

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA 4156/2015

Order Reserved on: 19.04.2016

Order Pronounced on: 25.04.2016

Hon'ble Mr. P.K. Basu, Member (A)

Shri Rupesh Hari
S/o Shri Dal Chand
R/o H.No.1001, Ashoka Enclave
Plot No.8A, Sector-11,
Dwarka, Delhi

....Applicant

(By Advocate Shri Jawahar Singh for Shri Dev S. Mohanpuria)

Versus

Ministry of Defence through

1. Director General Quality Assurance
(L), "G" Block, Nirman Bhawan,
New Delhi-110011
2. Principal Scientific Officer
Joint Director (L)
Directorate General Quality Assurance (L)
G Block, Nirman Bhawan,
New Delhi-110011
3. Complaint Committee through
Its Chairman, Ministry of Defence (DGQA)
Defence Institute of Quality Assurance,
S.K. Garden, Benson Town PO
Bangalore-560048

.... Respondents

(By Advocate Shri Yogesh Mahur for Shri Gyanendra Singh)

ORDER

The applicant joined the services of the respondents as Junior Engineer (JE). There was a complaint filed against him dated 15.04.2015 by one Ms. Kusumlata, AE alleging sexual harassment. The respondents set up a Committee under Sexual

Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013] (SHWW (PPR) Act, 2013). Section 12 of the aforesaid Act provides that pending an enquiry, the Internal Committee or Local Committee may recommend the employer to transfer an aggrieved woman or the respondent to any other work place and such recommendation shall be implemented by the employer.

2. The applicant was transferred from New Delhi to Jabalpur in an existing vacancy vide order dated 31.07.2015. He is aggrieved by this order and has challenged it in the instant OA. The transfer was on the recommendation of the Internal Committee. The applicant made a representation dated 16.08.2015 to revoke his transfer order, which was considered and disposed of by the respondents vide order dated 7.09.2015, and noting the fact that the allegations have been found proved by the Complaints Committee based on evidence and witnesses and that the Complaints Committee had recommended his transfer in pursuance of Section 12 (3) of the SHWW (PPR) Act, 2013, his representation was rejected. He has also raised the ground of his family conditions for stay of his transfer, however, the respondents in their order recorded that the same cannot be related to his transfer ordered under Section 12 (3) of the aforesaid Act.

3. In his arguments, the learned counsel for the applicant raised two new issues. One is that the complainant namely Ms. Kusumlata has herself been transferred to Kanpur and,

therefore, there is no urgency or need for the applicant to be now transferred to Jabalpur. Second, the respondents order also violates the provisions of The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 which stipulates that old parents have to be looked after by the children and failure to do so shall attract criminal liability.

4. Per contra, the respondents case is that this was an established case of sexual harassment and the department will take suitable disciplinary action against the applicant for that. However, the SHWW (PPR) Act, 2013 provides that the Internal Committee, as an intermediate action, can recommend transfer of the respondent which it did and the employer, in pursuance thereof, transferred the applicant.

5. The only issue that has to be seen is whether the transfer order dated 31.07.2015 is legal and valid. From the facts of the case, it can be seen that the Complaints Committee found the allegations of sexual harassment to be correct and therefore, recommended transfer of the applicant under Section 12 (3) of the aforesaid Act, 2013. We find no illegality or malafide on the part of the respondents in this. As regards transfer of the complainant to Kanpur in March, 2016 and thus there being no urgency or need to transfer the applicant now, I do not find the argument of the learned counsel for the applicant to be relevant in this regard. Similarly, the argument that the applicant cannot be transferred in violation of the provisions of The Maintenance

and Welfare of Parents and Senior Citizens Act, 2007 is totally fallacious and misleading and does not require consideration.

6. In view of above discussion, I do not find any merit in this OA and it is, therefore, dismissed. No costs.

(P.K. Basu)
Member (A)

/dkm/