

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No.405/2019

New Delhi this the 4th day of February, 2019

HON'BLE MS. NITA CHOWDHURY, MEMBER (A)
HON'BLE MR. S.N. TERDAL, MEMBER (J)

Dinesh Chandra Mishra
S/o Ex Sri G P. Mishra
Age 54 years, Sr. Techn. Asstt.
R/o D-24, Harbhajan Enclave, Todapur,
PO: IARI s.o. New Delhi-12, working as T-4
In National Bureau of Plant Genetic Resources,
Pusa campus, New Delhi-12
Mob:9015514690; 9313206851
Email; dcm55@rediffmail.com

..... Applicant

(Present: Applicant in person.)

Versus

1. Indian Counsel of Agriculture Research
Through Director General of ICAR and Secretary DARE
ICAR (Ministry of Agriculture
Krishi Bhavan,
New Delhi. Email: dg.icar@nic.in
2. Chairperson, Internal Compliant Committee
ICAR-National Bureau of Plant Genetic Resources,
Pusa Campus, New Delhi-12.email:rekha.
chaudhary@icar.gov.in.
3. Director, ICAR-National Bureau of Plant Genetic
Resources, Pusa Campus, New Delhi-12
Fax No.011-25842495; Tel 011-25843697:
Email:director.nbpgr@icar.gov.in. -Respondent

ORDER (ORAL)

Ms. Nita Chowdhury, Member (A):-

This OA has been filed by the applicant seeking the following relief(s):-

"8.1 May please be set aside recommendations given by ICC to take action against me for misconduct under said act, which is reflected in impugned order dated 10.01.2019.

8.2 Order be passed as deemed fit.

8.3 Cost of application be allowed.

8.4 It be also be held it is fit case under Rule 14 of said act. ICC must take this matter to punish to Ms. Sangita."

2. The applicant appeared in person and submitted the facts of the case that the complaint of sexual harassment has been made against him by Ms. Sangita for sending an obscene video on Whatsapp messenger to her mobile. He has challenged the issue of notice to him by ICC and also challenged the allegations against him. As per his own admission, the matter is with the Director, NBPGR and a final decision has yet to be taken by the respondents in this matter. As the impugned order, the applicant has only attached a letter dated 10.01.2019 in which it is stated as under:-

"Sub: Seeking the exact status of the report of ICC, constituted in the matter of Shri D.C. Mishra (T-4) at NBPGR, New Delhi-reg.

Ref: Letter F.No.CS/7/7/2015-IA.IV dated 29th Nov., 2018

Sir,

On the above cited subject and reference the undersigned is directed to inform that Internal Institute Committee has recommended to take action for sexual harassment as a misconduct in accordance with provision of the service rules "as per chapter V section 13(3, i) of the sexual Harassment of women at workplace (Prevention, Prohibition and Redressal), Act, 2013, Page 8". In this regard ICAR-NBPGR will be taken action as per rule."

3. Quite clearly, the so-called impugned order is, in fact, only an intimation to the applicant of this OA that a complaint of sexual harassment has been received against the applicant and the same will be proceeded against as per Rules. Hence, it cannot be stated that any cause of action exists against the applicant at present, as there is no final decision taken by the respondents as yet. As per the Sexual Harassment of Women at Workplace Act, 2013, after the decision of the ICC in the matter of sexual harassment, recommendations are sent to the department/employer and thereafter the employer shall finalize his decision on the action to be taken. Hence, Hence, the

prayer is premature and the same is rejected as no cause of actions arises at present. Accordingly, the OA is dismissed as premature. No costs.

(S. N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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