

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_

WP(C). No.483 of 2022

Smti. Rekha Das, Scientist (Level 10)

.....Petitioner

_V_E_R_S_U_S_

The Union of India & 6 Others

.....Respondents.

For Petitioner(s)	:	Mr. Somik Deb, Sr. Advocate. Mr. S. Bhattacharjee, Advocate.
For Respondent(s)	:	Mr. B. Majumder, Deputy SGI.
Date of hearing	:	19.12.2023
Date of delivery of judgment and order	:	20.12.2023
Legal reporting	:	YES

HON'BLE MR. JUSTICE T. AMARNATH GOUD
_J_U_D_G_M_E_N_T_O_R_D_E_R_

Heard Mr. Somik Deb, learned senior counsel assisted by Mr. S. Bhattacharjee, learned counsel appearing for the petitioner also heard Mr. B. Majumder, learned Deputy SGI appearing for the respondents.

[2] The present petition has been filed under Article-226 of the Constitution of India for directing the respondents to transmit the records relevant to the subject matter of this petition with reference to complaint of the petitioner against the respondent No.6 under the provision of Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013 for rendering substantive and conscionable justice to the petitioner and for quashing the impugned office memorandum dated 30.06.2021 as communicated by the letter dated 26.11.2021. Further, for revoking the impugned office memorandum dated 30.06.2021 and to consider the statutory appeal filed by the petitioner within a period of two months therefrom, in compliance with the judgment and order dated 07.09.2021.

[3] The petitioner has prayed for the following reliefs:

“i. Issue Rule, calling upon the official respondents and each one of them, to show cause as to why a writ of Certiorari and/or in the nature thereof, shall not be issued, for directing them, to transmit the records, relevant to the subject matter of this writ petition, and for quashing/setting aside the

impugned Office Memorandum dated 30.06.2021, as communicated by the Letter dated 26.11.2021 (Annexure-16 supra).

ii. Issue Rule, calling upon the respondents and each one of them, to show cause as to why a Writ of Mandamus and/or in the nature thereof, shall not be issued, for mandating directing them, to forthwith revoke/rescind the impugned Office Memorandum dated 30.06.2021, as communicated by the Letter dated 26.11.2021 (Annexure-16 supra), and further, for mandating/directing them, to consider afresh the statutory Appeal, filed by the petitioner within a period of two months therefrom, in compliance with the Judgment & Order dated 07.09.2021 (Annexure-14 supra), notwithstanding the Order dated 30.06.2021.

iii. Issue Rule, calling upon the respondents and each one of them, to show cause as to why a Writ of Prohibition and/or in the nature thereof, shall not be issued, for restraining/prohibiting them, from acting in any manner, in furtherance of the impugned Office Memorandum dated 30.06.2021, as communicated by the Letter dated 26.11.2021 (Annexure-16 supra).

iv. In the Ad-interim, and thereafter, on hearing the parties, in the Interim, an Order, in terms of relief iii supra.

v. Call for the records appertaining to this petition.

vi. After hearing the parties, be pleased to make the Rule Absolute in terms of i. & ii above.

vii. Costs of and incidental to this proceeding.”

[4] The facts in brief are that after clearing the National Level Examination and the mandatory Training Programme at the ICAR-National Academy of Agricultural Research Management (ICAR-NAARM for short), Hyderabad, the petitioner received her posting for the ICAR Research Complex for North Eastern Hills Region, Tripura Centre, and accordingly, she had first reported to the Headquarter of this Institute at Meghalaya for the mandatory Orientation Training Program.

[5] Thereafter, she joined duty at the Tripura Centre. After the respondent No.7 assumed duties as Joint Director, ICAR, Tripura, the petitioner received three written duty assignment: by way of e-mail, from Dr. Lopamudra Sahoo, Senior Scientist, ICAR, Tripura, which were, addition, to the approved research activities to be undertaken by the petitioner as part of the research project commitment.

