officers: Gera, RBS Rawat, S Singsit and DN Singh. Bisht said that he did not know

anything about the study leaves his wards might or might not have taken and suggested that the registrar of the FRI, AK Tripathi, is more likely to know the answer.

When asked about the back dating of admission, Bisht said that it is not possible. “PhD admissions are done twice in a year and no one can take admission on the day he applied for PhD,” he said.

Bisht also said that only the controlling officer – that is, the concerned department’s head – is competent to give nocs for candidates seeking to do PhD while in service. And then he disconnected the phone.”

In particular, I would like to mention of one Dr. SS Negi of the respondent no.3, who is the Special Secretary to Ministry of Environment, Forest and Climate Change. In this regard, one has to go through a review of the book written by the respondent no.3 ‘Handbook of Fir and Spruce Trees of the World’ by one Rudolf Schmid Taxon which is a castigating testimony to the unashamed plagiarism that the respondent no.3 has indulged in while going through this work. It is also necessary to extract here from the book review of Dr. Rudolf Schmid Taxon as follows:-

“A Blatant Case of Plagiarism: S.S. Negi’s “Handbook of Fir and Spruce Trees of the World” Negi, S.S. (“Sharat Singh” apparently). Handbook of fir and spruce trees of the world. Indus Publishing Company, FS-5, Tagore Garden, New Delhi 110027, India, 1996, 232 pp., ill, ISBN 81-7387-051-9 (HB), oa. US24.50 postpaid. [Contents: intro; descry. Pt.; biblio; no index.]

The standard descriptive work on the morphology and systematic of Pinaceae is by Aljos Farjon, who recently became Curator of Gymnosperms at the Royal Botanic Gardens, Kew (a.farjon@lion.rbgkew.org.uk). In 1990

he published in IAPT's *Regnum* vegetable series of magnificent work worthy of this majestic and commercially important gymnospermous family;"

On hand for comparison is the Handbook on *Abies* and *Picea* worldwide written by S.S. ("Sharad Singh" apparently) Negi, who "has been on the faculty of Indira Gandhi National Forest Academy, DehraDun" (sic), India. "Presently, he is Assistant Director General of the Indian Council of Forestry Research & Education, DehraDun." Negi also "has been associated with the Munich University, Germany and Ballarat University, Australia" (all quotes from the dust jacket blur-see may editorial in *Taxon* 43: 523-524 on the value of these ephemera). "The present book was written during the author's stay at the Silviculture and Forest Management Institute, Munich University, Germany, as guest scientist in the autumn of 1995" and received "financial assistance from the German Academic Exchange Service, Bonn," with "thanks...due to Professor Kennel, Dr. Weber, Dr. Stimm and other colleagues at the Munich University for their help in various ways" (p.5)

Negi gives 48 plates, 29 for *Abies* and 19 for *Picea*, of morphological drawings of branches and cones (and sometimes seeds). An astounding 36.5 plates, 22.5 for *Abies* (vegetative but not reproductive branch of *A. Squamata* on p.135) and 14 for *Picea*, are inferior photocopies of parts of Farjon's superb plates, which also include habit drawings. Page 5 notes: "The invaluable help rendered by Dr. H.B. Naithani of Forest Research Institute, DehraDun (sic) in preparation of line drawings is gratefully acknowledged." However, the drawings do not bear the names of any artist or artists. Aljos Farjon informed Werner Greuter (pers. Comm., 5 Nov. 1996) that "I had no previous knowledge of this (use of my artwork), nor have I given permission to use these drawings." The provenance of the remaining 11.5 plates (6.5 for *Abies*, 5 for *Picea*) that are not from Farjon's work (Negi, pp.54,57,84,113,129,132,151,156,219,222, 226, and reproductive but not vegetative branch of *A. squamata* on p.135) is also suspect. These drawings are much more crudely done compared to Farjon's. some of these figures (especially on pp.113, 129, 132, 156, 219, 222) are so poorly reproduced that it is obvious the source was not original artwork but photocopies of rather mediocre drawings from other works. Aljos

Farjon recently told me (pers. Comm., 20 Dec.1996) that Negi's other 11.5 plates are from various editions of W. Dallimore & A.B. Jackson's *A handbook of Coniferae and Ginkgoaceae* (1923-66) and from volume W.C. Cheng & L.K. Fu's *Flora Reipublicae Popularis sinicae* (1978). Full blame for this artistic plagiarism must fall fully on both writer Negi and illustrator Naithani. Dr. H.B. Naithani's "invaluable help" must have been in the photocopying, the wielding of scissors, and/or the subsequent paste-ups of the plates.

Negi's book lacks an index and thus concludes with a six-page "select bibliography" that was mindlessly and slavishly copied from Farjon's bibliography. Negi's references are nearly identical in format to Farjon's, complete with Farjon's bibliographic annotations, his stylistic peculiarities, his few citations of less than the most recent editions (e.g., Esau), and so forth. However, neither Negi nor his publisher apparently had the capability to add diacritical marks in both bibliography or the text (e.g., as in *A. yuanbaashanensis* Lii & Fu.)

33. The surprise of surprises is that instead of taking the respondent no.3 to task for stealing the work of an eminent scientist, the respondent no.3 has been rewarded with a position of responsibility in the respondent institution. Obviously the respondent no.3 would not love a person who has opened a can of worms.

34. It is clear from the records submitted by the applicant that all is not well in the ICFRE. It is certainly not the case that peace of cemetery where the dead are at the mercy of the living, should prevail to beat the voice of dissent into submission. It scarcely needs to be emphasized that ethical

dissent is the essence of democracy and democracy way of living. It provides tensile strength to this system. Hence, I agree with the contention of the learned counsel for the applicant that if this transfer is allowed to go through, no one shall ever dare to raise his voice in protest to murky dealings in the respondent organization. Thus, the issue is decided in favour of the applicant.

35. In respect of issue no.4, I can only conclude that no infringement of rules have taken place by the respondent authorities in effecting the transfer; the stated objective of the transfer is to punish and remove the applicant, who has become inconvenient to the respondents and is not in public interest, as has been claimed. I also find that the complainant is a lady. She has acted with courage in raising some of the issues relating to fake Ph.D. degrees and large scale plagiarism prevailing in the institute. The transfer is the result of issues being raised by the applicant. It is for the authorities to appoint a higher power committee to inquire into these charges and to set the house in order which I am sure they will do. However, though transfer does not lower the rank of the applicant or reduce her salary, it is likely to cause much inconvenience to her as she appears to have adopted a child recently and would be removed from the familiar surroundings. In any case, she cannot be

punished for raising issues like sexual harassment, fake degrees and plagiarism. I also recognize that the applicant is a whistle blower, though she has staked no claims to it in as many words. She is entitled to protection under the Whistle Blowers Protection Act, 2011 and numerous decisions relating to whistleblowers. Therefore, the offending impugned orders must go. I am to order in this regard in the following terms:-

- (i) The impugned orders dated 21.08.2015 and 02.09.2015 are quashed;
- (ii) The period of absence of the applicant is to be adjusted against some leave due as per provisions of the Leave Rules in force;
- (iii) The respondent no.1 may like to set up a high power committee to review the working of the Institution and ascertain veracity of the charges raised by the applicant; and
- (iv) In case the charges are found frivolous, the respondents are free to take appropriate action against the applicant.

36. With the above directions, the OA stands disposed of.
No order as to costs.

(Dr. B.K. Sinha)
Member (A)

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