



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE ASHOK S.KINAGI

WRIT PETITION NO. 22945 OF 2017 (S-DE)

BETWEEN:

B K MOHANTY
SON OF LATE R K MOHANTY,
AGED ABOUT 59 YEARS,
WORKING AS OFFICER ON SPECIAL DUTY
(TECHNICAL), BANGALORE COMPLEX,
HINDUSTAN AERONAUTICS LIMITED,
VIMANPURA,
BENGALURU - 560 017

...PETITIONER

(BY SRI. DR. J.P. UDGATA, ADVOCATE)

AND:

HINDUSTAN AERONAUTICS LIMITED
REPRESENTED BY ITS CHAIRMAN &
MANAGING DIRECTOR,
T. SUVARNA RAJU,
NO.15/1, CUBBON ROAD,
BANGALORE - 560 001

...RESPONDENT

(BY SRI. SUNDARSWAMY, ADVOCATE AND
SRI. RAMDAS, ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA PRAYING TO QUASH THE
LETTER DATED 29.4.2017 VIDE ANNEX-S ISSUED BY

Digitally signed
by KIRAN
KUMAR R
Location: HIGH
COURT OF
KARNATAKA



RESPONDENT; DIRECT THE R-1 TO RESTORE THE PETITIONER TO HIS ORIGINAL POSITION IN WHICH HE WAS WORKING PRIOR TO 8.6.2016 ETC.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE ASHOK S.KINAGI

ORAL ORDER

1. The petitioner filed this petition seeking the following relief:

- (a) *Issue an order or writ in the nature of certiorari quashing the letter dated 29.4.2017 in No.HAL/HR/19(2)/IMGT/SHC/Vol.II/2017, vide Annexure-S issued by respondent;*
- (b) *Issue an order or a direction in nature of mandamus directing the first respondent to restore the petitioner to his original position in which he was working prior to 08.06.2016;*
- (c) *Award compensation to the petitioner and costs of this proceedings and*
- (d) *Issue any other order, writ or direction as this Honorable Court deems just to grant the same under the facts and circumstances of the case in the best interest of justice and equity.*



2. Brief facts leading rise to the filing of this petition are as follows:
3. The petitioner was working in the capacity of a General Manager heading Industrial and Marine Gas Turbine Division of the respondent. The petitioner was repeatedly asking the respondent to provide him an Administrative Office to work in the office of the petitioner. The petitioner received a communication dated 02.06.2016 from the office of the Additional General Manager (HR) of the respondent requiring the petitioner to attend an interview to be held on 09.06.2016 at 10.00 a.m. at the corporate office of the respondent.
4. The petitioner was getting prepared for his interview, on 08.06.2016, all of a sudden, the petitioner received a communication dated 08.06.2016 from the Executive Director, Human Resources (who is the respondent herein), intimating that the petitioner has been transferred as an officer on Special Duty (Technical) in



the office of the Chief Executive Officer, Hindustan Aeronautics Limited with immediate effect. The petitioner was discharging his duties as a Officer Special Duty (Technical). The petitioner received a communication dated 21.06.2016 along with an enclosure of a complaint submitted by the complainant vide complaint dated 07.06.2016. In the complaint it is alleged that the petitioner has sexually harassed the complainant and the complaint was submitted on 07.06.2016 vide Annexure B. The petitioner replied to the complaint vide Annexure D.

5. The respondent formed a Internal Complaint Committee (for short 'ICC') as per Section 6 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereinafter referred as 'Act of 2013'). The Petitioner appeared before the Internal Complaint Committee. The ICC, after recording the evidence of witnesses, has submitted a report to the respondent. The respondent



based on the report submitted by the ICC has passed an impugned order vide Annexure S dated 29.04.2017, wherein the Management Committee has decided to impose major punishment of "Reduction to a lower scale of pay, grade or post" under Rule 6 (ii) (g) of the HAL CDA Rules, 1984 (as amended) i.e., from the post of officer on Special Duty (Technical) BC (Grade IX) to the post of Additional General Manager (Technical), BC (Grade VIII) with immediate effect. The petitioner, aggrieved by the impugned order vide Annexure-S, filed this writ petition.

