

2023 SCC OnLine Dis Crt (Del) 13

In the Court of Ajay Goel, Presiding Officer Industrial Tribunal-01, Rouse Avenue Court, D.D.U. Marg, New Delhi

(BEFORE AJAY GOEL, PRESIDING OFFICER INDUSTRIAL TRIBUNAL)

X ... Appellant;

Versus

Internal Committee, Through Neeta Rege (Presiding Officer) Through Standard Chartered Bank with its Regional Office and Others ... Respondents.

RCA DJ No. 2/22

Decided on July 6, 2023, [Date of Institution : 11.10.2022, Date of Assignment to this court : 17.03.2023]

The Judgment of the Court was delivered by

AJAY GOEL, PRESIDING OFFICER INDUSTRIAL TRIBUNAL:— This is an appeal u/s 18 (1) of the Sexual Harassment of Women at workplace (Prevention, Prohibition and Redressal) Act, 2013 which has been preferred by the appellant against the impugned order dated 22.08.2022 passed by the Internal Committee constituted by the Standard Chartered Bank.

2. The girl has not concealed her name in the appeal but keeping in view the sanctity and nature of case and the act involved, this court is refraining itself from mentioning the name of girl and instead of her name, letter 'X' has been mentioned for appellant.

3. The facts relevant for disposal of present appeal are that present appeal has been filed on behalf of appellant who was a victim in a Posh Act case instituted at the behest of respondent No. 4 and respondent No. 1 was constituted to enquire into the complaint of appellant. It is stated that respondent No. 2 are the anonymous witnesses which have been incorporated in the array of parties through respondent No. 1 as the anonymous witnesses were initially permitted to give their evidence before the respondent No. 1 but failed to disclose their identity despite repeated requests/objections by the appellant. It is stated that respondent No. 3 is the accused who has been held guilty vide judgment of the respondent No. 1 dated 22.08.2022 and the respondent No. 4 is the employer of the respondent No. 3.

4. It is stated that present appeal has been filed against respondent No. 1 who passed the judgment against the respondent No. 3 wherein respondent No. 3 was found guilty of sexual harassment but the respondent No. 1 has failed to provide any punishment in view of

section 13 (3) (i) (ii) and section 15 of the Act.

5. In the brief facts of the case, it is pleaded that appellant was an employee of respondent No. 4 and was posted at the Branch Office at Malcha Marg, Chankyapuri, New Delhi as Branch Manager and appellant joined the services of respondent No. 4 on 10.10.2004 and continued to work at various branches of respondent No. 4 till she resigned as Branch Manager at Malcha Marg, Chankya Puri, New Delhi on 19.04.2021. It is stated that respondent No. 1 was constituted which is the internal committee which was constituted by the respondent No. 4 on 17.03.2022, to enquire into a complaint of sexual harassment on the basis of a complaint made by appellant, with respect to incident dated 11.12.2021 and 17.01.2022, to Group Chief Executive of the respondent No. 4 at UK on 11.03.2022.

6. It is stated that a complaint for sexual harassment was lodged by the appellant on the basis of recorded conversation between the respondent No. 3 employed as Relationship Manager in the respondent No. 4 at the Branch at Malcha Marg, Chankya puri, New Delhi and one Mr. Varun Bhasin who was an ex-employee of the respondent No. 4 and Mr. Varun Bhasin at the time of incident of telephone call was employed in the M/s. Kotak Mahindra Bank situated at Aerocity New Delhi where the appellant is currently employed as Director.