[6] Under Section-9 of the Sexual Harassment of Women at Workplace (Prevention. Prohibition and Redressal) Act, 1923, the petitioner submitted a Representation to the Director, ICAR Research Complex for NEH Region against the respondent No.7 dated 05.12.2018, thereby alleging

continuous harassment, under Section-2(n) of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 1923 (the Act for short), while she was working either in her office or in the field. It is pertinent to mention herein that under the said Act, and for the same purpose, no Internal Complaints Committee was existing at the ICAR Research Complex for NEH Region, at Agartala. So the matter was referred to the Internal Complaints Committee of the ICAR Research Complex for NEH Region, Meghalaya. Thereafter, with reference to the Representation of the petitioner dated 05.12.2018 (Annexure-2 supra), the Administrative Officer (Personnel) & Member Secretary, Institute Complaint Committee issued a letter bearing reference No. F.No.RC (G)38/2018/2 dated 29.12.2018, thereby asking her to remain present before the Institute Complaint Committee on 18.01.2019 as an inquiry would be held at the Tripura Centre on the basis of the said complaint.

[7] Hence, the present petition has been filed by the petitioner before this Court for redress.

[8] Accordingly, the present petition preferred by the petitioner stands dismissed as she has not made out her case on the point of maintainability inasmuch as on merits. The OA No.85 of 2020 is also pending before the CAT she could have taken all the pleadings instead she has initiated parallel proceeding one before the tribunal and the another in the High Court regarding the same cause of action.

[9] Mr. S. Deb, learned senior counsel assisted by Mr. S. Bhattacharjee, learned counsel has submitted that by the Office Memorandum dated 30.06.2021, it was noted that in response to the contention made in serial No.1 of the Inquiry Report, that on receipt of the complaint, the authority did not comply with the mandatory provision of Section-12 of the Act, it was erroneously observed that the contention should have been raised during the pendency of inquiry as provided under Section 12 of the Act, and the further finding that raising the issue belatedly is not appropriate, is grossly unsustainable.

[10] It has been submitted that by the Office Memorandum dated 30.06.2021, it was noted that in response to the contention made in Serial No.2 of the Inquiry Report, that during the inquiry, it also came to the notice of the Inquiry Committee that at the instance of the Joint Director, there was a

signature campaign in favour of the Joint Director while they were inquiring into the complaint of Mrs. Jharna Deb, it was erroneously observed that no evidence had been led by Dr. Rekha Das that suggest that the campaign was initiated at the behest of Dr. B. K. Kandpal. It was also further observed that ICC had not taken cognizance on the signature campaign neither in favour of Dr. Kandpal nor against the complainant, is grossly unsustainable.

[11] The said Office Memorandum dated 30.06.2021, it was noted that in response to the contention made in Serial No.3 of the Inquiry Report, that the Joint Director is the Reporting Officer playing an important role in writing the APAR of the employees at the Tripura centre, a similar observation as made in response to the contention made in serial No.1 of the Inquiry Report was given. The said Office Memorandum dated 30.06.2021, it was noted that in response to the contention made in Serial Nos.4 & 5 of the Inquiry Report, that a bare reading of the Inquiry Report would show that it was not conducted as per the appropriate Service Rules as Section-11 of the said Act clearly mandates that the inquiry of the complaint shall be conducted in accordance with the provisions of the Service Rules and that the Inquiry Committee never appraised her about her right to cross examine, it was observed that inquiry conducted by ICC of ICAR RC for NEHR is a preliminary fact finding inquiry, thereby meaning that the contentions made by the petitioner would come to picture during the regular inquiry is wholly contrary to the basic principles of preliminary enquiry.

[12] The Inquiry Report that the committee took no endeavor to find out the truthfulness of the statement made by Dr. Kandpal and that also the Inquiry Committee did not discuss the important points and failed to appreciate that Dr. Kandpal has tried to project a claim that since in her APAR some adverse report had been reflected, so she has made the complaint and thus the approach of the Committee was wrong and they came to a wrong conclusion, in reply to that, it was observed that Dr. Kandpal said that APAR of the petitioner for the year 2017- 19 had been moderated on valid and duly explained reasons and further the issue of the APAR does not come under the purview of the ICC and if such downgrade was made by Dr. Kandpal, then the petitioner could have made representation to the superior authority which would have been dealt by them.

[13] In the Inquiry Report Dr. Kandpal had tried to explain that the gesture was made in an unconditional way and that being a responsible officer, such gestures would amount to insulting the modesty of a woman which cannot be accepted and the Inquiry Committee ought to have referred the complaint to the police for registering a case under Section 509 of the IPC and further contended that law does not require that the sexual harassment had to be committed in isolation only and not in public thus the acceptance of explanation of Dr. Kandpal clearly showed that the Inquiry Committee did not apply their judicial mind, in reply to that it was observed that Dr. Kandpal used the gesture unintentionally just to explain the scientific phenomenon and moreover the report made a conclusion that the petitioner never tried to pass on the message to Dr. Kandpal that she was not comfortable with his way of citing examples.