6. The respondent filed a statement of objections contending that the complainant has lodged a complaint against the petitioner alleging that the petitioner has sexually harassed the complainant. On the basis of the complaint received by the complainant, the respondent called upon the petitioner to submit a reply to the complaint. The petitioner submitted a reply to the complaint vide Annexure-D. The



respondent being dissatisfied with the reply submitted by the petitioner decided to constitute an Internal Complaints Committee as per Section 6 of the Act of 2013. The ICC, after holding a due inquiry, submitted a report and opined that the charges levelled against the petitioner are proved.

7. The respondent, after the receipt of an enquiry report, issued a second legal notice along with the findings of the enquiry committee. The petitioner replied to the second show cause notice. The respondent after considering the reply submitted by the petitioner and also the findings, the ICC of the opinion that the charges alleged against the petitioner are proved. The Appointing Authority - Board of Directors after considering the material placed on record has passed the impugned order. It is also contended that the petitioner was provided sufficient opportunity and witnesses were examined. Thus the report submitted by the ICC is in accordance with law. It is also



contended that the writ petition filed by the petitioner is not maintainable as the petitioner has got an efficacious and alternate remedy of a statutory appeal under Section 18 of the Act of 2013. Thus, the petitioner without exhausting an efficacious remedy, filed this writ petition. It is also contended that the complainant has submitted a letter, affidavit and legal notice only under the pressure of her husband. Hence, on these grounds, prays to dismiss the petition.

8. Heard the arguments of the learned counsel for the petitioner, and learned counsel for the respondent.
9. Learned counsel for the petitioner submits that before passing the impugned order, no charge sheet was issued to the petitioner and no enquiry has been held. He also submits that the junior members were appointed in the Internal Complaints Committee. He submits that the complainant has submitted a letter to the respondent to withdraw the complaint against the petitioner as per Annexure-E. He submits that in the



said affidavit, which was sworn on 04.10.2016, it is stated that the complainant is now withdrawing the allegations and substantial evidence made against the petitioner in her complaint dated 07.06.2016 and withdrawing the complaint dated 07.06.2016. There was no necessity for the Internal Complaints Committee to proceed with the inquiry. Despite withdrawing the complaint by the complainant, the ICC Committee proceeded with the enquiry. He also submits that the complainant got issued a legal notice to the chairman of ICC for withdrawing the complaint vide Annexure-F and requested to close the matter.

10. In W.P.No.59536 of 2016 filed in this Court, it is stated that the complainant is not interested to proceed with the matter and permitted to withdraw the complaint. The enquiry conducted by the ICC is improper and incompetent and the committee constituted is incompetent committee and the report submitted by the committee is arbitrary and erroneous.



11. He also submits that the disciplinary authority is the Board of Directors. He submits that order is passed by the Deputy General Manager . The impugned order is passed by the incompetent authority. He submits that by virtue of an impugned order, the petitioner was demoted from service and also submits that vide order dated 29.04.2017 passed an order deducting 4 increments. He submits that the petitioner has been punished and hit by doctrine of jeopardy. He submits that the disciplinary authority could have been conducted by the Board of Directors.
12. He submits that the respondent has not followed the procedure. Hence, the writ petition filed by the petitioner is not maintainable. Hence, on these grounds, prays to allow the writ petition.
13. *Per contra*, learned counsel for the respondent has primarily raised the objection regarding the maintainability of the writ petition. He submits that the impugned order passed by the authority is appealable



under Section 18 of the Act of 2013. The petitioner without exhausting an efficacious remedy provided under the Act, has filed this writ petition. The writ petition filed by the petitioner is not maintainable in view of the proposition laid down by the Hon'ble Apex Court in the case of ***Rikhab Chand Jain vs. Union of India and others***¹ disposed of on 12.11.2025. He also submits that the committee was constituted in terms of Section 6 of the Act of 2013, and the respondent has produced the order vide Annexure-R.

14. The respondent has reconstituted a committee comprising of five members and the committee shall function as per the guidelines of the corporate office and the provisions of Act, 2013. He submits that the complainant appeared before the committee and gave a statement before the committee reiterating the averments made in the complaint. He also submits that witnesses were examined and the ICC committee after

¹ Civil Appeal No. 6719 of 2012



recording the statements of all the witnesses has submitted a report and he submits that the committee has opined that the charges levelled against the petitioner are proved.

