

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

O.A. No.55/ 2012
&
M.A.No.233/2012 in O.A.No.55/2012
&
M.A.No.234/2012 in O.A.No.55/2012
&
M.A.No.488/2012 in O.A.No.55/2012
&
M.A.No.203/2014 in O.A.No.55/2012

Date of Order :17.12.2018.

Between :

Smt.S.Padmaja, I.R.S., w/o V.S.R.Prasad,
Aged about 44 yrs, Working as Assistant Director General,
Unique Identification Authority of India, Regional Office,
Madhapur, Hyderabad.Applicant

And

1. Government of India, rep., by the
Member Secretary, Planning Commission,
Yojana Bhavan, Sansad Marg,
New Delhi-110 001.
2. Unique Identification Authority of India,
Rep., by its Chairperson, Tower-I,
Jeevan Bharati Building, New Delhi-110 001.
3. Shri Nandan Nilekani, Chairperson,
Unique Identification Authority of India
Tower-I,Jeevan Bharati Building, New Delhi-110 001.
4. Unique Identification Authority of India,
Rep., by its Director General, , Tower-I,
Jeevan Bharati Building, New Delhi-110 001.
5. Shri Ram Sewak Sharma, IAS,
Director General, Unique Identification Authority of India,
Tower-I,Jeevan Bharati Building, New Delhi-110 001.
6. Shri V.S.Bhaskar, IAS, Deputy Director General,
Unique Identification Authority of India, Regional Office
5th Floor, Block-3, My Home Hub, Madhapur, Hyderabad.

7. Govt. of India, rep., by its Secretary,
Dept. Of Personnel & Training (DOPT),
North Block, New Delhi. ... Respondents

Counsel for the Applicant ... Mr.J.Sudheer

Counsel for the Respondents ... Mrs.K.Rajitha, Sr.CGSC
... Mr.P.Bhaskar for R-6
... Mr.Ravi Prakash for R-5

CORAM:

**THE HON'BLE MR.JUSTICE L.NARASIMHA REDDY, CHAIRMAN
THE HON'BLE MR.B.V.SUDHAKAR, MEMBER (ADMN.)**

ORAL ORDER

(As per Hon'ble Mr.Justice L.Narasimha Reddy, Chairman)

The applicant is an officer of Indian Revenue Service of 1992 batch. She has been sent on deputation to the Unique Identification Development Authority of India (UIDAI), the 2nd respondent herein, to work at Unit at Hyderabad. The 6th respondent was appointed as Deputy Director General of the Unit. The applicant submitted a complaint on 02.06.2011 alleging that the 6th respondent has indulged in acts of sexual harassment and that he was attending the office in an intoxicated condition. She has also made a request that the 6th respondent be transferred to any place, so that conducive working atmosphere exists in the office. Stating to be on this ground that her request was not acceded to, she applied for leave from 12.07.2011 to 31.12.2011 and from 01.01.2012 to 30.01.2012 and joined office there. Her grievance is that instead of treating the period as on duty, the respondents have treated the same as Earned Leave.

2. This OA is filed seeking the following relief:

- (a) To direct the respondents 1 to 5 to transfer the 6th respondent to another station;
- (b) To initiate action against the 6th respondent for the various acts and commissions on his part; and
- (c) To direct the respondents 1 to 5 to treat the period of Earned Leave of the applicant as on duty; and
- (d) For other consequential reliefs.

3. The applicant stated that on a complaint submitted by her, an inquiry committee was constituted as directed by the Hon'ble Supreme Court in its judgment in *Vishaka & Others v. State of Rajasthan & Others* (AIR 1997 SC 3011) and the committee has submitted its report on 19.7.2011 holding that there exists *prima facie* material to prove the allegations against the 6th respondent. She contends that, despite the report, no action has been taken against him. It is also stated that the respondents 1 to 5 have constituted another committee through an order dated 28.06.2012 without even pointing out as to what defects the report dated 07.02. 2012 suffers from.

4. The applicant submits that it was on the advice of the superiors in the office that she applied for leave and worked from home to avoid harassment from the 6th respondent, but the period was treated as earned leave, resulting in hardship to her.