7. It is stated that on 31.03.2022, the presiding member of respondent No. 1 sent an e-mail to the appellant requesting the appellant to raise a written complaint with the allegations made by the appellant with evidence in support. It is stated that appellant in response to said e-mail of presiding member of respondent No. 1 replied vide her e-mail dated 12.04.2022 giving details of tape-recorded conversation between the respondent No. 3 and Varun Bhasin. It is stated that appellant also requested for retrieval of e-mail for the sexual harassment at a work place caused by Mr. Harsh Sehgal and Mr. Rishi Pahuja. It is stated that vide e-mail dated 18.04.2022, the presiding officer of respondent No. 1 sought the particulars of recording, date, time etc. but denied to register the complaint against Rohit Gupta on the ground that it had been a period of 3 months but there was no mention of harassment which the appellant faced at her workplace at Malcha Marg, New Delhi by Mr. Harsh Sehgal and Mr. Rishi Pahuja.

8. It is averred that pursuant to the correspondence between appellant and respondent No. 1 on the present complaint, the proceedings were to commence on 05.05.2022 through virtual hearing as per e-mail received dated 02.05.2022, and accordingly the statement of appellant was recorded on 05.05.2022 and respondent No. 3 was examined before the respondent No. 1 on 06.05.2022. It is stated that appellant was also handed the statement of an anonymous

IC witness whose statement was recorded on 24.05.2022. It is stated that on 07.06.2022, the respondent No. 1 denied to reveal the identity of anonymous witnesses i.e. respondent No. 2 setting up the virtual cross-examination to the basis of comfort of respondent No. 3 and further asked for sharing of cross-examination questions to be asked by appellant to respondent No. 3. Further the appellant objected to the anonymous witnesses being permitted to give their evidence and pointed out the illegality being followed by the respondent No. 1 and which were against all principles of natural justice, however, respondent No. 1 refused on disclosing the witness identity and asked to share the cross-examination questions before virtual hearing scheduled for 08.06.2022 itself. It is stated that appellant feeling very grieved by the response and working of respondent No. 1 once again raised concerns with Mr. Winters vide her e-mail dated 10.06.2022 expressing her serious concerns at the unfair, biased attitude of respondent No. 1 towards the respondent No. 2 and 3. It is further stated that respondent No. 1 vide their e-mail dated 20.06.2022 informed the appellant "the IC cannot disclose their identity additionally, the IC u/s 11 of Posh Act is vested with the powers and authority of a civil court empowering to call its own witnesses.

9. It is stated that even after the e-mail dated 29.09.2022 which is just merely an eye-wash the respondent No. 1 has not disclosed as to when the respondent No. 3 had resigned as the date of resignation is very important to establish the bias shown towards the appellant and further the respondent No. 1 had not provided a copy of warning letter issued to him nor any date provided as to when the warning letter was issued.

10. It is stated that on 22.08.2022, the respondent No. 1 passed its judgment holding the respondent No. 3 as guilty for sexual harassment but no punishment or compensation was passed and awarded against the respondent No. 3 and appellant also wrote to respondent No. 3 through e-mail dated 25.08.2022 for not passing any judgment in terms of section 13 (3) (I) (ii) and Section 15 of the Posh Act. Thereafter, appellant filed a criminal writ petition in CRL (WP) No. 2094/2022 and the said writ petition was withdrawn on 20.09.2022 with liberty to file fresh petition under appropriate forum. Later on, appellant received an e-mail dated 29.09.2022 from the presiding officer of IC that a written warning had been issued to respondent No. 3 and he had already resigned from the services.

11. Some grounds have also been raised in the appeal to the effect that respondent No. 1 has acted in arbitrary manner and against all the principles of natural justice by bringing anonymous witnesses and declining to reveal the name of anonymous witnesses and further by seeking cross-examination questions in advance to be asked at the

time of cross-examination. It is also stated that respondent No. 1 was under the influence of respondent No. 4 and acted in collusion in protecting the respondent No. 2 and 3 and thus have acted in manner to cause further harassment to the appellant. It is further stated that action of the respondent No. 1 in not awarding any disciplinary action or compensation is against the Visakha guidelines as laid down by the Hon'ble Supreme Court in *Visakha v. State of Rajasthan* ((1997) 6 SCC 241 : JT (1997) 7 SC 384 and respondent No. 1 has gone against POSH Act by letting the respondent No. 3 go escort free by just pronouncing him as guilty without any punishment being provided.

