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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 2437/2024**

MAJ SHUBHRA VERMA

..... Petitioner

Through: Mr. Ashish Chauhan, Ms. Sonal Chauhan, Mr. Saurav Joshi and Ms. Richa Khera, Advocates.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Ms. Monika Arora, CGSC with Ms. Priya Mishra, GP and Mr. Subhrodeep Saha, Advocate for UoI.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

19.02.2024

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CM APPL. 10011/2024 (Exemption)

Allowed, subject to all just exceptions.

W.P.(C) 2437/2024 & CM APPLs. 10009/2024, 10010/2024

1. The Petitioner has approached this Court with the following prayers:-

(a) issue a writ of certiorari setting aside/quashing the Supplementary Report/Recommendation submitted by ICC on 23.09.2023 (sent to the Petitioner vide covering letter dated 14.12.2023 received by Petitioner on 26.12.2023) and all subsequent orders/departamental inquiry initiated vide convening order dated 19.01.2024; and

(b) issue a writ of mandamus, thereby directing and commanding the Respondent No.3/DG NCC to decide



the representation/appeal of the Petitioner dated 14.02.2024 in case has the power/authority to adjudicate;

(c) issue a writ of mandamus, thereby directing and commanding the Respondents to re-constitute a fair and impartial ICC as per the mandate of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 preferably by Respondent No.1 in Delhi.”

2. When this Court pointed out that an alternate remedy exists under Section 18 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013, the learned Counsel appearing for the Petitioner states that neither the Petitioner nor the Respondents are aware of the correct Appellate Forum where the appeal should be considered.

3. Learned Counsel for the Petitioner points out to the representation dated 14.02.2024 given by the Petitioner to the Respondents. Paragraph No.2 to 6 of the said representation read as under:

“2. Pertinently, the ICC initially concluded its inquiry and submitted its recommendation on 18.04.2023. The said report was provided to me only after my repeated requests and constant reminders to NCC Directorate (Bihar & Jharkhand). In response to the said arbitrary and biased report, I immediately raised objections regarding composition constitution of ICC, its biased conduct, delay in concluding the enquiry, and several other grounds to NCC Directorate (Bihar & Jharkhand). Thereafter, I was posted/ transferred to 3 Delhi Girls Battalion, NCC to assume my present appointment on 30.06.2023.

3. In reference to aforesaid requests, NCC Directorate (Bihar & Jharkhand) initiated the process of re-



assembly of the ICC in Bihar despite my specific request to convene /institute fresh ICC in Delhi on the directions of Ministry of Defence (Internal Complaints Committee), however, the same was not considered. Several letters were sent to my present office to direct me to join the proceedings on such a short notice. I undersigned being a Single Mother and taking care of my two minor children single handedly, having threat to my life in Patna and several other reasons constantly requested NCC Bihar & Jharkhand to convene ICC proceedings in Delhi or in alternative allow me to join virtually. However, no response was given to me by NCC Directorate (Bihar & Jharkhand) & and even DGNCC. Surprisingly, I received supplementary recommendation of ICC submitted on 23.09.2023 (sent to the undersigned vide covering letter dated 14.12.2023) and received on 26.12.2023 from NCC Directorate (Bihar & Jharkhand) thereby concluding that there is no direct, indirect or circumstantial evidence to support my allegation of sexual harassment and further recommended that disciplinary action be instituted against me by invoking section 14 of the Act and action to be taken under sub section (1) or sub section (2) of section 9, as the case may be, in accordance with the provisions of the service rules applicable to me and also ICC opinionated that the complainant may need counselling/Psychic evaluation. It is noteworthy, the said report is prima facie defective, biased, arbitrary and suffers from illegality. The principles of natural justice and audi-alterm were not followed during the inquiry proceedings.

4. Pertinent to mention, when the undersigned applied for Child Care leave in Jan' 2024, I was informed by NCC Directorate Delhi vide its letter dated 30.01.2024 that my application for Child Care Leave will be considered after completion of inquiry, which has been



ordered by my Gp HQ vide letter No. GPC/A/Offr/Inquiry/2024 dt 19 Jan 2024. The undersigned was not aware of the initiation of inquiry and on 09.02.2024, I received the intimation regarding assembly of departmental inquiry committee at Simulator Room (opp CO 2 DGA's office), B-6 Safdarjung Enclave, Delhi on 12th February 24 at 1030 hours and another letter asking me to provide a Para wise written response to the complaints mentioned in Para 2 of convening order by 13th February 2024, failing which it will be presumed that you have no defense to offer and inquiry will proceed ex-parte. After receipt of the said letters, I have written letter dated 12.02.2024 to the Inquiry Officer seeking two-week time to submit a detailed reply to the complaints which are running into more than 50 pages.

5. Aggrieved by the supplementary recommendation(s) which is vitiated by grave error on law and facts since inception, I preferred a Writ Petition Civil 2102/2024 before the Hon'ble Delhi High Court wherein the said petition has been withdrawn with liberty to exhaust the alternative efficacious remedy available under Section 18 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal Act, 2013) vide its order dated 12.02.24. Thus, I am enclosing herewith copy of my writ petition which may be treated as my representation and for further action at your end.

6. In view of above, I would also like to request your goodself to keep the ongoing Departmental Inquiry ordered vide NCC Gp HQ 'C' Letter no. GPCA/A/Offr/Inquiry/2024/ 3940 (A) dated 19.01.2024 in abeyance till the disposal of my present representation.”

4. The Respondents are directed to consider the aforesaid representation given by the Petitioner as an appeal under Section 18 of the Sexual



Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013. The Petitioner is permitted to raise additional submissions, if any, within a period of one week from today.

5. The Respondents are directed to forward the appeal to the Appellate Authority constituted under the CCS Rules which according to the learned Counsel for the Respondents is applicable on the Petitioner. The Appellate Authority is directed to decide the appeal within a period of four weeks from the date of receiving the appeal.

6. With these observations, the writ petition is disposed of, along with pending application(s), if any.

7. Liberty is granted to the Petitioner to approach this Court again for any further directions as may be required, if any.

8. The Order be given *Dasti* under the signature of the Court Master.

SUBRAMONIUM PRASAD, J

FEBRUARY 19, 2024

S. Zakir