5. The respondents 1, 2 and 4 and respondents 6 and 7 other than respondent no.3 and 5, filed separate reply statements.

6. It is stated that the complaint submitted by the applicant had been enquired into and when it emerged that the constitution of the committee was not in accordance with law, another committee was formed, vide order dated 28.06.2012. It is also stated that Rule 8 of the All India Services (Discipline & Appeal) Rules, 1969 does not provide for a facility similar to one under proviso to Rule 14 of the CCS (CCA) Rules, 1965. According to them, all the necessary steps have been taken in accordance with law.

7. We heard the arguments advanced by Mr.J.Sudheer, learned counsel appearing for the Applicant, Mrs.K.Rajitha, learned Senior Standing Counsel appearing for Central Government, Mr.Ravi Prakash, learned counsel appearing for R-5, and Mr.P.Bhaskar, learned counsel appearing for R-6.

8. The grievance of the applicant in this OA is threefold. The first is about the transfer of the 6th respondent to another place. The second is for the action to be taken against him, and the third is as regards the manner in which, the period of her leave applied for by her i.e., between 12.07.2011 and 24.02.2012, is to be treated.

9. For all practical purposes, the first limb of the relief has become redundant, in view of the fact that the 6th respondent has been transferred to another place, vide order dated 21.02.2012 of DOPT.

10. So far as the second limb of the relief is concerned, action has already been initiated against the 6th respondent on the basis of the complaint submitted by the applicant; so much so the committee constituted by the respondents has submitted its report on 21.02.2012. However, no follow up action has been taken, and instead another committee was constituted through order on 28.06.2012. Naturally, a right gets vested in the applicant to rely upon the report, and to seek further action against the 6th respondent. Before the said right is taken away or watered down, the respondents 1 to 5 are under obligation to hear the applicant. There is no plea that the applicant was heard at any time before or after another committee was constituted. In fact , on noting there exists a *prima facie* case in favour of the applicant, the Tribunal passed an interim order on 10.07.2012 staying further steps in pursuance of the constitution of the second committee.

11. We are of the view that at this length of time, it may not be admissible or feasible to continue the said committee. In case, the respondents 1 to 5 are of the view that the report dated 12.07.2011 submitted by the first

committee cannot be taken into account, they shall issue a notice to the applicant communicating reasons therefor and then take a decision as regards further steps.

12. Coming to the grievances of the applicant regarding the manner in which the leave availed by her between 12.07.2011 and 24.02.2012 must be treated, the record discloses that the matter is pending with the DOPT, which in turn has referred the issue to the Women and Child Welfare Department. The applicant has to await for the final order to be passed in that behalf and then work out to the remedies. Though various steps have ensued as mentioned in the counter affidavit, no final order has been communicated to the applicant as yet. As and when any order is communicated to the applicant, she can pursue the remedies in accordance with law.

13. We are of the view that in case the leave has been availed of by the applicant just to keep herself out from the alleged harassment of the 6th respondent, the respondents 1 to 5 need consider the feasibility of treating the same as on duty, particularly when the law has been moving in the direction of granting protection to working women.

14. The OA is accordingly disposed of directing that –

(a) The respondents shall issue notice to the applicant, in case they intend to ignore the report of the Committee dated 19.07.2011 ; and

(b) The applicant shall await the final decision as to the manner in which the leave between 12.07.2011 to 31.12.2011 and 01.01.2012 to 30.01.2012 must be treated and can pursue remedies if the decision is not to her satisfaction.

15. As the main OA is disposed of with directions, the M.A.No.233/2012 filed by Respondent No.5, M.A.No.234/2012 filed by Respondent No.3, M.A.No.488/2012 filed by the applicant and M.A.No.203/2014 filed by Respondent No.6 also stand disposed of.

16. There shall be no order as to costs.

Sd/-

Sd/-

**(B.V.SUDHAKAR)
MEMBER (ADMN.)**

**(JUSTICE L.NARASIMHA REDDY)
CHAIRMAN**

Dated: this the 18th day of December 2018
Dictated in the Open Court

Dsn.