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

+ W.P.(C) 9654/2023

ASSISE THANKAPPAN

.....Petitioner

Through: Ms. Bhawana Pandey, Mr. Piyush
Ranjan, Ms. Drishti Mittal,
Advocates.

versus

MAGIC BUS INDIA FOUNDATION & ORS.Respondents

Through: Mr. Sameer Shrivastava, Ms. Yashika
Varshney, Advocates for R-1 and R-2
(Magic Bus India).

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

09.04.2025

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1. The present petition assails a report dated 19.04.2023 of the Internal Complaints Committee North (hereinafter referred to as the 'ICC') of the respondent no.1 and the letter of termination dated 21.04.2023 issued by the respondent no.1 against the petitioner.
2. It is pointed out that the petitioner was employed as "District Livelihood Manager" at the respondent no.1 organization since 08.01.2018. It is contended that the track record of the petitioner as an employee of the respondent no.1 was exemplary.
3. It is submitted that a complaint alleging sexual harassment at workplace against the petitioner was filed before the respondent no.2/ICC by the respondent no.3 on 09.02.2023.
4. It is submitted that the inquiry subsequently conducted by the respondent no.2, was in utter disregard of the mandatory requirements set



out in Section 11 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 [hereinafter referred to as the ‘*POSH Act*’] read with Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013.

5. Learned counsel on behalf of the petitioner submitted that the copy of the complaint was belatedly supplied to the petitioner. It is also submitted that no effective opportunity of hearing was given to the petitioner to agitate its case before the respondent no.2/ICC. Furthermore, the petitioner was not allowed to participate in the inquiry proceedings, so much so, that the statements of the witnesses sought to be produced by the petitioner were not recorded. Even the statement of some of the witnesses that was recorded was behind the back of the petitioner.

6. It is thus submitted that the inquiry is vitiated on account of denial of principles of natural justice.

7. It is noticed that POSH Act prescribes an appellate remedy against the report of the respondent no.2/ICC in Section 18 thereof. The same reads as under:-

“18. Appeal.—(1) Any person aggrieved from the recommendations made under sub-section (2) of section 13 or under clause (i) or clause (ii) of sub-section (3) of section 13 or sub-section (1) or subsection (2) of section 14 or section 17 or non-implementation of such recommendations may prefer an appeal to the court or tribunal in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist then, without prejudice to provisions contained in any other law for the time being in force, the person aggrieved may prefer an appeal in such manner as may be prescribed.

(2) The appeal under sub-section (1) shall be preferred within a period of ninety days of the recommendations.”

8. No doubt, the allegations made by the petitioner regarding infraction



of the principles of natural justice are serious and merit serious consideration. However, since there exists an efficacious alternate remedy, and since factual aspects are necessarily required to be adjudged upon even in the context of the aforesaid contentions of the petitioner, it would be apposite for the petitioner to agitate the matter before the concerned Appellate Authority. It is directed accordingly.

9. Needless to say, the Appellate Authority shall consider all aspects of the matter including the aforesaid aspects highlighted by the petitioner.

10. It has also been submitted by the learned counsel on behalf of the petitioner that grave prejudice is being caused to the petitioner on account of the sweeping findings rendered in the report of the respondent no.2 and the stigmatic nature thereof. In particular, attention is drawn to the following recommendations in the inquiry report of the respondent no.2 :-

“The recommendations of the committee are as under:

- 1. Mr. Assise Thnakappan (Respondent) be terminated from the organisation with immediate effect.*
- 2. Mr. Assise Thnakappan (Respondent) letter to mention reason for termination as ‘found guilty of sexual harassment in the workplace as well as gross abuse of power’.*
- 3. Mr. Assise Thnakappan (Respondent) further reference checks if received to mention “terminated from employment as found guilty of sexual harassment in the workplace as well as gross abuse of power”.*
- 4. Magic Bus to withhold a suitable sum from the full and final settlement of Mr. Assise Thnakappan (Respondent) as penalty for the sexual harassment at workplace.*
- 5. Magic Bus to make a monetary compensation of Rs.50,000 to Ms. Afreen Siddiqui.*
- 6. Magic Bus to confirm Ms. Afreen Siddiqui appointment as on 15th November 2023 and all (if any) dues owed to her from that date be paid to her on a prorata basis.*



7. Magic Bus to conduct Ms. Afreen Siddiqui appraisal as per cycle of appraisal.”

11. Learned counsel for the petitioner submitted that pending consideration of the matter before the Appellate Authority, the recommendation nos. 3 to 7 in the impugned inquiry report be kept in abeyance inasmuch as the same are virtually in that nature of a permanent impediment in the way of the petitioner seeking employment elsewhere.

12. It is stated by the learned counsel for the petitioner, on instructions, that the petitioner is not desirous of rejoining the respondent no.1, however, an interim order/s be passed with regard to the aforesaid recommendations to prevent grave and irreparable injustice to the petitioner, pending consideration of the matter by the appellate authority.

13. It is further contended that at least till the date on which the petitioner was in the employment of the respondent no.1, all the outstanding dues/financial entitlements of the petitioner are liable to be paid by the respondent no.1 to the petitioner. The same are stated to be to the tune of Rs.1,89,391/-.

14. Learned counsel for the respondent no.1 submits that the entire outstanding dues of the petitioner (under all heads) till the date of issuance of the termination letter shall duly be paid to the petitioner within a period of four weeks from today. The said statement is taken on record.

15. Further, considering the aforesaid aspects highlighted by the learned counsel for the petitioner, it is directed that pending consideration of the matter by the Appellate Authority, recommendation no.3, 4 and 5¹ shall be

¹ 3. Mr. Assise Thnakappan (Respondent) further reference checks if received to mention “terminated from employment as found guilty of sexual harassment in the workplace as well as gross abuse of power”.

4. Magic Bus to withhold a suitable sum from the full and final settlement of Mr. Assise Thnakappan



kept in abeyance.

16. Learned counsel for the petitioner submits that the petitioner shall file an appeal, as statutorily prescribed, within a period of four weeks from today. In such eventuality, considering that the petitioner has been pursuing the present petition, limitation shall not come in the way of the Appellate Authority considering the appeal on merits.

17. Needless to say, the petitioner shall be entitled to avail appropriate remedies, as may be available to him under law, if he is dissatisfied with the outcome of the appellate proceedings.

18. The present petition is disposed of in the above terms.

SACHIN DATTA, J

APRIL 9, 2025/r

(Respondent) as penalty for the sexual harassment at workplace.

5. Magic Bus to make a monetary compensation of Rs.50,000 to Ms. Afreen Siddiqui.