[14] In the report it was stated that the petitioner seemed to be argumentative and arrogant by nature and also the petitioner was never appraised by the Inquiry Committee nor she was given any opportunity to cross examine the witnesses of Dr. Kandpal and thus the finding of the report was biased and illegal, in reply to that it was observed that the conclusion of the Inquiry Report was made on the basis of the evidences led and the discussions made during the Inquiry and further the point of cross examination of witnesses was a part of the regular inquiry. The Inquiry Committee had omitted several vital points of the statements submitted by the petitioner thus deriving a wrong conclusion, in reply to this it was observed that the contentions raised by the petitioner was a part of regular Inquiry under Rule 14 of the CCS (CCA) rules, is wholly unsustainable.

[15] Mr. B. Majumder, learned Deputy SGI in reply to the submissions made by the learned counsel appearing for the petitioner has submitted that the research work (both carried out either at field or lab) is part of approved research activities as per the mandates of ICAR. In addition to research activities, scientists are assigned duties on institutional support and other special assignments within and outside the institute. These activities carry significant weight-age in Annual Performance Appraisal Report (APAR) of a scientist besides providing opportunities to work in team spirit on various institute building activities. Hence for furthering research and institute building activities the petitioner was asked vide email dated 17.10.2016 to be present on the field for carrying out research-assigned activities as per the email. Also, it is stated that all actions undertaken by respondents were in the capacity of discharging official

duties and the petitioner has not been asked / assigned to perform any ultra-virus work.

[16] It may also be seen in Annexure-I of the writ petition (the email dated 17/10/2016) was marked not only to the petitioner but other Scientists also. For this, the Joint Director needs appreciation for giving rational, unbiased, and equal opportunities to all the scientists in research and institutional building activities. However, Annexure -I does not contain the second email as mentioned by the petitioner. Women Cell was already in existence at the Tripura Centre of ICAR- RC-NEH of which the petitioner is also a member. However, the Internal Complaints Committee is functioning from the head quarter of ICAR-RC-NEH, Umiam, which looks into the grievances of all the regional centres under ICAR-RC-NEH, Umiam.

[17] After receiving the complaint by the then respondent No.5, Dr. Narendra Prakash a committee was formed by him, comprising of members who were not in the jurisdiction of respondent No.6 (the then Joint Director Dr. B.K.Kandpal) so that an independent report could be submitted by the members in relation to verifying ground reality and also to ascertain the veracity of the complaints without being subjective to respondent No. 6 herein and thereafter submit the same report to ICAR Headquarters, New Delhi. It is pertinent to mention herein that as per the averments of the petitioner which mentions that she had submitted one representation to respondent No. 4 for immediate intervention is not known to the respondents and also the said representation is not annexed as any annexure of the petitioner.

[18] From Annexure-V of the writ petition it is misleading to interpret that the petitioner was asked to change her behaviour towards her colleagues but rather on perusing the portion mentioning "Comments on the Fitness of the case" it is observed that the committee suggested that since there has been lapses on both sides, the issue may be resolved amicably, if necessary through ICC of this institute. It is submitted that the appeal/representation dated 12.07.2019 of Dr. Rekha Das has been decided by the Disciplinary Authority treating it as appeal in terms of DoPT OM F. No. 11012/05/2016-Estt.A.III dated 02.06.2016.

[19] As regards the request of Dr. Rekha Das for removing the respondent No. 7 from North Eastern Hill Region vide representation dated 09.09.2019, it is submitted that as per Section-12 of the Sexual Harassment of

Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, it is the Internal Complaint Committee which can recommend the transfer of the respondent to any other work place. Section-12 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

[20] It has been stated that post IRC 2019 there were 129 institute funded projects and 129 externally funded projects being operational at this institute including its regional centre's. In view of the scarcity of funds and scientific manpower the new Director then kept 44 fresh approved institute projects under review out of which the petitioner's project was also kept on hold vide office order dated 17/10/2019. Any administrative decision with universal implication to all the scientists could not be treated as sexual harassment to anyone including the petitioner.

[21] However, it is pertinent to mention that seeking comments of domain experts on any research project or publications before taking any administrative decision is routine practice in ICAR institutes. As such, the statements as made in the writ petition are ambiguous, vague and therefore the petitioner should prove the same by adducing documentary evidence. Since the projects arrayed by the petitioner was not part of the major mandate of the institute and no recommendations are available from the then competent authority in the Project Monitoring and Evaluation (PME) unite of the institute.