12. It is also stated that respondent No. 1 breached the confidentiality of the appellant by disclosing the name of appellant and bringing in the issue of hearing of fraud by the appellant and tape recorded conversation in an enquiry being constituted without disclosing their identity which tantamount to the fact that the respondent No. 1 come within the purview of section 14 (2) of the POSH Act. It is stated that evidence as tendered by respondent No. 2 is a clear attempt to malign the appellant which are defamatory. It is also stated that non-disclosure of names of respondent No. 2 shows a high degree of collusion by respondents. It was also stated that respondent No. 1 has based its finding that the charges against the respondent No. 3 stands proved but failed to record a definite conclusion which is a violation as stated earlier of section 13 (3) of POSH Act and thus purpose of the POSH Act has been defeated by the very judgment passed by the respondent No. 1. It was also stated that respondent No. 1 has failed to give any compensation or punishment which is not only in contravention of the POSH Act but very detrimental to the case of appellant.

13. On the basis of above grounds, the present appeal was preferred and it was prayed that findings in the impugned judgment dated 22.08.2022 submitted by respondent No. 1 may be modified by directing the respondent No. 1 to reach a conclusive finding in accordance with Section 13 and 15 of the POSH Act, 2013.

14. In response to appeal, respondent No. 3 filed its reply stating that present appeal is not maintainable for non-disclosure of correct facts and there is unexplained delay in filing the complaint which itself cast doubt on the said complaint. It was stated that said Audio recordings have been alleged to be recorded by Varun Bhasin in his phone, who was never examined nor the phone/gadget/computer output was ever asked to be produced and affidavit u/s 65 (B) of the Indian Evidence Act was not filed by the complainant in said case. It was also stated that vindictiveness on the part of appellant is apparent as out of numerous calls between respondent No. 2 and Varun Bhasin, only two of them were allegedly recorded without knowledge and

extract of it was used to file the present complaint. It was also stated that entire evidences of complainant suffers from large number of contradictions, inconsistencies, concealment and improvements which cast shadow of doubt and difficult to reply upon her version. It was also stated that there has been no earlier complaint against respondent No. 2 of said nature and he always treated all colleagues fairly and with utmost respect. It was also stated that it is substantial law that punishment sort to be imposed under POSH Act, 2013 can be imposed only if it violates any of the provisions of section 2 (n) read with section 3 of Act. The other contents were denied and it was prayed that appeal may be dismissed being without any merits.

15. No other respondent filed reply to the present appeal but respondent No. 1 and 4 have filed written submissions.

16. I have gone through the records and the report of ICC and have heard the arguments as advanced by respective counsels for appellant and respondents.

17. During the course of arguments in appeal, both the parties i.e. appellant/victim and respondent No. 3/Charged Official were given individual personal hearing and their grievances and oral arguments were heard thoroughly at length.

18. It is pertinent to mention here that sexual harassment is the expression of unhealthy human relationship. It is not just the violation of dignity, right to social security and right to equality guaranteed to human beings in every social system but it is also a violation of right to life and peaceful existence guaranteed by law. It is a universal problem and its gravity is felt by all concerned around the world. Nations have gone for various legal approaches to curb harassment issues. With the new law in India relating to safety of women in work place with all stringent provisions for awareness and preventive measures, every woman at the place of work and study, who fall within the jurisdiction of educational institution, including its academic, non-academic staff and students should be protected from sexual harassment, intimidation and exploitation while they are associated with the campus/organization.

19. The AR for appellant during the course of final arguments has specifically argued that report of ICC is abuse of principles of natural justice and the enquiry was conducted in predetermined and haste manner.

