

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH : HYDERABAD**

**Original Application No.021/1177/2016**

**Date of C.A.V. : 24.10.2017**

**Date of Order : 06.11.2017**

**Between :**

Dr.Y.Babji, S/o late Y.Madhava Rao,  
Aged 49 years, Occ : Principal Scientist,  
In National Research Centre on MEAT,  
Hyderabad, R/o Hyderabad.

... Applicant

**And**

1. The Union of India, rep. by its Secretary  
for Ministry of Agriculture,  
ICAR (Indian Council of Agricultural Research),  
Krishi Bhavan, New Delhi.

2. The Director General ICAR,  
(Indian Council of Agricultural Research),  
Krishi Bhavan, New Delhi.

3. The Secretary, ICAR,  
(Indian Council of Agricultural Research),  
Krishi Bhavan, New Delhi.

4. The Deputy Director General (Animal Science) ICAR,  
(Indian Council of Agricultural Research),  
Krishi Bhavan, New Delhi.

5. The Deputy Director, National Research Centre  
on MEAT, Chengicherla, Hyderabad.

6. The Dy.Secretary (Personal), ICAR,  
Indian Council of Agricultural Research,  
Krishi Bhavan, New Delhi.

... Respondents

Counsel for the Applicant

...

Mr. Ch.Srinivas, Advocate



Counsel for the Respondents ... Mr. G.Jayaprakash Babu, S.C. For ICAR

**CORAM:**

**Hon'ble Mr.Justice R.Kantha Rao** ... **Member (Judl.)**  
**Hon'ble Mrs.Minnie Mathew** ... **Member (Admn.)**

**ORDER**

**{ As per Hon'ble Mr.Justice R.Kantha Rao, Member (Judl.) }**

The applicant is the Principal Scientist (LPT), National Research Centre on Meat, Hyderabad. According to the respondents several complaints of sexual harassment and other serious allegations were received against the applicant at the Centre. The complaints were initially investigated by a Preliminary Investigation Committee (PLC), New Delhi and the PLC found substance in the complaints of sexual harassment. Thereafter the respondents decided to refer the allegations of sexual harassment to the Women Complaint Committee of the Institute for investigation. Women Complaint Committee after investigation submitted its report on 10.04.2014. The report of the said Committee was treated as inquiry report under the CCS (CCA) Rules, 1965 as applicable to the ICAR employees. It is the version of the respondents that both the Committees recommended immediate transfer of the applicant to the other Institute apart from taking disciplinary action against him regarding the allegations levelled in the complaints. In pursuance thereof, the applicant was transferred by an order dated 10.07.2014 issued by the 6<sup>th</sup> respondent from National Research Centre on Meat, Hyderabad to Central Sheep & Wool Research Institute, Avikanagar, Rajasthan. The transfer order dated 10.07.2014 and the consequential orders relieving him



from Hyderabad have been challenged in the present OA.

2. Prior to filing of the present OA, the applicant filed OA.643/2016 challenging the inquiry report filed by the Women Complaint Committee on the ground that the report submitted by the said Committee is in violation of Rule 14 of CCS (CCA) Rules, 1965 prompted by malafides, illegal and sought to quash and set aside the said report. The Tribunal by order dated 22.06.2017 disposed of the OA 643/2016 on merits. Before the Tribunal the respondents contended that the report of the Complaints Committee shall be deemed to be a report of the inquiry authority under CCS (CCA) Rules, 1965 and therefore the respondents can take appropriate action basing on the recommendations of the Complaints Committee. The contention of the applicant before the Tribunal was that the Complaints Committee did not follow any sort of procedure while making inquiry, no articles of charges were issued, list of witnesses were not furnished, no witnesses were examined in the presence of the applicant and the applicant was not afforded opportunity to cross examine the witnesses. Contending as such the applicant sought to quash and set aside the inquiry report.

