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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 619/2019, CM APPLs. 41949/2019, 41952-41955/2019 &
42082/2019

RASHI

..... Appellant

Through: Mr. Prateek Tushar Mohanty,
Ms. Payal Mohanty and Mr. Tushar
Ranjan Mohanty, Advocates.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Ms. Anuja Saxena, Advocate for R-2
to 4.
Ms. Monika Arora, CGSC with
Mr. Kushal Kumar, Advocate for
UOI.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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11.10.2019

1. The Appellant has preferred this Letters Patent Appeal to assail the judgment dated 17.07.2019 passed by the learned Single Judge in W.P. (C) 10544/2018. The learned Single Judge has dismissed the said writ petition filed by the Appellant. The admitted position is that the Appellant was serving in the Respondent No. 2 Organisation as a Data Entry Operator. However, it is matter of record that she was an employee of FDS Management Services Pvt. Ltd. and she was deputed to serve in the office of Respondent No. 2. Respondent No. 2 eventually required the said service provider to remove the Appellant from her assignment with the said

Respondent. According to the Appellant, this step was taken by Respondent No. 2 merely on account of the fact that she had made a complaint against the Chairman of Respondent No. 2 i.e. Respondent No. 3, of her being subjected to sexual harassment at work place. In the counter affidavit filed by Respondent before the learned Single Judge, it was pointed that the work and conduct of the Appellant was not satisfactory in as much as she was not punctual in attending to her duties and also remained absent unauthorisedly. The learned Single Judge has noticed this aspect of the matter in the impugned order which reads as follows:

“16. On perusal of the communication dated 26.09.2018, it is revealed that on several occasions in the past, the petitioner was orally instructed to come to the Office on time and do her duty with devotion and sincerity. However, no change was noticed in her casual approach towards duty in office. The Employee Attendance Register/Dashboard (page 98) of the petition dated 10.04.2016 clearly shows the casual approach of the petitioner. Vide circular dated 17.09.2018, the petitioner was warned to come on time and be punctual. Despite, on 18.09.2018, she reported to office at 12:50:14 and thereafter, on 20.09.2018 reported to the office at 11:12:12, thereafter, on 24.09.2018 at 10:45:24 and on 28.09.2018 at 10:40:15. It is admitted fact that the duty reporting time is 09.30 A.M. Despite the circular- issued for all the employees, the petitioner did not stop coming late in the office, therefore, in the impugned letter, the respondents asked the service provider agency that they do not want the service of the petitioner for the reason that she is irregular and non-punctual in the office.”

2. So far as this record is concerned, the Appellant is not in a position to dispute the same. It is argued by Mr. Mohanty, learned counsel for the Appellant that the appellant was put to severe harassment which led to her unauthorized absence as taken note of by the learned Single Judge. The

Appellant complained about the severe harassment only at the end of September 2018. The incidence of the Appellant not attending office punctually relates to an earlier period. Moreover, since the Appellant was not an employee of Respondent No. 2, she had no right to continue to serve in the office of Respondent No. 2 and Respondent No. 2 was entitled to require the service provider to replace her with another Data Entry Operator. So far as the complaint made by the Appellant of being subjected to sexual harassment is concerned, we are informed that the said complaint is being examined.

3. In view of the said circumstances, we are not inclined to interfere with the impugned judgment rendered by the learned Single Judge. However, we make it clear that no observation by the learned Single Judge in the impugned judgment, particularly in para 17 whereof, should in any way impact the inquiry being undertaken by Respondent No. 2 in relation to the Appellant's allegation of sexual harassment. In case, any dues payable to the Appellant are outstanding, the Respondents should examine the same and make payment within the next four weeks.

VIPIN SANGHI, J

SANJEEV NARULA, J

OCTOBER 11, 2019

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