20. It is important to take into consideration that ICC is a fact finding body which gives recommendations on allegations of sexual harassment at work places. The very object of the statute states of providing a speedy and hassle free remedy to the victims which is devoid of procedural complexities and rigors of courts and tribunals. The Act of 2013 states that the ICC is not bound by technical

procedures but is only to ensure natural justice to parties and thus ICC is a free to devise its procedure depending on peculiar circumstances of the case before it while ensuring natural justice. Non-applicability of rules of evidence imply that technicalities of mode of proof and standard of proof do not apply to ICC. So the ICC is to come to conclusions based on holistic view of materials before it by weighing probabilities of a case. Further application of natural justice depends from case to case and protection of witnesses is a valid consideration for excluding cross-examination of witnesses particularly when they refuse to depose due to fear of person answering the charge.

21. It has to be kept in mind that the interference of the courts should be limited to ensuring that there are no procedural irregularities or violations of principles of natural justice and once the ICC has adequately and appropriately addressed a complaint of sexual harassment, it is not open to the courts to look into the merits of the matter.

22. The reliance is placed upon judgment passed by Hon'ble Bombay High Court in "*Vidya Akhawe v. Union of India*" bearing writ petition No. 796/2015, wherein it was held that "it would not interfere with an order of punishment passed by the internal complaints committee in relation to a sexual harassment complaint, unless the order is shockingly disproportionate".

23. It is crystal clear that this court cannot give any observation regarding finding vide which the respondent No. 3 has been held guilty because he has not challenged the findings and it has attained finality. The complainant/appellant has come to court only on the ground of insufficiency of punishment and she herself was asked as to what she expects from the court and at first instance from ICC so that her dignity is maintained when charges are proved. She has stated that she is not inclined to give any harsh punishment to respondent No. 3 but at least he should know how to treat with woman and woman's character should not be assassinated and bank should also have taken care of same. She has also stated that she will be satisfied if the litigation expenses are given. She stated that she was not personally heard by employer and she had vented out her anger in the open court after an opportunity was granted by this Tribunal.

24. It is argued by respondent No. 3 that there was complaint against husband of appellant and he was Branch manager also and stated that this fact has been brought before this court but they are not sure whether it was reason for the present complaint.

25. Certain points have been given by Counsel for appellant as to what recommendations she expects from the court. Same have been kept on record, gone through and perused.

26. It is argued on behalf of appellant that she has given 17 years long period service to Respondent No. 4/Standard Chartered Bank that too of her younger age and all of sudden, she was thrown out of office due to incident in question instead of going to root cause of problem. Her complaints made to respondent No. 4 remained unanswered and same were fallen to deaf ears and thus finding no alternative, she has to approach higher authorities of respondent No. 4 in United Kingdom. It is argued that ICC has conducted inquiry without following due process of law and she was never disclosed the name of anonymous RW -1 who identity remains concealed and her several requests in this regard were totally ignored.

27. On the other hand, it is argued on behalf of respondent No. 3 that he is innocent and he has to resign from office of respondent No. 4 and due to incident in question, he has also to suffer a lot and he faced many problems while applying for job with other organization but he could not find the employment. Later on, he had to leave Delhi and now he is working in Bangalore in HDFC Bank Ltd. It is further argued that appellant has raised objection regarding bringing of anonymous witness in inquiry proceedings and considering her request, the said witness was dropped by ICC. It is further argued that ICC has sought to share cross-questions in advance from both the parties to which respondent No. 3 has share his cross-examination in advance but appellant objected the same and never shared her questions to be put in cross-examination in advance during inquiry proceedings.

28. From the perusal of record, it is observed that before conclusion of proceedings of inquiry by the ICC, the respondent No. 4, for the reasons best known to them, accepted the resignation letter of respondent No. 3/Akshay Khurana and later on, findings were given against him which is of no use as he has already resigned from the management of respondent No. 4 and rather, no punishment was awarded to him at first instance and he was simplicitor held guilty for offence of sexual harassment. Later on, some warning letter was also issued to respondent No. 3 by respondent No. 4.

