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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 4145/2020, CM APPL. 14912/2020 (for stay)
JYOTI Petitioner
Through: Mr. Nikhil Bhardwaj, Adv.
versus

UNION OF INDIA AND OTHERS Respondents
Through: Mr. Dev P. Bhardwaj, CGSC.
Mr. Syed Hussain Adil Tawvi, GP.

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW
HON'BLE MS. JUSTICE ASHA MENON

ORDER
% **14.07.2020**

[VIA VIDEO CONFERENCING]

CM APPL. 14914/2020 (exemption from filing duly affirmed affidavit(s) along with an undertaking to pay the court fees), CM APPL. 14913/2020 & CM APPL. 14915/2020 (both for exemption).

1. Allowed, subject to just exceptions and as per the extant rules.
2. The applications are disposed of.

W.P.(C) 4145/2020, CM APPL. 14912/2020 (for stay).

3. The petitioner, a Constable with the respondents Central Industrial Security Force (CISF), has filed this petition impugning the order dated 22nd June, 2020 imposing the minor penalty of withholding increment for a period of one year, without affecting future increments, as well as the charge sheet in pursuance to which the said penalty was imposed.
4. It is *inter alia* the case of the petitioner that, (i) she is a National level wrestler and had filed a complaint dated 19th May, 2017 of sexual harassment against her coach, also an Inspector with the respondents CISF; (ii) though

an Internal Complaint Committee (ICC) was constituted on 1st June, 2017 and which enquired into the complaint till 29th June, 2017 but its report was not given to the petitioner inspite of requests; (iii) the petitioner, on 20th July, 2017 also lodged an First Information Report (FIR) against the coach with respect to the same incident and of which cognizance has been taken; (iv) though pursuant to the report of the ICC, a charge sheet was served on the petitioner on 21st September, 2017, for filing a false complaint of sexual harassment, but the said charge sheet was subsequently kept in abeyance; (v) based on the report of the ICC, a charge sheet dated 24th April, 2019 was also served on the coach aforesaid and vide order dated 5th October, 2019 penalty of withholding increment for a period of 1 year without cumulative effect was imposed; and, (vi) on 12th March, 2020, the earlier charge sheet against the petitioner was withdrawn and on 8th June, 2020 another charge sheet was served on the petitioner and pursuant to which minor penalty aforesaid has been imposed on the petitioner on 22nd June, 2020.

5. The petitioner in the petition, besides impugning the order imposing minor penalty and the charge sheet, has also sought a direction for furnishing of the report of the ICC to the petitioner.

6. We have enquired from the counsel for the petitioner, whether the petitioner preferred the statutory remedy against the findings of the ICC.

7. The counsel for the petitioner states that he is not aware.

8. If the petitioner has allowed the findings of the ICC to have attained finality for the last three years, that may also be of relevance.

9. Be that as it may, we have also enquired whether there is any departmental appeal provided against the order of imposition of minor penalty.

10. The counsel for the respondents appearing on advance notice states that under Section 9 of the CISF Act, 1968 there is a provision for appeal and for a revision thereagainst.

11. The counsel for the petitioner is not sure whether the petitioner has availed of the said statutory remedies.

12. We are of the view that once the statutory remedies are available to the petitioner, exercising writ jurisdiction would not be apposite.

13. We therefore dispose of the petition, (i) with liberty to the petitioner to, if has till now not availed of the statutory remedy, to now avail of the same on or before 31st July, 2020 and by further directing that if the said remedy is availed of before 31st July, 2020, the same shall be considered by the respondents on merits, without considering the delay if any in availing the same; (ii) by permitting the petitioner to raise all grounds as urged in the writ petition and additional grounds and also seek the relief with respect to the report of the ICC; (iii) by directing the said statutory remedy availed of by the petitioner to be dealt with in accordance with rules and without regard to any observations in this order; and, (iv) by directing that the petitioner shall have liberty to approach this Court if remains dissatisfied.

RAJIV SAHAI ENDLAW, J

ASHA MENON, J

JULY 14, 2020

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