[22] It has been argued that the grading including APAR of the petitioner in the mentioned period should not be considered as harassment to an individual as the respondents No.5 & 6 always provided unbiased rational and regular administrative and scientific support for scientific and personal growth of the petitioner and that given ample opportunity to the petitioner to improve her scientific and administrative calibre. Further the "good" remark should not be construed to be any adverse remark. It is pertinent to mention herein that the petitioner was also promoted to next higher scale with "Good" APAR grading. Hence, the remark "good" cannot be construed as an adverse comment any kind of harassment.

[23] It is misleading to infer that the independent lady member of the NGO who had attended the inquiry being the external member of the ICC is not in consonance with the report provided by the chair of board of the NGO as in fact the independent member is a representative of the NGO and reports of

coming from the NGO are deliberated the chair of board and the representative who attended the inquiry and thereafter the formal report on behalf of the NGO is signed by the Chairperson of the NGO.

[24] As per observation at Sl. No. 1 of office memorandum dated 30th June 2021, it has been rightly observed that the contention of the petitioner should have been made during the pendency of inquiry as provided under Section-12 of Sexual Harassment of Women at Work Place (Prevention, prohibition and Redressal) Act 2013. The authority endeavoured to comply in Toto with the mandatory provision of Section-12 of the Act. As per the factual grounds arrayed at Sl. No. 2 of the office memorandum no evidence has been presented by the petitioner before the inquiry committee during pendency of the inquiry and as such it is misleading to infer that any campaign as averred by the petitioner was initiated at the behest of respondent No.7 herein. Further on perusal of the report of the ICC there are neither materials on record nor any collaboration of statements to suggest such signature campaign to be carried out and as such the ICC could not take any cognizance of the same.

[25] The office/post of the Joint Director performs all assigned duties with utmost sincerity and without bias in discharging any administrative/scientific duty. Further, during the course of inquiry as reiterated in the averments of the respondent, such contentions was not raised by the petitioner and also it is pertinent to mention herein that during the pendency of such inquiry the then Joint director was transferred as Director (acting) from ICAR Tripura centre to the ICR-NEH Region, Umiam Meghalaya. The inquiry conducted by ICC of ICAR-RC-NEH Region was only a fact finding inquiry preliminary in nature as per provisions of Rule-14 Clause-2 of CCS(CCA) rules, the complaints committee would normally be involved at two stages. The first stage is the investigation made by the fact finding committee/ complaint committee and the second stage is when they act as inquiring authority.

[26] As per the factual grounds arrayed at Sl. No. 2 of the office memorandum, no evidence has been presented by the petitioner before the inquiry committee during pendency of the inquiry and as such it is misleading to infer that any campaign as averred by the petitioner was initiated at the behest of respondent No.7 herein. Further on perusal of the report of the ICC there are neither materials on record nor any collaboration of statement to suggest such

signature campaign to be carried out and as such the ICC could not take any cognizance of the same.

[27] It has been averred that at SL. No. 2 of the office memorandum the no evidence has been presented by the petitioner before the inquiry committee during pendency of the inquiry and as such it is misleading to infer that any campaign as averred by the petitioner was initiated at the behest of respondent No.7 herein. Further, on perusal of the report of the ICC there are neither materials on record nor any collaboration of statement to suggest such signature campaign to be carried out and as such the ICC could not take any cognizance of the same. All part of a regular inquiry and not part of preliminary/ fact finding inquiry if the competent authority desires based on the circumstances to the matter that a regular inquiry is to be carried out, the petitioner shall have a right of adequate representation accordingly.

[28] The inquiry report dated 12/3/2019 was forwarded to Dr. Rekha Das on 9.4.2019 further no time limit has been prescribed for supply of inquiry report to the complainant as per DoPT OM No 11012/5/2016-Estt. A.III dated 02.08.2016. Since the ICC was seized of the matter pertaining to the complaint of the petitioner herein, and that the petitioner herself was a member of the Women Cell at ICAR Tripura Centre, the matter was preferred by ICC at ICAR Umiam, Meghalaya so as to avoid any biasness and conduct a thorough inquiry. It is reiterated herein that a Women Cell is in existence at ICAR Tripura centre of which the petitioner herein is also a member.

