



W.P(MD)No.9191 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.04.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.9191 of 2023

D.S.Radhika

... Petitioner

Vs.

- 1.The Secretary to Government,
Health, Medical and Family Welfare Department,
Fort St.George,
Chennai-600 009.
- 2.The Director of Public Health and Preventive Medicine,
O/o.Director of Public Health and Preventive Medicine,
DMS Campus,
Teynampet,
Chennai-600 006.
- 3.The Director,
O/o. The Director,
Tamil Nadu State Health Transport Department,
Guindy,
Chennai 600032.
- 4.The Workshop Superintendent,
O/o. The workshop Superintendent,
Regional Workshop (Health),
Tiruchirappalli-620007.
- 5.M.Vijay Anand,
The Workshop Superintendent,
O/o. The Workshop Superintendent,



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Regional Workshop (Health),
Tiruchirappalli-620007.

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6.M.Karthikeyan

Assistant Accounts Officer,
O/o. The workshop Superintendent,
Regional Workshop (Health),
Tiruchirappalli-620007.

7.R.Suresh,

Assistant,
O/o. The Workshop Superintendent,
Regional Workshop (Health),
Tiruchirappalli-620007.

8.Pandian,

Typist,
O/o. The Workshop Superintendent,
Regional Workshop (Health),
Tiruchirappalli-620007.

9.N.Murugesan,

General Foreman (Yard),
O/o. The Workshop Superintendent,
Regional Workshop (Health),
Tiruchirappalli-620007.

10.Muthukumar

Supervisor (Store)
O/o. The Workshop Superintendent,
Regional Workshop (Health),
Tiruchirappalli-620007.

11.M.Vignesh,

Watchman,
O/o. The Workshop Superintendent,
Regional Workshop (Health),
Tiruchirappalli-620007.

12.K.Balakumar,



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Watchman,
O/o. The Workshop Superintendent,
Regional Workshop (Health),
Tiruchirapalli-620007.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the third respondent to initiate action against the respondents 5 to 12 under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and redressal) Act, 2013, in light of the representation dated 08.02.2022 within the time period stipulated by this Court.

For Petitioner : Mr.G.Karthik
for M/s.Lajapati Roy & Associates

For Respondents : Mr.T.Villavan Kothai
Additional Government Pleader for R1 to R4

ORDER

Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for R1 to R4.

2. The petitioner was working as Superintendent in the office of the fourth respondent. On 29.01.2022, at around 10.45 a.m., the petitioner had videographed the Assistant Accounts Officer entering the office late in her mobile phone. It is her allegation that enraged by her videographing the said Assistant Accounts Officer, Thiru.M.Karthikeyan had misbehaved with her.



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He would further allege that the named private respondents joined the fray and subjected the petitioner to all kinds of harassment. The petitioner would also add that she was physically restrained and molested. She further lodged a complaint dated 08.02.2022 for taking action against the private respondents under the provisions of Sexual Harassment of Women at Workplace(Prevention, Prohibition and Redressal) Act, 2013 and Rules framed thereunder. Since no action was taken, the present writ petition came to be filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed for.

4. I am not swayed by the submission of the learned counsel appearing for the petitioner. Section 2(n) of the Central Act 14 of 2013 defines sexual harassment as follows:-

2(n) “sexual harassment” includes any one or more of the following unwelcome acts or behavior (whether directly or by implication) namely:-

- (i) physical contact and advances; or
- (ii) a demand or request for sexual favours; or
- (iii) making sexually coloured remarks; or
- (iv) showing pornography; or
- (v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature;



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5. The Act itself was brought in to give protection to women employees against sexual harassment at work places. A reading of the affidavit filed in support of the writ petition would indicate that what happened was more in the nature of quarrel between the petitioner on the one hand and her office colleagues on the other. It had nothing to do with the sexual harassment as such. The petitioner had videographed one Karthikeyan without his consent. That provoked and enraged the said Karthikeyan and he tried to grab the petitioner's mobile phone. It is true that there was a physical contact between the parties in the process. But such contact will not amount to physical contact within the meaning of Section 2(n)(i) of the Act. In such cases, intention of the parties alone matters. Only if the offender had the intention as envisaged under the Act, it would attract the provisions of the Act and not otherwise. What happened in the present case was a petty quarrel among the employees. The provisions of the Central Act 14 of 2013 are not at all attracted. It is for the petitioner to pursue other forms of remedies in the manner known to law.

6. With this liberty to the petitioner, the Writ Petition is dismissed. No costs.

20.04.2023

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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