15. He also submits that the petitioner has forced the complainant to withdraw. He submits that at the instance of the petitioner, somebody has called the husband of the complainant and forced the complainant to withdraw the complaint. Under the force, she has filed an affidavit on 04.10.2016 that is after her evidence was recorded by the committee and she also filed an affidavit.

16. The complainant was forced and under pressure, she has submitted the letter, legal notice and affidavit. He submits that the ICC committee has followed all the procedures prescribed under the Act of 2013 and the Rules of the respondent company.



17. To buttress his arguments, he has placed reliance on the judgments as follows:

- Union of India Vs. P. Gunasekaran²
- Deputy General Manager (Appellate Authority) vs. Ajai Kumar Srivastava³
- B.C. Chaturvedi vs. Union of India⁴
- Apparel Export Promotion Council and A.K. Chopra⁵
- Medha Kotwal Lele and others vs. Union of India and others⁶
- Aureliano Fernandes vs. State of Goa⁷
- Vishaka and others vs. state of Rajasthan and others⁸
- Kumaon Mandal Vikas Nigam Ltd vs. Girja Shankar Pant- on apparent Bias⁹

18. He submits that the scope of judicial review in such type of cases is very limited. He submits that serious

² (2015) 2 SCC 610

³ (2021) 2 SCC 612

⁴ (1995) 6 SCC 749

⁵ (1999) 1 SCC 759

⁶ (2013) 1 SCC 297

⁷ (2024) 1 SCC 632

⁸ (1997) 6 SCC 241

⁹ (2001) 1 SCC 182



charges are alleged against the petitioner. He also submits that once if an ICC committee submits a report, there is no need to hold a separate inquiry by the respondent as contended by the petitioner and to buttress his arguments he has placed reliance on the judgments of the Supreme Court (*supra*). Hence, on these grounds, he prays to dismiss the petition.

19. Perused the records, and considered the submissions of the learned counsel for the parties.

20. It is an undisputed fact that the petitioner was working in the capacity of General Manager heading Industrial and Marine Gas Turbine Division of the respondent and subsequently he was transferred as a officer on Special Duty (Technical). While discharging his duty, the respondent has received a complaint from the complainant on 07.06.2016, alleging that the petitioner has been sexually harassing the complainant for some time in the past and also he took her to 12th Avenue Hotel, Indranagar in the pretext of some work



and also forcing her to enter the hotel room for which she refused and she has also been harassed by the petitioner by telling her to remove her dupatta in the office on two occasions.

21. The petitioner has further threatened the complainant that he will remove her from the job, if she does not fall in line to his desires within a period of 6 months. Further, it is also stated in the complaint that this is not the first time that he has been behaving with the ladies, in the past also he had tried to sexually abuse another lady who had come for the interview and given to understand in the past also he tried to molest one HAL Finance Chief Manager and these are only few examples, there are many more which she do not want to comment.

22. After receiving the complaint from the complainant, the respondent issued notice to the petitioner and he submitted a reply to the complaint lodged by the complainant. The respondent being dissatisfied with the



reply given by the petitioner has decided to constitute a committee under Section 6 of the Act of 2013. The respondent has produced a copy of reconstitution of committee marked as Annexure R4, wherein the respondent has reconstituted the committee comprising of five members.

1. Deputy General Manager -Chairman (HR)-O
 2. HR Head of the Division or his/ her representative (member),
 3. Senior Medical Superintendent, M & H Unit, BC (Lady member)
 4. Representative of HAEA or HAOG –member
 5. External member
23. The committee will function as per the guidelines of Corporate office and provisions of Sexual Harassment at women at workplace (Prevention, Prohibition and Redressal) Act, 2013.
24. Section 9 of the Act of 2013, reads as follows:

Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the Internal Committee if so constituted, or the Local



Committee, in case it is not so constituted, within a period of three months from the date of incident and in case of a series of incidents, within a period of three months from the date of last incident:

25. From the bare reading of Section 9 of the Act of 2013, any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the internal committee, if so constituted, within a period of 3 months from the date of incident and in case of series of incident, within 3 months from the date of last incident, the complaint should be made and the internal committee can also extend the time for filing the complaint not exceeding 3 months, if it is satisfied that the circumstances which prevented the aggrieved women for filing a complaint within the period.