[29] The respondents are in congruence to the observations as reflected in SL. No 14 of the Office Memorandum. Moreover, it is pertinent to mention herein that, being a bio-science research institute; many biological terms are very common in regular discussions and meetings. The inquiry committee had arrived at the conclusion through deliberation, evidences made available during the inquiry. Further, the issue of cross examination of the witness is part of a regular inquiry and the inquiry conducted by ICC was only preliminary in nature.

[30] The inquiry committee had arrived at the conclusion through deliberation, evidences made available during the inquiry. Further, the issue of cross examination of the witness is part of a regular inquiry and the inquiry conducted by ICC was only preliminary in nature. The contentions about

influencing the witnesses by respondents No. 7 herein does not appear to be valid as during the preliminary inquiry two witnesses had also deposed on behalf of the petitioner and their depositions suggest no evidence that the witnesses could have been coerced or influenced by respondent No.7 herein.

[31] In view of above and after perusal of this provision makes it clear that what is defined in Section 3(q) is 'service matter' in relation to a person. It provides that all matters relating to conditions of service come within this definition. In other words, to qualify as a 'service matter', it has to be a condition of service or must have proximate nexus to a condition of service. Secondly, the nexus to the conditions of service must be in respect of the five categories of matters specified in the clauses. After specifying four specific conditions of service in clause (i) to (iv), the residuary clause speaks of 'any other matter whatsoever'. Though the language employed is wide, it is not possible to infer that the Parliament intended to bring in every matter without any qualification. The said expression is qualified and takes its colour from the expression 'all matters relating to the conditions of service' employed in the first part of the definition clause. As this general clause occurs after enumeration of different specific conditions of service, the principle of *ejusdem generis* is attracted. '*Ejusdem generis*' is a rule of legal construction that general words of following enumeration of particulars are to have their generality limited by reference to the preceding particular enumeration and to be construed as including only all other articles of the like nature and quality. Having regard to the setting and context, the expression 'any other matter whatsoever' means 'condition of service in respect of any other matter whatsoever'.

[32] The procedure for eviction of unauthorized occupants from public premises is provided in the Public Premises Act. The Tribunal is not conferred with the power or authority to consider the legality of the proceedings initiated against the Government servant in respect of a Government quarters in his/her unauthorized occupation. The expression 'any other matter' in Section 3(q)(v) would not confer jurisdiction to the Tribunal to consider the validity of the proceedings initiated or the order passed by the competent authority under the provisions of Public Premises Act.

[33] This Court *prima facie* not convinced by the contention of Mr. Deb, learned senior counsel that what is referred to in Section-14 read with

Section 3(q) of the Act of 1985 is a service matter concerning the person who approaches the Court, be the Tribunal or any other Court and not the respondent in such proceedings. There is nothing in the language used in Section-14 or Section 3(q) which would justify this interpretation.

[34] Mr. Majumder, learned Deputy SGI has placed reliance upon a decision of the Hon'ble Apex Court in *Fida Hussain and Others v. Moradabad Development Authority and Another*, reported in (2011) 12 SCC 615, wherein, the Court has categorically stated that it is well settled that a decision of the Court based on specific facts does not operate as a precedent for future cases. Only the principles of law that emanate from a judgment of the Court, which have aided in reaching a conclusion of the problem, are binding precedents within the meaning of Article-141. However, if the question of law before the Court is same as in the previous case, the judgment of the Court in the former is binding in the latter, for the reason that the question of law before the Court is already settled. In other words, if the Court determines a certain issue for a certain set of facts, then, that issue stands determined for any other matter on the same set of facts.

[35] In accordance with the notification issued by the Union of India, the Central Administrative Tribunal has jurisdiction to hear the disciplinary matter against the employee of University, in which the appellant was working. If any action be taken against the appellant, certainly the appellant can file an application before the Central Administrative Tribunal. He can also file an application before the Central Administrative Tribunal mentioning the ground that the constitution of the Committee was not proper. In such circumstances, this Court is of the view that the order passed by the Writ Court is in accordance with law [*Ramesh Pal v. Union of India and Others, reported in (2014) SCC Online MP 2668*].

[36] Since the appeal was decided by the Competent Authority on merits after considering the entire facts and record of the case, in compliance of the judgement dated 07.09.2021 of the Divisional Bench of this Court in W.A. 183/2021, the outcome of the appeal was again forwarded to Dr. Rekha Das vide Council's letter No. 106-3/2019-Vig, dated 26.11.2021. Thus there is no non-compliance of the judgment dated 07.09.2021 of this Court in W.A. No. 183 of 2021 on part of the respondents.