3. The Tribunal adverting to the submissions made on either side and having gone through various judgements of the Hon'ble Supreme Court, High Court and the Tribunals took the view that the Complaint Committee was deemed to be an inquiry authority for the purpose of CCS (CCA) Rules, 1965 and



it is imperative that the Complaint Committee proceeds according to the CCS (CCA) Rules, 1965 and in the manner in which an inquiry authority conducts its proceedings in accordance with the said rules as held by the Hon'ble High Court of Delhi. In the instant case the Tribunal took the view that the Complaints Committee has not followed due process of law while making inquiry as in the course of the inquiry, no charge sheet was issued to the applicant, no witnesses were examined in his presence by affording him an opportunity to cross examine them and no documents were exhibited. Ultimately the Tribunal held that the report of the Committee is in utter violation of procedural provisions and principles of natural justice and consequently quashed and set aside the report of the Committee dated 10.04.2014 and also the impugned OM dated 19.06.2014. The Tribunal however held that the respondents are at liberty to order a fresh inquiry in accordance with Rule 14 of CCS (CCA) Rules, 1965.

4. Heard learned counsel appearing on both sides.

5. The sole question which requires consideration is whether the transfer order dated 10.07.2014 and the consequential orders relieving the applicant from Hyderabad are sustainable in law ?

6. A Government servant or an employee of the Public Sector



Undertaking can assail the transfer order, if it is prompted by malafides or passed in contravention of any statutory rules. The malafides in some cases would be apparent and in certain situations they can be inferred from the facts and circumstances of the case. The transfer though is an incidence of service should not be punitive in nature. If the transfer is not made in usual course or on account of administrative exigency and if it is found to be for a collateral purpose, the same is liable to be set aside.

7. In the instant case the order of transfer dated 10.07.2014 was passed on the recommendation of the Women Complaints Committee in its report. The report of the Committee was set aside by this Tribunal in OA.643/2016 for the reasons mentioned herein before. When the report of the Committee itself was set aside by the Tribunal, whether the transfer made on the recommendation of the Committee can be sustained in law is one of the important questions in the instant case.

8. It is true that initiation of disciplinary proceedings is no bar for transferring an employee from one place to the other. But if the transfer is ordered as a measure of punishment, the Tribunal is required to examine the reasons behind such transfer. This is not the case where the disciplinary proceedings were already pending against the applicant and in the course of the pendency of the disciplinary proceedings he was transferred. Women Complaints



Committee after making inquiry recommended the transfer of the applicant in its report. The applicant approached the Tribunal and on the direction of the Tribunal, the applicant made several representations to reconsider the issue. But all his representations were rejected. As already said the Committee's report was found to be not valid in the eye of law and was set aside by the Tribunal. The Tribunal, however, gave liberty to the respondents to initiate disciplinary proceedings afresh. The Tribunal passed the said order in OA.643/2016 on 22.06.2017, so far no disciplinary proceedings have been initiated against the applicant. The learned standing counsel appearing for the respondents at the time of making his submissions stated that the disciplinary proceedings are in contemplation. The respondents though were given liberty to initiate disciplinary proceedings afresh against the applicant, did not initiate any disciplinary proceedings so far. They have been constantly trying to transfer the applicant from Hyderabad to Avikanagar in the State of Rajasthan. It is the contention of the applicant that due to group rivalry in the department, false complaints have been given against him and a serious attempt was made to transfer him from Hyderabad. His contention has to be examined having regard to the nature and circumstance of the case. Here is a case wherein the respondents have not been initiating any disciplinary proceedings against the applicant and they are only particular about the transfer of the applicant. They could have as well initiated disciplinary inquiry against the applicant and if found guilty the applicant would have been punished for the misconduct. According to the respondents apart from sexual harassment, there are other serious allegations against the applicant which



they have received in the form of complaints. If that is so, the respondents would have promptly initiated disciplinary proceedings at least after the Tribunal quashed the report of the Committee and gave liberty to the respondents to initiate disciplinary proceedings afresh.

9. From the entire sequence of events, malafides on the part of the respondents to transfer the applicant from Hyderabad can be inferred. The transfer obviously appears to have been made for collateral purpose, but not on account of any administrative exigency. Further the transfer which was made on the recommendation of the Committee ceases to operate when the report of the Committee itself was quashed and set aside by the Tribunal. For all these reasons the transfer of the applicant is not sustainable in law and is liable to be set aside.

10. As a result, the transfer order dated 10.07.2014 and all the impugned consequential orders where under the applicant was directed to be relieved from Hyderabad to join at Avikanagar, Rajasthan are set aside.

11. The OA succeeds and is allowed. M.A.455/2017 stands disposed of. There shall be no order as to costs.

**(MINNIE MATHEW)**  
**MEMBER (ADMN.)**

**(JUSTICE R.KANTHA RAO)**  
**MEMBER (JUDL.)**

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