26. Section 10 of the Act of 2013, which reads as follows:

10. Conciliation.—(1) The Internal Committee or, as the case may be, the Local Committee, may, before initiating an inquiry under section 11 and at



the request of the aggrieved woman take steps to settle the matter between her and the respondent through conciliation.

Provided that no monetary settlement shall be made as a basis of conciliation.

(2) Where settlement has been arrived at under sub-section (1), the Internal Committee or the Local Committee, as the case may be, shall record the settlement so arrived and forward the same to the employer or the District Officer to take action as specified in the recommendation.

27. Section 10 of the Act provides conciliation Before commencing an enquiry, the internal committee may make a request to the aggrieved woman to take steps to settle the matter between her and the respondent through conciliation, provided no monetary settlement shall be made on the basis of conciliation. Further, if the settlement has been arrived as per sub section (1), the Internal Committee shall record the settlement and close the complaint. If the parties are not settled, then enquiry has to be conducted under Section 11 of the Act of 2013, which reads as follows:



11. Inquiry into complaint.— (1) Subject to the provisions of section 10, the Internal Committee or the Local Committee, as the case may be, shall, where the respondent is an employee, proceed to make inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent and where no such rules exist, in such manner as may be prescribed or in case of a domestic worker, the Local Committee shall, if prima facie case exist, forward the complaint to the police, within a period of seven days for registering the case under section 509 of the Indian Penal Code (45 of 1860), and any other relevant provisions of the said Code where applicable:

Provided that where the aggrieved woman informs the Internal Committee or the Local Committee, as the case may be, that any term or condition of the settlement arrived at under sub-section (2) of section 10 has not been complied with by the respondent, the Internal Committee or the Local Committee shall proceed to make an inquiry into the complaint or, as the case may be, forward the complaint to the police:

Provided further that where both the parties are employees, the parties shall, during the course of inquiry, be given an opportunity of being heard and a copy of the findings shall be made available to



both the parties enabling them to make representation against the findings before the Committee.

28. From the bare reading of Section 11 of the Act of 2013, the Internal Committee proceed to make an enquiry to the complainant in accordance with the provisions of service rules applicable to the respondent and where no such rules exist, in such manner, as the case may be, or in case of a domestic worker, the local committee shall forward the complaint to the police, within a period of seven days for registering the case under Section 509 of the IPC. If provided, aggrieved woman informs the Internal Committee or Local Committee, as the case may be, any terms and conditions of the settlement arrived at sub-section 2 of section 10 has not been complied with by the respondent, the Internal Committee shall proceed to make an inquiry into the complaint, and the case may be forwarded to the police.



29. Admittedly, in the instant case, the Internal Committee has referred the matter for Mediation and Conciliation and the complainant and respondent did not arrive for a settlement and thereafter the Internal Committee proceeded to hold an inquiry against the petitioner. The complainant appeared before the Internal Committee and gave a statement before the Internal Committee reiterating the averments made in the complaint dated 07.06.2016 and also examined 10 witnesses on behalf of the complainant.

30. In rebuttal, 5 witnesses were examined on behalf of the petitioner. The Internal Complaints Committee after recording the entire evidence on record, has submitted a report and opined that the charges levelled against the petitioner are proved and recommended for in paragraph 21 which reads as follows:

"21: As all the charges made by the complainant (xxxx) in her complaint letter dated 07.06.2016 against the respondent that is the



petitioner therein are established, the ICC recommends to take appropriate action for sexual harassment as a misconduct in accordance with the provisions of the HAL Conduct, Discipline and Appeal Rule, 1984 applicable to the officer."

31. The inquiry officer submitted a report and thereafter they have submitted recommendation. The enquiry report was submitted to the Management committee. The management committee has placed the report before the Board. The management committee after receipt of enquiry report issued the second show cause notice along with the findings recorded by the ICC to the petitioner to submit his reply. The petitioner has submitted a reply to the second show cause notice denying all the findings recorded by the ICC. The management committee after considering the enquiry report and reply submitted by the petitioner has passed an impugned order under Rule 6 of 1984 Rules and



passed an order of reduction of rank, grade and pay scale.