29. The ICC in its report has finally concluded and observed as under:

"That considering the proceedings and verbal statements made by the parties and corroboration of statements in respect thereof being substantiated with proof, in the form of tangible as also statements made by the parties to the Inquiry Proceedings, it is the opinion of the IC, that the allegations levelled against the respondent are proved and that the respondent is found guilty of sexual harassment."

30. It is further observed from record that respondent No. 4 never tried to go into the roots of the incident and recording in question and

grievances of appellant were never paid any heed by respondent No. 4. Though no imputation is levelled on bank by court and no malafide intention is attributed but at least matter could have been handled in more apt manner carefully keeping in view the sanctity of the woman and sensitivity of the issue. It is observed that Internal committee was constituted by respondent No. 4. It is also observed that said committee brought a witness i.e. ICW1 in inquiry proceedings on its own accord and further allowed the respondent to bring RW-1 and treated him as anonymous despite the objection of appellant and their names were never disclosed. Though bank has argued that it has never taken into consideration any statement of anonymous witness but that does not condone their act because if by chance they had taken the statement of those witnesses into consideration then result may have been different or the respondent No. 3 could have been exonerated. It is not understandable as to how witness can depose without being scrutiny of their cross-examination by affected party.

31. Biased, partial and one-sided behaviour of internal committee is further well depicted from the fact that appellant was asked to share cross-questions for respondent in advance and when this practice was objected by appellant, the committee justified it by saying that respondent is not comfortable in cross-examination without having questions in writing in advance. It is argued by counsel for respondent No. 3 that later on, on the objection of appellant, her part of questionnaire were never supplied to IC.

32. This practice adopted by Internal Committee is totally against principles of natural justice and any anonymous witness cannot be permitted to be produced in enquiry under POSH Act and the practice followed by IC in the present case was prejudicial and biased towards the appellant.

33. It is also observed that Internal Committee did not confine itself to the case of sexual harassment but it went beyond the same to malign the appellant and sought answers against her personal conduct. The relevant Pages No. 109, 110, 111, 120 and 122 are containing questions put to anonymous witnesses by Internal Committee which shows that questions were not related to offence of sexual harassment but was an attempt to malign her. So the Internal Committee was required to be vigilant in its conduct.

34. It is pertinent to mention here that employer/organization under whose authority, the Internal Committee has been formed must ensure the concept of neutrality and that principles of natural justice must be followed in letter in spirit. It is often seen that Chairperson of the committee who is senior employee of the employer has leanings with the employer and all efforts are made to absolve the employer in order that the organization's reputation is not tarnished and due to this

reason, it is often seen that victim becomes the target of the system by which she is governed and victim is criticized and humiliated. The other observation have been made just for the sake of mentioning as to what lapses have been occurred during conducting the proceedings. For the sake of repetition again it is mentioned that same may not be intentional because it is seen by this Tribunal while dealing with appeal that clear cut guidelines are missing and persons who are members of ICC are lacking in legal knowledge and they do not know the repercussions of way of handling the proceedings which unknowingly and inadvertently, result in such thing and observations above should not be taken as casting aspersion of mensrea of the employer/committee.

35. It is also observed that victim for this reason are afraid of filing cases/complaints of sexual harassment on account of their image being tarnished in the workplace as well as outside and victim becomes the topic of discussion and it becomes almost impossible for such victim to work in such environment and rather, she is eyed with suspicion. Even the organization/employer remain reluctant to entertain such complaints and employer endeavours to avoid such cases coming to the limelight for the sake of their reputation.

36. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act in short POSH Act, was implement by the Government of India in 2013. It was a major step by the Govt. of India for preventing any form of misconduct on the women at workplace. This act is applicable on each and every company, workspace, establishment or organization employing 10 or more employees whether full time, part time, interns or on contract, irrespective of its nature of industry of location. This Act refers to set of guidelines, policies and laws designed to prevent and address sexual harassment in the workplace. Sexual harassment can include unwanted sexual advances, requests for sexual favours, or other forms of verbal or physical conduct of a sexual nature.

37. This Act further states various steps to be followed by the organizations in order to create a healthy workspace for women employees. These steps are:—

- A. Drafting Prevention of Sexual Harassment Policy.
- B. Constitution of Internal Committee (IC) to handle complaints regarding sexual harassment.
- C. Create awareness among employees regarding their rights and responsibilities for creating a safe workplace.
- D. Annual return on POSH compliances.

38. The POSH Law mandates that an organization should take all necessary steps to create awareness among its employees about

prevention of sexual harassment and POSH Law. Organizations can create awareness among employees in different ways. The awareness sessions are very important to sensitize the employees about POSH Act. The common methods employed to create employee awareness on POSH are classroom sessions and online training.

39. The organizations covered under POSH needs to file an Annual Report to the District Officer, each Calender year and this report shall contain the following:

- A. Total number of sexual harassment complaints actioned and completed.
- B. Total number of sexual harassment complaints under investigations for more than 90 days.
- C. Total number of employees in the organization and the number of employees trained on POSH awareness.
- D. Nature of the action taken by the Organization or District Officer.
- E. The last date of submission of such annual report to the District officer is 31st January of every year for the preceding calender year.

40. The compliance of this Act is integral to ensure a safe and healthy workplace and employers must take the necessary steps to ensure their work complies with POSH guidelines.

41. The importance of POSH Act in the workplace is paramount as it helps to create a safe and comfortable work environment for everyone. When employers and employees know the rules and regulations regarding sexual harassment, they are better equipped to identify and prevent it and this can lead to higher job satisfaction, productivity and a reduction in legal liability for employers.

42. Thus, the avowed objectives of the SHW Act are (i) ensuring that women's right to equality, life and liberty is not violated or compromised, (ii) providing of a secure and friendly work environment, (iii) social and economic empowerment of women, (iv) inclusive growth, (v) creating of an enabling environment for women which is equitable, safe and secure in every aspect, (vi) ensuring women are treated with due respect, decency and dignity at the workplace, (vii) equality in employment, (viii) ensuring women are not subjected to gender-specific violence, (ix) protection and promotion of women's constitutional rights and, at the end of the working day, (x) ensuring that every woman is provided a safe working environment, insulated from any act of sexual harassment, of any form. Each and everyone of these objectives is, conspicuously, "harasser-neutral".

43. Recently, #MeToo movement that followed brought to light numerous allegations of sexual harassment and assault in various industries, from entertainment to politics to business. Additionally,

there have been several cases of POSH violations of sexual harassment and discrimination at companies such as Uber and Google. These Instances highlight the need of POSH solid policies and enforcement in the workplace.

44. Under the Act, it is the employer who is responsible for implementing policies and procedures to prevent sexual harassment, providing training to employees and managers and establishing an internal complaints committee to investigate and address complaints of sexual harassment. The employers are also required to display information about the Act and the complaint procedure in a prominent location in the workplace.

45. It is observed that due to lack of proper awareness of this POSH Act, respondent No. 4 and 3 failed to create a safe and comfortable work environment and further to identify and prevent it.

46. It is not an out of place to mention here that due to acts and actions of the respondent No. 3, she has suffered a lot during this period which cannot be compensated in terms of money as her whole career was put at stake at the hands of respondent No. 3 and at least respondent No. 3 is required to be directed to tender unconditional apology and to pay the litigation cost of Rs. 2 Lacs to her.

