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

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Date of Decision: 31.05.2019

% W.P.(C) 6538/2019
DINESH CHANDRA MISHRA

..... Petitioner

Through: Petitioner in person.

versus

INDIA COUNCIL OF AGRICULTURE

RESEARCH AND ORS.

..... Respondents

Through: Mr. Gagan Mathur & Mr. Varun
Kumar, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

VIPIN SANGHI, J. (ORAL)

CM APPL. 27699/2019

Exemption allowed, subject to all just exceptions. The application stands disposed of.

W.P.(C) 6538/2019 & CM APPL. 27698/2019

1. The petitioner has assailed the order dated 04.02.2019 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) in O.A. No. 405/2019. The Tribunal has rejected the Original Application

preferred by the petitioner wherein he had assailed the recommendations made by the Internal Complaints Committee (ICC) to take action against the petitioner in relation to his alleged misconduct of sexually harassing the complainant. The Tribunal has rejected the said Original Application as premature since no action has yet been taken against the petitioner on the basis of the said recommendations.

2. It is not in doubt that the CCS (CCA) Rules are applicable to the petitioner and, therefore, the enquiry conducted against the petitioner is in terms of proviso to Rule 14(2) of the said Rules. The petitioner has sought to place reliance upon Section 18 of the Sexual Harassment of Women at workplace (Prevention, Prohibition, and Redressal) Act, 2013 which, inter alia, provides that any person aggrieved from the recommendations made under clause (i) or clause (ii) of sub-section (3) of section 13 may prefer an appeal to the Court or tribunal in accordance with the provisions of the service rules applicable to the said person, or where no such service rules exist then, without prejudice to provisions contained in any other law for the time being in force, the person aggrieved may prefer an appeal in such manner as may be prescribed. The petitioner submits that he had, accordingly, approached the Tribunal against the recommendations made by the ICC.

3. In our view, this submission of the petitioner is misconceived inasmuch, as, the said Section itself provides that the appeal has to be in accordance with the provision of the service rules applicable to the person concerned. As noticed hereinabove, the petitioner is governed by the CCS

(CCA) Rules which specifically provide that the enquiry conducted by the ICC would be treated as one held under Rule 14 of the CCS (CCA) Rules by an Inquiring Authority appointed by the Disciplinary Authority and the same shall be acted upon in terms of Rule 14. The report of the ICC in respect of an employee governed by the CCS (CCA) Rules is not *per se* actionable and would be considered by the Disciplinary Authority. The appeal is provided in cases where the recommendation of the committee itself is final, and they are *ipso facto* binding and enforceable under Section 13(4) of the aforesaid act. That is not the position in the present case.

4. We, therefore, do not find any merit in this petition.

5. Dismissed.

VIPIN SANGHI, J.

RAJNISH BHATNAGAR, J.

MAY 31, 2019

kd