32. Further, learned counsel for the respondent has produced HAL (Conduct, Discipline and Appeal) Rules, 1984, which clearly disclose that Rule 6 provides for punishment which reads as follows:

Rule 6- Punishments:

The following punishments may for good and sufficient reasons be imposed on officers by the Competent Authorities (Disciplinary Authorities/ Higher Authorities / Appellate Authorities) empowered to impose such punishments under these rules:

(ii) Major punishment: (g) Reduction to a lower scale of pay, grade or post.

33. By following Rule 6 of the H.A.L. (Conduct Discipline and Appeal) Rules of 1984, the respondent has passed impugned order reduction to a lower scale of pay/grade or post.



34. Learned counsel for the petitioner submits that the complainant has submitted a letter on 06.10.2016 to the chairman of the Internal Complaints Committee, wherein requested to withdraw the complaint against the petitioner. The petitioner was examined in the month of June 2016. The said complainant has submitted a letter to the Director,(HR) in-charge of respondent intending to withdraw the complaint dated 07.06.2016 against the petitioner.

35. The said letter was issued to the Director in-charge of respondent after she gave a statement before the ICC and also she has issued a legal notice dated 06.10.2016 vide Annexure-F and earlier the petitioner has approached this court in WP No. 59536 of 2016 and even in the said writ petition, she has filed an affidavit withdrawing the complaint against the petitioner. The complainant did not appear before the court in the said writ petition. Though the said aspect was considered by the ICC Committee and recorded its finding in regard to



the withdrawal. wherein, the ICC has recorded its findings in para 13(2), which reads as follows:

13(2): The sealed envelope received on 06.10.2016 from an advocate addressed to the Chairperson-ICC was opened during this meeting on 06.10.2016. The ICC members noted the contents of the notarized affidavit dated 04.10.2016 duly signed by the complainant. The complainant and the Advocate has stated that, she is 'withdrawing all the allegations and substantial evidence made against the petitioner in her complaint dated 07.06.2016. The ICC members, after analyzing the events that occurred during the preceding two days have concluded the following:

(i) The Sexual Harassment of Woman at Workplace Act, 2013, grants an opportunity for conciliation before initiating the inquiry. The same was provided to the complainant in the presence of the respondent and the Co-officer on 08.07.2016. She had affirmed that she would proceed with the complaint dated 07.06.2016.



(ii). The respondent will be informed of non-submission of the final written brief by the complainant and grant time as required to be given to the respondent for submission of his final written brief by 17.10.2016.

36. Further, the ICC also recorded its finding, which reads as follows:

Further, she has provided substantial evidence to support her complaint and during the 24th sitting held on 19.09.2016, she even submitted an audio recording of the conversation between the respondent's witnesses wherein they are expressing that the respondent that is petitioner herein wants us to tell on 07.06.2016 between 11.00 and 12.30 hours, we are fully with him which is not the fact." The ICC during the course of 25th sitting and proceedings have gathered the evidence in support of the complaint.



At the stage where the complainant and respondent were to file their written statement and the complainant has sought to withdraw all the allegations and substantial evidence made against the petitioner in her complaint dated 07.06.2016.

The ICC held during the 24th and 25th sitting had advised the complainant and the respondent respectively to file their final written briefs within the day given as proceedings had concluded since all the evidence which are necessary and relevant for the purpose of enquiry had been recorded. With the completion of examination of witnesses of the complainant, the respondent and independent witnesses, the ICC had also informed that no more witnesses would be examined. Further, the ICC has given an extension to the complainant three times on her request to submit the final written brief.



37. The ICC noted that there are no reasons whatsoever stated in the affidavit or in the subsequent legal notice dated 06.10.2016 to justify the withdrawal of the complaint. She has also asked for extension three times to submit her final written brief which also showed her intention of submitting the brief and standing by her complaint. Hence, the sudden withdrawal by the complaint and her claim that 'she has withdrawn on her own free will without coercion and undue influence' is not noted by the ICC and not credible.
38. The ICC has already recorded the entire findings based on the available evidence.
39. The learned counsel for the petitioner submits that the respondent without holding a disciplinary inquiry merely on the basis of a report submitted by the ICC has passed the impugned order.
40. The learned counsel for the respondent submits that the report submitted by the ICC itself is sufficient and it



should be treated as a report submitted by the inquiry officer to be an inquiry report under CCS rules. Thereafter, the disciplinary authority will act on the report in accordance with Rules.

