

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Order: January 02, 2018

+ **W.P.(C) 11711/2017 & C.M. 47505/2017**

AVADHESH KUMAR SINGH Petitioner

Through: Mr. Satyapal Singh, Advocate

Versus

INDIA OIL CORPORATION LIMITED Respondent

Through: Nemo.

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Vide impugned order of 6th September, 2016, petitioner's appeal against the penalty of "*reduction to lower grade*" i.e. from Grade-"D" to Grade-"C", stands dismissed while noting that there was a doubt about authenticity of petitioner's e-mail complaint of 21st October, 2013, vide which he had made a complaint against the complainant of not following his oral instructions regarding doing the check of safety fittings on mounded bullets area.

2. The Inquiry Officer vide his Report of 31st December, 2015 (*Annexure P/14*) has found petitioner guilty of indecent behavior towards the complainant and has held that charge of sexual harassment against petitioner stands proved. The Disciplinary Authority vide order of 16th February, 2016 (*Annexure P/16*) has inflicted the penalty of reduction to a lower grade i.e. from Grade-"D" to Grade-"C" on account of petitioner's aforesaid misconduct.

3. The challenge to the penalty order and the appellate order by learned counsel for petitioner is on the ground that no opportunity of hearing was granted to petitioner to challenge the findings of the Inquiry Committee of 19th September, 2014 (*Annexure P/8*) and without affording this opportunity to petitioner in terms of Section 18 of *The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013*, petitioner was issued charge-sheet on 17th November, 2014 (*Annexure P/9*). According to petitioner's counsel, the aforesaid infirmity vitiates the entire proceedings and so, it is submitted that the impugned order deserves to be set aside.

4. Upon hearing and on perusal of impugned orders as well as the material on record, I find that petitioner had waived his right of appeal against Inquiry Officer's Report of 19th September, 2014 (*Annexure P/8*) and had participated in the regular inquiry after the charge-sheet (*Annexure P/9*) was served upon him. Such a view is being taken because petitioner's counsel was unable to respond to the Court query about the Forum where the appeal under Section 18 of *The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013*, was maintainable. In any case, I find that petitioner's e-mail complaint of 21st October, 2013 has not been duly proved on record. Otherwise also, a bare perusal of petitioner's complaint of 21st October, 2013 (*Annexure P/1*) reveals that the grievance of complainant was on account of not providing cab and security to her. Even if it is assumed for assumption sake that complainant was not doing the check of safety fittings on mounded bullets area, then in the usual official course of duty, petitioner ought to have given written instructions and not oral instructions. It is

evident from the contents of the complaint of 9th November, 2013 (*Annexure P/2*) of the complainant that her sexual harassment was not a solitary instance but was repeated again.

5. Without dwelling upon the merits of the case, I find that the inquiry against petitioner was not in violation of principles of natural justice nor any procedural safeguards have been violated. During the course of hearing, petitioner's counsel has sought to urge that the Medical Expert's Report regarding petitioner's mental fitness was not supplied to him. Nothing turns on it for the reason that the Inquiry Officer had not relied upon the Medical Expert's Report regarding petitioner's mental condition and has taken note of the fact that even petitioner has not denied the instance of sexual harassment but had defended it by asserting that "*galti se lag gya hoga*". In the facts and circumstances of this case, I find no infirmity in the impugned orders, as the penalty awarded to petitioner is befitting the misconduct committed by him.

6. In view of aforesaid, I find no palpable error in the impugned orders. This petition and application are accordingly dismissed.

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**SUNIL GAUR
(JUDGE)**

JANUARY 02, 2018

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