47. In rebuttal to same, during the course of arguments, the respondent No. 3 has argued that he is going through financial crunch on the ground that he is also running from pillar to post and he has to engage counsel to face this litigation and bearing the legal expenses and has sought some reduction in the same but he is ready to tender unconditional apology and to pay sum of Rs. 1,50,000/- without prejudice to his rights and contentions, to appellant as litigation expenses subject to condition that he wants to end this litigation once for all and focus on his career and after payment of this amount, the appellant may not be allowed to raise any other dispute qua the incident in question.

48. The fact cannot be ignored that compensation cannot be quantified in such cases as already lot of sufferings must have been faced by appellant due to this incident which cannot be compensated in terms of money still the appellant has accepted the submissions of respondent No. 3 and thus a cheque of Rs. 1,50,000/- has been handed over to appellant as litigation cost by respondent No. 3 which is duly accepted by appellant. An unconditional apology has been tendered by respondent No. 3 to appellant and same is also accepted by appellant. Statement of both the parties have been recorded in this regard separately. However, it is made clear that it will not have adverse impact on respondent No. 3 also who has tendered apology and it will not reflect the character of respondent No. 3. Trauma has also been faced by respondent No. 3 during all these years because for one

lapse/usage of curse word whether intentional or unintentional, he dragged himself into litigation which could be avoided by him by curbing his anger. Balance has to be maintained and if dignity of complainant is to be maintained, simultaneously, the carrier of the respondent No. 3 is required to be protected as he has also suffered humiliation for his own fault but that should be a lesson for him and other person that they should not use such words regarding a woman as nobody has given any right to man or boy to cause aspersion on the character of lady. Today, he has realised his mistake that he should not have spoken such words. Otherwise no other gesture or offence was made. The men employees should also refrain from tagging a woman with other man without any basis or right as that is none of their business.

49. During the course of final arguments, the attention of this Tribunal has been drawn towards internet generated report wherein it is reported that there are several other instances and complaints of sexual harassment by other female employees against other male employees working in Standard Chartered Bank and in said complaints also, the pleas and complaints made to head concerned, including the HR and CEO went unanswered and their complaints were fallen to deaf ears.

50. Without going through the contents of same, this court is not commenting on this as to whether it is correct or wrong as same requires checking of authenticity of report but nevertheless, if it is so, the bank should find it out and if it is true then introspection by bank is required to curb this menace. This should not go un-redressed as this can show the callous attitude of respondent No. 4 towards such complaints.

51. It is observed that very often women share common concerns which men do not necessarily share or the concern expressed by women have not been necessarily understood by men in the proper perspective. There is no manner of doubt that women are socially and physically vulnerable and are faced with sense of constant insecurity while working in any organization and it is the duty of every employer to ensure that the appropriate safeguards are provided by the men in the organization to protect the women from sexual harassment and other types of harassments. The employer should ensure that the duties which are cast upon them by the said Act are complied in neat. It will be relevant to reproduce the duties which have been cast upon the employer by Section 19 of the said Act which reads as under:

“Section 19- Duties of employer-Every employer shall—

(a) provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the work place;

(b) display at any conspicuous place in the workplace, the penal

consequences of sexual harassment; and the order constituting, the Internal Committee under Sub-Section (1) of the section 4;

- (c) Organize workshops and awareness programmes at regular intervals for sensitizing the employees with the provisions of the Act and orientation programmes for the members of the Internal Committee in the manner as may be prescribed;
- (d) provide necessary facilities to the Internal Committee or the Local Committee, as the case may be, for dealing with the complaint and conducting an inquiry;
- (e) assist in securing the attendance of respondent and witnesses before the Internal Committee or the Local Committee, as the case may be;
- (f) make available such information to the Internal Committee or the Local Committee, as the case may be, as it may require having regard to the complaint made under sub-section (1) of section 9;
- (g) provide assistance to the woman if she so chooses to file a complaint in relation to the offence under the IPC or any other law for the time being in force;
- (h) cause to initiate action, under the IPC or any other law for the time being in force, against the perpetrator, or if the aggrieved woman so desires, where the perpetrator is not an employee, in the workplace at which the incident of sexual harassment took place;
- (i) treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct;
- (j) monitor the timely submission of reports by the Internal committee.

