

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**MUMBAI BENCH, MUMBAI.**

**ORIGINAL APPLICATION No.335/2016**

**Date of Decision: 09.10.2018.**

***CORAM:HON'BLE SHRI R. VIJAYKUMAR, MEMBER (A)***  
***HON'BLE SHRI R.N. SINGH, MEMBER (J)***

Bhagwati Sharan Tiwary  
 Son of Nathuni Tiwary,  
 DOB: 01.07.1963, Age 52 years,  
 Working as Senior Regional Dy.  
 Commissioner of Security (Civil Aviation)  
 (Group 'A' Post), in Bureau of Civil  
 Aviation, Mumbai Region, Mumbai,  
 MIA Project Bldg., Near Hayatt Hotel,  
 International Airport, Sahar, Mumbai.  
 R/at 0-11/1, Airport Authority of India  
 Colony, Vile Parle (E), Mumbai 400 099.      ... *Applicant*  
*(By Advocate Shri R.G. Walia)*

**VERSUS**

1. Union of India  
     Through its Secretary,  
     Ministry of Civil Aviation,  
     Rajiv Gandhi Bhavan, Opp.  
     Safdarjung Airport, New Delhi 110 003.
2. Chief Vigilance Officer,  
     Ministry of Civil Aviation,  
     Rajiv Gandhi Bhavan, Opp.  
     Safdarjung Airport, New Delhi 110 003.
3. Commissioner of Security (Civil Aviation)  
     Bureau of Civil Aviation Security, Ministry  
     of Civil Aviation, Govt. of India, 'A' Wing,  
     3<sup>rd</sup> Floor, Janpath Bhawan, Janpath,  
     New Delhi 110 001.
4. Dr. Shefali Juneja,  
     Chairperson Complaints Committee  
     Ministry of Civil Aviation, B-Block,  
     Rajiv Gandhi Bhawan, New Delhi 110 003. ... *Respondents*  
*(By Advocate Shri V.S. Masurkar with Shri V.B. Joshi)*

**ORDER** (Oral)  
Per : *Shri R. Vijaykumar, Member (A)*

This Application is filed on 20.04.2016 seeking the following reliefs;

*“8.a) This Hon'ble Tribunal will be pleased to call for the entire record of the case which led to the passing of the impugned Report dated 29.01.2016 and after going through its propriety, legality and constitutional validity be pleased to quash and set aside the same.*

*8.b) Any other and further orders as this Hon'ble Tribunal may deem fit, proper and necessary in the facts and circumstances of the cas.*

*8.c) Costs of this Original Application be provided for.”*

**2.** The Applicant is a Group 'A' Officer of the Central Government presently serving as Senior Regional Deputy Commissioner of Security in the Bureau of Civil Aviation, Mumbai Region. He has stated that with reference to a complaint filed by a CISF Constable on 09.06.2011 deputed to Kolkata where she was undergoing training in Security Scanning under his supervision, the matter was eventually considered by the Ministry and referred to the Complaints Committee on Sexual Harassment on 25.02.2015 to conduct a fresh, detailed inquiry on the complaint. This Committee filed its Inquiry

Report on 29.01.2016 before the competent Disciplinary Authority in the Ministry, who communicated the said report to the applicant in their letter No.C/13019/28/2011-Vig dated 15.03.2016.

**3.** The Applicant has complained that he was not given due opportunity by the Committee, no inquiry was done, examination was done behind his back and that no cross-examination was permitted to be done by him. He also alleges that certain documents mentioned in the charge-sheet have not been given to him for effective defence on his part. Learned counsel for the applicant argues that the impugned Inquiry Report is a blatant violation of the principles of natural justice and, therefore, non-est in the eyes of law. He has also alleged *mala fide* against Respondent No.4. It is found that in spite of notice, the Respondent No.4 has not chosen to file any separate reply or to rebut the allegations made against them. Be that as it may. When it is put to the learned counsel for the applicant as to whether the applicant has submitted his

defence before the Disciplinary Authority, he very fairly submits that the applicant has not submitted any representation and in view of the manner in which the inquiry has been conducted, the applicant is having *bona fide* apprehension that if the applicant will prefer his defence before the Disciplinary Authority, the same may not be considered in just and fair manner and harsh punishment may be imposed upon him.

**4.** Learned counsel for the respondents states as in their reply that, at this stage, the OA is premature and based on bare apprehensions of the applicant. The applicant is always having remedies to raise all his grievances before the competent disciplinary authority and the same will be considered by the competent Disciplinary Authority in accordance with law in a just and fair manner. He further submits that at this interlocutory stage, the OA is not maintainable and the same is premature.

**5.** In the aforesaid facts and circumstances, the OA is disposed of with liberty to the applicant to make

representation against the impugned Inquiry Report dated 15.03.2016 within 15 days of receipt of certified copy of this order and on receipt of such representation, the Disciplinary Authority shall consider the same in accordance with relevant rules, instructions and law on the subject.

**6.** Keeping in view the aforesaid facts and circumstances, it is further directed that in case any adverse order is passed by the Disciplinary Authority against the applicant in the present matter, the same shall not be given effect to for two weeks after communication of such order.

**7.** In the aforesaid terms, the OA is disposed of. No order as to costs.

**(R.N. Singh)**  
**Member (J)**

**(R.Vijaykumar)**  
**Member (A)**

*dm.*