41. Thus, to substantiate his case, he has placed reliance on the judgment passed by the Hon'ble Apex Court in the case of ***Aureliano Fernandes vs. State of Goa and others***¹⁰. The Hon'ble Apex Court held in paragraph Nos.53, 54 and 56 which reads as follows:

"53. The Guidelines directed creation of a complaints mechanism to ensure time-bound treatment of complaints, constitution of a Complaints Committee and recommended, disciplinary action where such conduct amounted to misconduct in employment "as defined by the relevant service rules". The momentous judgment in Vishaka case was delivered on 13-8-1997 and the Guidelines declared by the Court continued to hold the field till the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

¹⁰ 2024 (1) SCC 632



(for short "the PoSH Act") was enacted on 22-4-2013.

(b) Medha Kotwal Lele case: Follow-up through continuing mandamus

54. After Vishaka case, came Medha Kotwal Lele v. Union of India where a grievance was raised by several petitioners that the Complaints Committees directed to be constituted in terms of the Guidelines laid down by this Court, had not been established to deal with cases of sexual harassment. Treating the said petition as a public interest litigation, notices were issued to several parties including the Union of India and the State Governments and the following directions were issued: (Medha Kotwal Lele case, SCC p. 312, para 2)

2. Complaints Committee as envisaged by the Supreme Court in its judgment in Vishaka case, at para 53, will be deemed to be an inquiry, authority for the purposes of the Central Civil Services (Conduct) Rules, 1964 (hereinafter called "the CCS Rules") and the report of the Complaints Committee shall be deemed to be an inquiry report under the CCS Rules. Thereafter the disciplinary authority will act on the report in accordance with the Rules.'



A similar amendment was also directed to be carried out in the Industrial employment (Standing Orders) Rules.

56. Exercising its powers of a writ of continuing mandamus, the aforesaid petition was again taken up after the passage of over six years, on 19-10-2012 when this Court examined the affidavits filed by each State Government to satisfy itself on the compliance of the Guidelines laid down in Vishaka case. On examining the position regarding amendments required to be carried out in the CCS (CCA) Rules and the Standing Orders as also the establishment and composition of the Complaints Committees, the Court noted with great dismay that several State Governments had failed to make compliances. Extracted below are the observations made in this regard: (Medha Korwal Lele casels, SCC pp. 309-10, paras 43-44)

44.1. The States and Union Territories which have not yet carried out adequate and appropriate amendments in their respective Civil Services Conduct Rules (by whatever name these Rules are called) shall do so within two months from today by providing that the report of the Complaints Committee shall be deemed to be an inquiry report in a disciplinary action under such Civil Services



Conduct Rules. In other words, the disciplinary authority shall treat the report/findings, etc. of the Complaints Committee as the findings in a disciplinary inquiry against the delinquent employee and shall act on such report accordingly. The findings and the report of the Complaints Committee shall not be treated as a mere preliminary investigation or inquiry leading to a disciplinary action but shall be treated as a finding/report in an inquiry into the misconduct of the delinquent.

42. From the perusal of the judgment passed by the Hon'ble Apex Court in the case referred supra, it is clear that where a grievance was raised by the complainant and the complaints committee submits a report. Inquiry authority for the purpose of rules and the report of the complaints committee shall be deemed to be an enquiry report under CCS rules. Thereafter, the disciplinary authority can act on the report in accordance with law. The management committee based on the report submitted by the ICC has passed an order treating the said report under the rules and passed the order.



43. The State and Union territories which have not yet carried out the appropriate amendments in their respective Civil Services Conduct Rules (by whatever name these Rules are called) shall do so within 2 months from today by providing that the report of the Complaints Committee shall be deemed to be an enquiry report in the disciplinary action under civil service conduct rules. In other words, the disciplinary authority shall treat the report/findings etc. of the complaints committee as a finding in the disciplinary inquiry against the delinquent employee and shall act on such a report accordingly.

