

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 2590 OF 2019

PETITIONER :-

Smt. Arti N. Nipane, aged about 52 years,
Occupation:Service, working as: Higher
Grade Assistant, Sr.No. 441801 at Life
Insurance Corporation of India, City
Branch Office (CBO), 97F Medical
Square, Nagpur, R/o 231, SHREE
MAHALAXMI Nagar, Process Server
Society, Narsala Road, Nagpur.

...VERSUS...

RESPONDENTS :-

1. Life Insurance Corporation of India,
Central Office, Mumbai YOGAKSHEM,
Jeevan Bima Marg, Post Box Number-
11709, through its Zonal Manager,
Mumbai 440021.
2. Life Insurance Corporation of INDIA,
Nagpur Divisional Officer, National
Insurance Building, S.V. Patel, Marg,
Kingway, Post Box, Number 63, Nagpur -
440001 through its Senior Divisional
Manager.
3. Life Insurance Corporation of INDIA, City
Branch Office (CBO), 97 F, Medical
Square, Above State Bank of INDIA,
Nagpur through its Branch Manager.
4. Life Insurance Corporation of INDIA,
Umred Branch:- Umred through its
Branch Manager, Tah.Umred dist.Nagpur.

5. Mrs. N. Ganga, Manager/PS/sss C/o Life Insurance Corporation of India , Nagpur Divisional Office, National Insurance Building, S.V. Patel, Marg, Kingsway, Post Box Number 63, Nagpur 440001.
6. Mr.Rajesh Kuhikar, Higher Grade Assistant, Accounts Department, C/O, Life Insurance Corporation of INDIA, Umred Branch:-Umred, Dist.Nagpur.

S.A. Pathak, counsel for the petitioner.
Mr.Harish Thakur, counsel for respondent Nos.1 to 4 and 5.
Mr.E.S. Sahastrabuddhe, counsel for respondent No.6.

**CORAM : SUNIL B.SHUKRE &
ANIL S.KILOR, JJ.**

DATE : 23.09.2021.

ORAL JUDGMENT (Per :Sunil B.Shukre, J.)

1. Heard.

2. Rule. Rule made returnable forthwith. Heard finally by consent of the learned counsel appearing for the parties.

3. The petitioner is Assistant Administrative Officer of Life Insurance Corporation of India (LIC). The incident involved

in this petition had taken place during the period when the petitioner was posted to Umred Branch of the L.I.C. The period in which three incidents had taken place was from 07.02.2015 to 27.04.2015. At that time, respondent No.6 was working as Higher Grade Assistant at Umred Branch of LIC. It is the case of the petitioner that as Higher Grade Assistant, a post below the petitioner's post and occupied by respondent No.6, he was required to take instructions from the petitioner. However, instead of taking instructions from her and obeying her directions and advice which she used to give him from time to time, respondent No.6 used to react in somewhat violent manner and by making unwarranted and unwelcome gestures. The petitioner contends that some times the respondent no.6 also used to indulge in using obscene language while talking with the petitioner. Fed up with such alleged behaviour of the respondent no.6, the petitioner decided to make complaint against him. First complaint was made by her on 07.02.2015, which was followed by two more complaints filed on 09.03.2015 and 27.04.2015. In all these complaints, the petitioner says that she has alleged about the unwelcome physical, verbal and non-verbal conduct of the

petitioner, which in the opinion of the petitioner was of sexual nature.

4. After making of these complaints, the Manager of the LIC decided to make an enquiry into these allegations and therefore by the letter issued on 02.03.2015, he requested Smt N. Ganga, Manager (PS/SSS), LIC of India Div. Office, Nagpur to make an enquiry and submit her report to him. The enquiry was conducted by her in which, Smt. N. Ganga recorded statements of not only the petitioner, but also the colleagues of the petitioner and respondent no.6. The enquiry officer, considering the allegations made against the respondent no.6 and statements recorded by her, came to the conclusion that there was no evidence of any misbehaviour on the part of respondent no.6 in general and particularly on the day of the alleged incidents and therefore, she recommended that the aggrieved employee would require strong counselling by an appropriate authority.

5. Being aggrieved by this report, dated 20.03.2015, the petitioner is before this Court through this petition.

6. Learned counsel for the petitioner submits that the enquiry report has been submitted by a One Woman Committee, which is not consistent with the mandate of Section 4 of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (herein after referred to as the 'act of 2013'). He submits that a committee called 'Internal Complaints Committee' was required to be constituted by taking up a senior woman employee as presiding officer and appointing at least three more members as provided under Section 4 of the Act of 2013, which has not been followed in the present case. He, therefore, submits that the whole enquiry report is vitiated in law, which argument is opposed by learned counsel for the respondent no.6.

7. On going through the letter dated 02.03.2015 and also the enquiry report dated 20.03.2015, we find that the Manager had only made an attempt to find out as to whether or not the allegations made by the petitioner amounted to sexual harassment and therefore, the enquiry directed by the Manager to be made in the present case appears to be an enquiry in the nature of preliminary enquiry. If this enquiry had found out some

substance in the allegations, it appears to us, further procedure as required under Section 4 of the Act of 2013 would have been taken up by the mandate of law. But, that stage never arose as the enquiry officer found the allegations made against respondent no.6 as baseless, not supported by any evidence, as it was found by her that not a single colleague, including a woman colleague of the petitioner supported those allegations although, it was the case of the petitioner that the unwelcome gestures, remarks and conduct had taken place during working hours in office of the LIC at Umred. Therefore, the argument made in this behalf by the learned counsel for the petitioner cannot be accepted, and it is rejected.

8. As regards the merits of the matter, we find from three complaints made by the petitioner against the respondent no.6, there is not a single incident quoted therein by the petitioner which could be said to be covered by any of the clauses of Section 2(n) of the Act of 2013, which defines the expression “sexual harassment”. It is the requirement of the definition that physical contact and advances or any unwelcome physical verbal or non-

verbal conduct displayed by the delinquent employee or accused, is of sexual nature or has been made with some sexual intent on his mind. In the present case, the allegations made in paragraph no.1 and 5 of the complaint dated 07.02.2015 relate to some remarks made by the respondent no.6 vis-a-vis petitioner and they do not, taken at their face value, appear to have been made with any sexual intent. In fact, in our opinion, they do not have any manifest or implicit sexual overtones. Similar is the case with the allegations made in the complaint dated 09.03.2015 as well as the one dated 27.04.2015. In addition to that, there is also no support being received by the petitioner from her colleagues in the matter. These aspects of the matter, it is seen from impugned report, are appropriately considered by the enquiry officer. Therefore, we find that even on merits, the enquiry report in question could not be found to be illegal or perverse.

9. Thus, we find no merit in the petition. The petition deserves to be dismissed and it is dismissed accordingly.

10. Rule stands discharged. No costs.

(ANIL S. KILOR,J)

(SUNIL B. SHUKRE,J)