

06.05.2024
Sl. No.22
Suman
Ct.No.238

WPA 9663 of 2024

Rajarshi Roy
Vs.
The Union of India and Ors.

Mr. Anand Keshari
Mr. Joy Shankar Mukherjee
..for the petitioner

Mr. Rajat Dutta
Mr. Bishnupada Jana
...for the State

Mr. Puspall Chakraborty
Mr. Shankar Mukherjee
..for private respondent no.7

Mr. Indrajeet Dasgupta
Ms. Aishwarya Rajyashree
..for respondent nos. 1, 3, 4, 5 & 6.

The petitioner is a professor of Viswa Bharati University.

On the basis of a complaint lodged by private respondent no.7, a proceeding under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 was initiated against him. The Internal Complaints Committee made the following recommendations against the petitioner.

“ Recommendations specifically for the respondent

- That the respondent be asked to furnish a bond of good behaviour for his remaining period of service at Visva-Bharati.
- To furnish a written apology to the complainant/victim and Visva-Bharati Administration.
- To include an adverse remark in the confidential report/service book of the respondent at Visva-Bharati by the concerned authority in Visva-Bharati.
- To debar the respondent from all kinds of supervisory duties including B.Ed. M.Ed. and Ph. D. supervision for his remaining period of service at Visva-Bharati.
- Reassigning existing Ph.D. scholars under the respondent's supervision among other eligible supervisors of the Department.
- Denial of membership to statutory bodies.
- To stop cumulative increments of the respondent for seven years **OR** demotion.
- Recommended to the Visva-Bharati Authority to take appropriate disciplinary action against the respondent treating the act of Sexual Harassment against a woman as a misconduct in accordance with the provisions of the service rules applicable to the respondent as per provisions of Section 13(3) (i) of THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013.
- It is also recommended to deduct notwithstanding anything in the service rules applicable to the respondent, from the salary or wages of the respondent such sum as the University may consider appropriate as per provisions of section 13(3)(i) of THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013 from the date of lodging of the complaint to the date completion of the inquiry/last one year and the same to be paid to the complainant/victim lady as compensation."

It further appears that on the basis of the recommendations by the Internal Complaints Committee, a disciplinary proceeding has also been initiated by the university.

In course of submission of this case, learned advocate appearing for the petitioner submits that the petitioner intends to prefer an appeal against the recommendations of the Committee in terms of Section 18 of the Act of 2013.

Prima facie, I am of the view that many of the recommendations are dehors the provision of Section 13(3) of the Act of 2013.

It has already been held by this Court that the Appellate Authority under Section 18 of the Act of 2013 is the Additional Labour Commissioner, Government of West Bengal.

In view of the aforesaid, I dispose of this writ petition with the following directions.

The petitioner will be at liberty to prefer an appeal before the Additional Labour Commissioner, Government of West Bengal within a period of 30 days from date. If such an appeal is preferred before the said authority within the period as aforesaid, the Appellate Authority shall condone the delay, if any, in preferring the appeal.

The recommendations made by the Internal Complaints Committee shall remain stayed for a period of two months from date.

If the appeal is preferred by the petitioner in terms of this order, further continuation of the stay order will be at the discretion of the Appellate Authority.

Accordingly, **WPA 9663 of 2024** is disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)