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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2021

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
AND
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P. No. 25206 of 2021
and
W.M.P. Nos. 26578 & 26580 of 2021

B. Magdaline Rani

.. Petitioner

Versus

1. Geological Survey of India
Rep by its Director General
27, J.L.N. Road
Kolkata - 700 016
2. Additional Director General
Geological Survey of India
Southern Regional Office
GSI Complex, Bandlaguda
Hyderabad - 500 068
3. The Deputy Director General
Geological Survey of India
SU - TNP
Inner Ring Road
Industrial Estate near Kathipara
Guindy, Chennai - 600 032
4. Dr. S. Raju
5. The Registrar
Central Administrative Tribunal
Madras Bench, Chennai - 600 002

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order dated 02.11.2021 passed by the 5th respondent in MA No.457 of 2021 in OA No. 250 of 2019 and quash the same and



consequently direct the 5th respondent to defer the final hearing of OA No. 250 of 2019 pending before the fifth respondent till the date of physical hearing resumes.

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For Petitioner : Mr.R. Rajesh Kumar

For Respondent : Mr.Su. Srinivasan (For R1 to R3)

ORDER

(Order of the Court was made by R. MAHADEVAN, J.)

This writ petition has been filed challenging the order dated 02.11.2021 passed by the 5th respondent in M.A. No.457 of 2021 in OA No. 250 of 2019, quash the same and consequently, direct the fifth respondent to defer the final hearing of OA No. 250 of 2019 pending on its file, till the date of resumption of physical hearing.

2. It is the case of the petitioner that she is working as Store Keeper in the Geological Survey of India, Chennai since 30.10.2000. While so, she made a complaint to the first respondent on 09.11.2017 against the fourth respondent viz., Dr. S.Raju, Deputy Director General, (presently as ADG, NMH-IV, CHQ, Kolkata) under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. Following the same, a counter complaint dated 01.12.2017 was lodged by the fourth respondent against the petitioner herein and recommended to remove her from service. Subsequently, the complaint lodged by the fourth respondent alone was entertained and a Fact Finding Committee was constituted. Consequently, a charge memo bearing No. 271/C-13016/1/2017/Amn.Vig dated 17.12.2018 came to be issued, to which, the petitioner filed her detailed reply on 02.01.2019. According to the petitioner, the issuance of charge memo is colourable exercise and gross abuse of power by the fourth respondent, as the same was issued by the appellate authority, instead of disciplinary authority. In the mean while, the petitioner challenged the said charge memo dated 17.12.2018 before the Central Administrative Tribunal by filing O.A.No.250 of 2019 along with stay application and also obtained an order of interim stay of all further proceedings pursuant to the charge memo. Since the said original application was not taken up for hearing, in view of the stay order, the Department filed MA.No.457 of 2021 for advancing the hearing of O.A.No.250 of 2019. On 02.11.2021, when the application was taken up for consideration by the Tribunal by way of virtual hearing, the petitioner's counsel raised objections and requested to defer the



hearing of the matter till physical hearing resumes, which was not considered, owing to technical issues in the internet causing disruption over voice and video and the said application was allowed fixing the date for final hearing as 25.11.2021. Aggrieved against the fixation of the date for final hearing by the Tribunal, the petitioner has filed this writ petition.

3. The specific submission of the learned counsel for the petitioner is that the issue involved herein is serious in nature and the same requires elaborate arguments, which cannot be made through video conference, since there are internet connectivity problem and vidyomobile app issue, where the voice and video gets disconnected randomly, and hence, a request was made to defer the hearing of the case till the resumption of the physical hearing. Without considering the same in a pragmatic manner, the Tribunal allowed the Miscellaneous Application filed by the Department and fixed the date for final hearing on 25.11.2021. If the Tribunal proceeds the case virtually, the petitioner is unable to defend it effectively. Therefore, the learned counsel prayed for allowing this writ petition as prayed for.

4. On the other hand, the learned counsel for the respondents 1 to 3 submitted that the grounds raised by the petitioner in this writ petition to quash the proceedings pending before the Tribunal, are unsustainable; and it is always open to her to approach the Tribunal by filing appropriate application praying to take up the application through physical hearing. However, the learned counsel fairly submitted that in view of the present situation, there may not be any impediment for the Tribunal to take up the case and hear the parties in the physical mode.

5. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this court, without going into the merits of the case, directs the fifth respondent / Central Administrative Tribunal to dispose of the case in O.A.No.250 of 2019 along with the connected application, pending on its file, on merits and in accordance with law, after providing sufficient opportunity to the petitioner, fourth respondent as well as any other interested parties, within a period of twelve (12) weeks from the date of receipt of a copy of this order.



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6. With the aforesaid direction, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-V)

// True Copy //

Sub Assistant Registrar

dhk

To

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SSI(CO)
CB(11/01/2022)