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

+ **W.P.(C) 13355/2024**

ABC

.....Petitioner

Through: Mr. Ashutosh Kumar Shukla,
Advocate

versus

UNION OF INDIA THROUGH THE SECRETARY AND ORS.

.....Respondents

Through: Ms. Arunima Dwivedi, CGSC with
Ms. Pinky Pawar, Mr. Aakash Pathak,
Advocates for UOI
Mr. Sunil Kumar, Mr. Ghanshyam
Sharma, Advocates for R-5

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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18.11.2024

CM APPL. 55754/2024 (Exemption)

1. Exemption is granted, subject to all just exceptions.
2. The Applicant shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.
3. Accordingly, the application stands disposed of.

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4. Through the instant writ petition, the Petitioner *inter alia* seeks setting aside of the Inquiry Report dated 29th September, 2022¹ passed in a complaint under Sexual Harassment of Women at Workplace (Prevention,



Prohibition & Redressal) Act, 2013.²

5. On 23rd September, 2024, in response to an objection raised by the Respondents, the Court directed the Petitioner to explain the maintainability of the present petition and also instructed them to produce a copy of the order passed in the appeal preferred by them against the Impugned Inquiry Report before the Central Administrative Tribunal.³

6. The Petitioner has now furnished the copy of the order dated 17th March, 2023 deciding OA No. 766/2023 wherein the Petitioner had sought setting aside of the Inquiry Report dated 29th September, 2022 passed by Internal Complaints Committee, which is the subject matter of the present petition. The said order reads as follows:

“In the present OA, which has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for following reliefs:-

“8.1 Call for the records of the case and quash/set aside the action of the Respondent No. 3 calling for show cause as to why disciplinary action be not taken against the applicant.

8.2 Call for the records of the case and quash/set aside the inquiry report dated 29th September, 2022 by Internal Complaints Committee.

8.3 To restrain the Respondents from any further administrative or disciplinary action in the matter being sub judice”

2. Vide the impugned Memorandum dated 15.02.2023, the applicant has been directed by the respondents to inform in writing within ten days of issuance of such OM as to why the disciplinary action cannot be taken against her in respect to recommendations mentioned in Paras 13(ii), (iii), (iv) of ICC Report. Learned counsel for the applicant submits that in response to the said Memorandum, the applicant has filed her reply on 24.02.2023. However, no adverse decision has been taken by the respondents as on date.

3. At the outset, learned counsel for the applicant, under instructions,

¹ “Impugned inquiry report”

² “POSH Act”

³ “CAT”



seeks permission of this Tribunal to withdraw the present OA with liberty to the applicant to approach the Tribunal in accordance of law at an appropriate stage.

4. Permission is granted. The OA stands dismissed as withdrawn with liberty as aforesaid. Associated MA, if any, shall also be disposed of.”

7. The aforementioned order reveals that the Petitioner had, at that stage, withdrawn the petition as she did not anticipate any adverse actions being taken against her by the Respondents. Furthermore, liberty was granted to the Petitioner to approach the tribunal, in accordance with law, at an appropriate stage.

8. After more than a year, the Petitioner has now filed the present writ petition. On this issue, Respondents have referred to the POSH Act to highlight that any person aggrieved by the recommendations made under Section 13(2) and 14(1) of the POSH Act has the right to appeal the order/recommendation in accordance with section 18 of the POSH Act.

9. Counsel for the Petitioner submits that, in light of these circumstances, he wishes to file an appeal but faces the challenge of the appeal being barred due to the time limit under Section 18(2) of the POSH Act. Consequently, he seeks the condonation of the delay in filing the appeal.

10. In the above circumstances, the present petition is not maintainable in view of alternate statutory remedy available to the Petitioner. However, it is clarified that if the Petitioner were to file an appeal, the issue of condonation of delay will be considered by the Tribunal, taking into account the liberty granted to the Petitioner to approach the tribunal at an appropriate stage and Section 18 of the POSH Act, which specifically allows aggrieved parties to challenge an order, including one arising from an action under Section 13(2)



and 14(1) of the Act.

11. With the above directions, the present petition is disposed of.

SANJEEV NARULA, J

NOVEMBER 18, 2024/ab