52. Last but not the least, when a complaint is filed by a woman employee, it should be promptly looked into and an enquiry should be made by the Internal Committee within a reasonable period of time.

53. Lastly, the safety mechanism should be evolved to ensure that the women employees can express their concern to a suitable higher officer.

54. The social welfare department should focus on creating awareness and promoting education about sexual harassment, consent, gender equality and respectful behaviour. This can be done through campaigns, workshops and training programs targeting both men and women.

55. Further the department should work towards implementing and enforcing stringent laws that protect women from sexual harassment. This includes reviewing and amending existing laws, if necessary, to

ensure they are comprehensive and effective. Additionally, ensuring timely and fair investigation and prosecution of reported case is crucial.

56. Keeping in view all the circumstances, respondent No. 4 is also required to be directed to pay at least Rs. 50,000/- as litigation cost to appellant. The bank is not directed to pay any compensation amount to complainant because the complaint of the complainant was dealt with but there was some procedural lapse and charged official was found guilty also.

57. Respondent No. 4/Standard Chartered Bank is also directed to display in clear terms setting the high standard by giving clear cut message to all the employees in harsh words that there is no tolerance for any such incident in that institution.

58. Request was also made to seek apology from ICC but same is not warranted as there is no material to seek any explanation from them.

59. It is clearly made out that respondent No. 4 and respondent No. 1 could not comply with the provisions of POSH Act in letter and spirit due to some ignorance and lack of legal knowledge and it is need of the hour that atleast the concerned authorities should be roped in as observed above.

60. Before parting with, this Tribunal would like to mention here that this Tribunal is dealing with the appeal under the sexual harassment of woman at workplace (Prevention, Prohibition and Redressal) Act, 2013. As evident in the present case, the arguments have been raised and dealt with respect to certain technical issues with respect to constitution of ICC and proceedings under the Act. The act was enacted almost 10 years ago and is to be implemented by the management, wherein they are supposed to constitute IC Committee of members including a Presiding Officer who supposed to be a woman employed at senior level at workplace, two members from amongst employees committed to the cause of woman are having the experience of social work and one person from NGO. All of them may not have the legal knowledge but repercussions are high. As in the present case, the observations are made due to technical flaws. In one of the case before this court, the court came across the findings in which humorous suggestions have been given by the members after finding the charge official guilty. Generally no compensation is being granted. ICC has rather no knowledge as to what punishment should be inflicted and how the complainant can be compensated. Though managements have the duty to keep the work place in such a manner so that there are no chances of having sexual harassment but no attention is given. It has also been observed that minor differences in the workplace can prevent the chances of sexual harassment. It is crucial for Delhi Commission for Women to focus on substantive actions rather than superficial gestures

just for the sake of publicity and bringing the name in newspaper or to find fault in the other institution when equal responsibility lies with them also. The commission should do concrete work rather than lip service. In these circumstances, in the interest of justice and for the purpose of effective implementation of the above act, it is desirable that Delhi Commission for Women of NCT of Delhi and Central Ministry of Social Empowerment for Woman/Ministry of Women and Child Development conduct seminars, impart legal knowledge to ICC, management as well as LCC as well as create awareness in the women regarding their rights against sexual harassment at the workplace in view of the points discussed above so that the purpose of Act is achieved and it is implemented completely, thoroughly and perfectly.

61. Relief : In view of the above discussion, this Tribunal is of the opinion that findings of ICC suffers from illegality and infirmity as despite holding guilty to respondent No. 3 and finding substance in the complaint of appellant, no punishment was awarded to respondent No. 3. Accordingly, the present appeal stands allowed with costs and disposed off in terms of observations made above by satisfying the complainant. File be consigned to record room.

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