

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**OA No. 278/2018
MA 292/2018
MA 293/2018
MA No. 1607/2018**

Reserved on 26.04.2018

Pronounced on 02.05.2018

Hon'ble Smt Jasmine Ahmed, Member (J)
Hon'ble Smt. P.Gopinath, Member (A)

Khushal Chand Arya (Lab.Assistant)
S/o Pooran Chand Arya, age 45 yr.
A 05,Staff Quarters,
Institute of Hotel Management,
Catering and Nutrition, Pusa,
New Delhi.

.. Applicant

(By Advocate: Mr. Yashaswi S.K.Chocksey)

VERSUS

1. Institute of Hotel Management,
Catering and Nutrition, Pusa,
New Delhi-110012
Through Principal.
2. Ministry of Tourism,
Government of India,
Through Secretary, Shastri Bhawan,
New Delhi.

.. Respondents

(By Advocates: Ms. Deepika V Marwah with Ms. Worthin
Kajar, Mr. Alok Pandey and Ms. Rounika
Johar for R-1)

Mr.R.K.Sharma for Sh.K.K.Sharma for R-2.

ORDER

By Hon'ble Smt. P. Gopinath, Member (A):

The applicant was a person who was visited with dismissal from service vide order dated 11.11.2014. He was also directed on 18.11.2014 to vacate the residential accommodation allotted

to him. The applicant was proceeded under The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and he was proceeded against as per rules and the order of punishment of dismissal from service was served on him. The service of applicant was terminated for indulging in misconduct on account of sexual harassment of some female students in the teaching institute of Hotel Management, Catering and Nutrition, Pusa, New Delhi. Applicant preferred an appeal before the Additional Secretary, Ministry of Tourism against the order of 11.11.2014 which is yet to be decided. The applicant preferred an appeal before the High Court which was disposed of vide order dated 12.08.2015 directing the respondents to dispose of the appeal preferred by the applicant within 90 days from the date of order. In response to an RTI application filed by the applicant to ascertain the outcome of his appeal, the respondent (Ministry of Tourism) vide letter dated 03.11.2015 stated that no appeal was preferred by the appellant and they had also no knowledge of any such appeal filed.

2. The applicant was working as Lab Assistant when he was issued a Show Cause Notice (SCN) for action proposed to be taken against him for an offence of sexual harassment. The Committee constituted to enquire into the complaint, passed an order against the applicant, which resulted in dismissal from service. Applicant's application for condonation of delay is being considered here.

3. The respondent submits that the applicant had already approached Civil Courts and claimed similar relief as before the Tribunal in different suits which was either dismissed or withdrawn. Suit No.319/2014 in which an application under Order 39 rule 1 and 2 read with Section 151 of CPC was filed in November, 2014 before the Civil Judge, Patiala House Courts, New Delhi. This was dismissed on 20.12.2014 as withdrawn with no liberty granted by the Court to file fresh proceeding on the same cause of action.

4. Applicant also filed PPA No. 62/2014 in which an appeal under Section 9 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 read with Order 39 rule 1 and 2 and Section 151 of CPC was filed in the District Court, Patiala House Courts, New Delhi. This was also dismissed as withdrawn on 28.01.2015 by the applicant.

5. C.S No. 207/2015 a suit for Permanent and Mandatory injunction was filed by the applicant, which was dismissed for non prosecution on 19.10.2015 with no liberty to file a fresh suit on same cause of action.

6. Applicant was served with notices dated 16.04.2015, 13.05.2015 for removing his belongings from the house so allotted. Not complying with the orders for vacating the premises, his personal belongings were shifted on 02.07.2015 to a store and notice was issued to applicant to collect his goods.

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7. The applicant is a person who has been dismissed from service and he made various attempts through civil litigations to find a relief for restoration to service and restoration of his right to stay in the respondents allotted quarter. While pursuing various cases, the applicant having been dismissed from service was faced with limited funds and could not timely pursue his case for reinstatement in service. Since this is a case of continuous cause of action and retrial benefits, if any, the application for condonation of delay is allowed.

List on 24.07.2018.

(P.Gopinath)
Member(A)

(Jasmine Ahmed)
Member (J)

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