44. Admittedly, the complaints committee has submitted a report and the said report was accepted as an inquiry report by the management committee and has passed an order. The order passed by the respondent is in accordance with the Rules of 1984 and Act of 2013.

45. Further in the said judgment, the Hon'ble Apex Court held in paragraph No.64, that:



“the purpose of judicial review is not only to ensure that the individual concerned receives fair treatment, but also to ensure that the authority, after according fair treatment, reaches, a conclusion, which is correct in the eye of law. Notably, in ***Apparel Export Promotion Council vs. A.K. Chopra***, a matter related to sexual harassment at the workplace where, aggrieved by the decision taken by the Disciplinary Authority of accepting the report of the Inquiry Officer and removing the respondent therein from service on the ground that he had tried to molest a lady employee, this Court had set aside the order of the High Court that had narrowly interpreted the expression “sexual harassment” and held that in departmental proceedings, the Disciplinary Authority is the sole judge of facts and once findings of fact, based on appreciation of evidence are recorded, the High Court in its writ



jurisdiction should not normally interfere with those factual findings unless it finds that the recorded findings were based either on no evidence or that the findings were wholly perverse and/or legally untenable. The Court is under a duty to satisfy itself that an inquiry into the allegations of sexual harassment by a Committee is conducted in terms of the service rules and that the concerned employee gets a reasonable opportunity to vindicate his position and establish his innocence.”

46. Admittedly in the instant case, The ICC has recorded the evidence of all the witnesses adduced by the complainant and also by the petitioner. The ICC based on the report, recorded its finding. The managing committee treated the said enquiry report submitted by ICC has treated it as an enquiry and passed an order. The judgment relied upon by the learned counsel for the respondent (referred supra) is aptly applicable to



the case on hand. The charges levelled against the petitioner are serious in nature, as rightly contended by the learned counsel for the respondent. The Management Committee after considering the entire material on record has rightly passed the impugned order.

47. The learned counsel for the petitioner has placed reliance on the decision of the Hon'ble Apex Court in case of **Anant R Kulkarni vs. Y.P. Education and others¹¹** in Civil No. 3935 of 2013, wherein the Hon'ble Apex Court held that there is no statutory rule permitting the Management Committee to hold an enquiry against a person who has retired a decade ago, particularly when a school is a Government-aided school, and the appellant employee receives pension from the State.

¹¹ 2013(6) SCC 515



48. Admittedly, in the instant case enquiry was initiated against the petitioner when he was in service. During the pendency of the writ petition he has retired from service on attaining the age of superannuation and all the retirement benefits had been disbursed to the petitioner.

49. Further, he also placed reliance on the judgment of the Hon'ble Apex Court in the case of ***Risal Singh Vs. State of Haryana and others*** in C.A.No.2839/2011. Admittedly, in the said case, the Supreme Court has set aside the order of punishment only on the ground that no inquiry was held. Admittedly, in the instant case, an inquiry was held by the Internal Complaints Committee.

50. He also placed reliance on the judgment of the Hon'ble Apex Court in the case of ***Aureliano Fernandez vs. State of Goa and others*** in C.A.No.2482/2014. Admittedly, in that case, no opportunity was provided to the employee. There is no dispute in regard to the ratio laid down by the



judgment relied upon by the learned counsel for the petitioner. The learned counsel for the petitioner has placed reliance on the judgment passed by the Co-ordinate bench of this Court in the case of Dr. Arabi U Prof. Mangalore University vs. Registrar, Mangaluru University.

51. The learned counsel for the respondent submits that the judgment was challenged in a writ appeal and subsequently, university has complied the judgment passed in the said writ petition. He also submits that the said judgment passed by the Co-ordinate Bench is in contrary to the mandate laid down by the Hon'ble Apex Court in the case of **Aureliano Fernandez** (referred supra).

52. Hence, considering the entire evidence on record, this Court is of the opinion that respondent has rightly considered the entire material on record and passed the impugned order. Hence, I do not find any grounds to interfere with the impugned order.



53. In view of the above discussion, I proceed to pass the following order:

ORDER

- i. The writ petition is ***dismissed***.
- ii. Pending interlocutory application/s, if any, stands disposed of accordingly.

**Sd/-
(ASHOK S.KINAGI)
JUDGE**

SKS