[37] The appeal dated 12.07.2019 preferred by Dr. Rekha Das was disposed of by the Competent Authority after taking into account the entire facts and record of the case and the outcome of the appeal was communicated to Dr. Rekha Das by speed Post dated 02.07.2021. The competent committee has given its observation after duly considering the witness led by the petitioner herein and as such, no fresh intervention is called for as per the contentions of the petitioner.

[38] As regards the request of Dr. Rekha Das for removing the 2 of respondent No. 7 from North Eastern Hill Region vide representation dated 09.09.2019, it is submitted that as per Section-12 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, it is the Internal Complaint Committee which can recommend the transfer of the respondent to any other work place. Section-12 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. For the purpose of reference the same may be reproduced hereunder:

“Action during pendency of inquiry.- (1) During the pendency of an inquiry on a written request made by the aggrieved woman, the Internal Committee or the local Committee, as the case may be, may recommend to the employer to-

(a) Transfer the aggrieved woman or the respondent to any other workplace; or

(b) Grant leave to the aggrieved woman up to a period of three months; or

(c) Grant such other relief to the aggrieved woman as may be prescribed.

(2) The leave granted to the aggrieved woman under this section shall be in addition to the leave she would be otherwise entitled.

(3) On the recommendation of the Internal Committee or the Local Committee, as the case may be, under sub-section (1), the employer shall implement the recommendations made under sub-section (1) and send the report of such implementation to the Internal Committee or the Local Committee, as the case may be.”

[39] In the facts and circumstances of the case as it has been discussed earlier that the petitioner has not made out her case on the point of maintainability inasmuch as on merits. The OA No.85 of 2020 is also pending before the CAT she could have taken all the pleadings instead she has initiated parallel proceeding one before the tribunal and the another in the High Court regarding the same cause of action. The reliefs claimed for by the petitioner i.e. the incident of sexual harassment is enquired under the service rules and the

person aggrieved of any order of the Internal Complaints Committee or by the appellate authority had to be dealt with by the CAT but not by this Court as contemplated under Sections-14 and 19 of the CAT Act, 1985 as a Court of first instance applying the law settled in *L. Chandra Kumar v. Union of India & Others* reported in (1997) 3 SCC 261.

[40] A service dispute which has to be examined at the first instance by the Administrative Tribunal, Counsel submitted that the definition of term 'service matter' contained in the Act of 1985 is very wide and includes within its sweep all kinds of issues and disputes which has even indirect relation to service conditions of an employee. He contended that when the statute contains specific and general provisions, the specific provision must prevail. Combined reading of Sections 14, 28 and 29 of the Act of 1985 would show that upon establishment of the Administrative Tribunal, the same would have exclusive jurisdiction to deal with service matters of the employees of Union of India. Section 3(q) which defines the term service matter therefore becomes significant.

[41] Chapter-V of the Act of 2013 pertains to inquiry and complaint. Section-12 contained in the said chapter pertains to action during pendency of inquiry. Under sub-section (1) of Section 12, during pendency of an inquiry on a request made by the aggrieved woman, the Committee may recommend her transfer, grant of leave or grant of such other relief as may be prescribed. As per sub-section (3) of Section 12, the employer would implement the recommendations of the Committee made under sub-section.

[42] The OA No.85 of 2020 is also pending before the CAT she could have taken all the pleadings instead she has initiated parallel proceeding one before the tribunal and the another in the High Court regarding the same cause of action. Out of the same factual evidence, the petitioner is before this Court by way of filing writ petition and the action of the petitioner cannot be appreciated in constituting parallel proceeding both before the CAT and before this Court. As per argument of the learned counsel appearing for the petitioner that the facts and documents placed before the tribunal and before this Court are identical. In such a case, the petitioner could have ventilated her grievance before the tribunal which is the appropriate authority.

[43] In that view of the matter, it is clear from the above that with regard to the transfer, the employer can act only on the recommendation of the

internal complaint committee. In this case internal complaint committee has not made any such recommendation. In view of above observations and having gone through the material evidence and the principle laid down by the Apex Court, this Court is of the view that the present writ petition is devoid of any merits and premature too, thus, the same stands dismissed. As a sequel, miscellaneous applications pending, if any, shall stand closed.

T. AMARNATH GOUD, J

A. Ghosh

**ANJAN
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