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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on:24.04.2018

LPA 224/2018 & CM No.16085/2018 (stay)

SONALI G. BADHE

..... Appellant

Versus

UNION OF INDIA AND ORS

..... Respondents

Advocates who appeared in this case:

For the Appellant : Mr. Kunal Cheema and Mr. Apoorv Shukla, Advocates.

For the Respondent : Mr. Arun Bhardwaj, CGSC for respondent No. 1.
Mr. Amit Mahajan, CGSC for UOI.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MS. JUSTICE DEEPA SHARMA

J U D G M E N T

SIDDHARTH MRIDUL, J (ORAL)

CM No. 16084/2018 (Exemption)

Exemption allowed, subject to all just exceptions.

The applications stand disposed of.

LPA 224/2018

1. The present Letters Patent Appeal under Section 10 of the Delhi High Court Act, 1966 read with Clause 10 of the Letters Patent (as applicable to

the Delhi High Court) assails the impugned judgment and order dated 23rd February, 2018, passed by a learned Single Judge of this Court in Writ Petition (Civil) No. 1754/2018, whereby, it has been directed as follows:

“4. Learned counsel for petitioner submits that petitioner has been already permitted to be impleaded as a party in the said Original Application No.2755/2016 Ashish Chandra Singh Vs. Ministry of Finance & Anr. In view thereof, this petition is disposed of while refraining to comment upon the merits and with permission to permission to petitioner to assist the Court on the proportionality of the penalty imposed and to point out regarding the penalty imposed being disproportionate/inadequate and to point out regarding corrigendum of 26th May, 2017 (Annexure P-5) to order of 28th July, 2016 (Annexure P-4) not being in consonance with the penalty order (Annexure P-3). If petitioner adopts such a course, then it is expected that the Central Administrative Tribunal shall expeditiously look into the proportionality of the penalty imposed and the effect of the corrigendum of 26th May, 2017 (Annexure P-5) to order of 28th July, 2016 (Annexure P-4).

5. Needless to say that the Tribunal shall permit petitioner to raise the aforesaid pleas if available in law to her, uninfluenced by its order (Annexure P-7).”

2. The facts giving rise to the present appeal are briefly encapsulated as follows:

(a) On the appellant’s complaint of sexual harassment against respondent No. 4, the latter, after enquiry, was visited with the penalty of reduction to a

lower stage in the time scale of pay by three stages for a period of three years, vide order dated 21st June, 2016.

(b) The appellant approached the Central Administrative Tribunal, New Delhi (for short 'CAT') against the said order dated 21st June, 2016 seeking enhancement of the penalty but subsequently on 10th November, 2017, she withdrew the Original Application with liberty to approach the appellate forum or to seek any other remedy available to her in law.

(c) The appellant, it is observed, is also aggrieved by a corrigendum dated 26th May, 2017, to order of 28th July, 2016, inasmuch as, according to her, the penalty as originally imposed upon the respondent No. 4 has been subsequently watered down.

(d) In the present proceedings, the appellant has prayed for enhancement of the penalty awarded to the fourth respondent. It is an admitted position that, the fourth respondent has approached the CAT, against the order dated 21st June, 2016, and that the appellant has been permitted to be impleaded as a party in the said Original Application No. 2755/2016 titled as "*Ashish Chandra Singh vs. Ministry of Finance & Anr.*"

e. By way of the impugned order and judgment dated 23rd February, 2018, the learned Single Judge has clearly permitted the appellant to raise the issue of proportionality of penalty imposed upon the fourth respondent before the CAT, and has further directed the CAT, to expeditiously look into the question of the proportionality of the penalty imposed as well the effect of the said corrigendum of 26th May, 2017 to order dated 28th July, 2016.

3. The solitary submission made on behalf of the appellant is to the effect that she does not have the locus to seek enhancement of the penalty imposed upon the fourth respondent, except in a proceeding under Article 226 of the Constitution of India. To buttress her submission, our attention has been invited to a decision of this Court in “*Samridhi Devi vs. Union of India & Ors.*” reported as ILR (2005) II DELHI 911.

4. Having heard learned counsel appearing on behalf of the parties and perused the impugned order, we find ourselves unable to agree with the contention raised on behalf of the appellant. We say so for the reason that a plain reading of the directions contained in the impugned order and particularly paragraph 4 thereof, leaves no manner of doubt that the appellant has been permitted to raise the issue of proportionality of the penalty imposed on the fourth respondent before the CAT and the latter has been

further directed to expeditiously look into the matter, in accordance with law.

5. In view of the foregoing discussion, the impugned order does not warrant any interference by this Court in appeal and the same is accordingly dismissed. Pending application also stands disposed of.

**SIDDHARTH MRIDUL
(JUDGE)**

**DEEPA SHARMA
(JUDGE)**

APRIL 24, 2018

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